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COERCIVE CONTROL IN INDIA: ASSESSING THE NEED FOR A SEPARATE CRIMINAL OFFENCE

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Abstract

Coercive control raises a difficult question for Indian criminal law: when does a continuing restriction of a partner's freedom become a wrong that existing offences do not adequately describe? The Protection of Women from Domestic Violence Act, 2005 already recognises emotional and economic abuse, while sections 85 and 86 of the Bharatiya Nyaya Sanhita, 2023 punish cruelty within specified relationships and thresholds. This paper examines the relationship between these protections through doctrinal and comparative legal research. It develops an analytical test based on the course of conduct, coercive means, restriction of practical choice, mental element and relationship coverage. Applying this test reveals substantial existing protection, alongside a possible mismatch between the cumulative wrong of domination and the requirements of criminal cruelty. England and Wales and Scotland provide contrasting ways of defining the wrong, but their experience also exposes difficulties of proof and implementation. The paper argues for a narrowly defined offence only where its additional contribution can be demonstrated. It proposes a requirement of serious restriction of practical freedom, a subjective mental element, coverage of current and former intimate relationships, and ordinary prosecution burdens. Criminal accountability must operate alongside accessible protection, residence and financial remedies. The contribution is a conditional framework for reform; it does not predict that criminalisation alone would improve women's safety.

Keywords: Coercive control; women's autonomy; domestic violence; criminal cruelty; Bharatiya Nyaya Sanhita; criminalisation.

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I. Introduction

Consider a woman who is required to account for every payment from her salary, seek permission before meeting her family and keep her telephone available for inspection. Refusal brings threats to her housing or employment. Each demand may be presented as a household arrangement, concern for her safety or an ordinary disagreement between partners. Read together, the demands can make independent decisions practically impossible. This is an illustrative situation, rather than a reported case. It identifies the problem examined here: a legal response concerned only with the most visible incident may give an incomplete account of how control operates over time. The concept of coercive control directs attention to the organisation of everyday life and the conditions under which apparent agreement is obtained.[183]

Indian law does not begin from an absence of protection. Section 3 of the Protection of Women from Domestic Violence Act, 2005 expressly addresses verbal, emotional and economic abuse and requires attention to the overall circumstances.[184] Sections 85 and 86 of the Bharatiya Nyaya Sanhita, 2023 address cruelty by a husband or his relative, including qualifying conduct affecting mental health.[185] The question is whether these provisions, despite their different purposes, adequately address a sustained course of domination. An answer requires close attention to their legal requirements. A failure to investigate conduct already covered by law cannot, by itself, establish the need for another offence.

This paper asks whether a separate coercive-control offence would address an identifiable gap and, if so, what limits should govern it. Its working hypothesis is that existing protection is broader than an incident-based description suggests, but that criminal cruelty does not necessarily capture every serious restriction of autonomy. The proposed contribution is an assessment of that mismatch and a framework for deciding which additional conduct should attract criminal liability. The argument supports a bounded offence, subject to a demanding seriousness threshold and proof of culpability. It also considers whether interpretation, targeted amendment or better access to existing remedies could achieve the same purpose.

The method is doctrinal and comparative. The principal Indian statutes and selected Supreme Court decisions are examined against common criteria. England and Wales and Scotland are compared because their legislation offers different approaches to the conduct, mental element and harm required. Published studies and official reports inform the assessment of practical difficulties; they do not supply Indian prevalence estimates. The paper concerns adult intimate relationships, with particular attention to women's autonomy, marriage, relationships outside marriage and control after separation. It contains no interviews or survey findings. The examples test the operation of legal rules and should not be read as evidence of how frequently the conduct occurs.

II. Developing a Legal Test for Coercive Control

The first task is to identify what the proposed law would protect. Autonomy, in this setting, concerns a person's practical ability to decide where to go, whom to meet, whether to work and how to use

183 Evan Stark, *Coercive Control: How Men Entrap Women in Personal Life* (Oxford University Press, New York, 2nd edn., 2023).
184 The Protection of Women from Domestic Violence Act, 2005 (Act 43 of 2005), s. 3, Explanations I and II.
185 The Bharatiya Nyaya Sanhita, 2023 (Act 45 of 2023), ss. 85–86.

resources. Formal permission to leave a relationship may mean little when exercising that choice exposes a person to credible retaliation. This does not make every unequal relationship criminal. It requires an inquiry into how choices have been restricted, what maintains that restriction and how serious its consequences are. Hanna's discussion of the translation of coercive control into legal doctrine helps explain why an account of autonomy must be connected to legal elements that can be proved.[186]

For this paper, the coverage of a legal provision is tested against five connected questions. Does it permit the court to examine a course of behaviour? What makes that course coercive? What restriction of practical choice must be established? What must the accused intend or know? Which relationships fall within its reach? These are analytical criteria developed for the present inquiry, not an existing statutory definition. They distinguish substantive coverage from a failure to enforce an available rule. They also prevent the social description of controlling behaviour from becoming a substitute for the requirements of criminal liability.

Repetition matters because conduct acquires meaning from its context. An instruction to disclose spending may be part of an agreed budget; the same instruction may enforce dependence when refusal produces threats or the withdrawal of necessities. Dutton and Goodman's conceptual model connects demands, credible consequences for non-compliance, surveillance and responses to coercion.[187] Its legal value lies in directing attention to that relationship between acts. A prosecution should therefore explain the connection between the alleged episodes. Merely collecting several disagreements and calling them a pattern would leave the central question unanswered.

The distinction between coercive control and other forms of intimate partner violence also matters. Kelly and Johnson's differentiation of violence cautions against treating every relationship conflict as the same phenomenon.[188] For legal purposes, evidence that both parties have shouted, sent angry messages or used force does not settle who, if anyone, has imposed a continuing restriction on the other's freedom. The context and purpose of the conduct remain relevant. This is particularly important where an allegation is answered by pointing to a complainant's resistance. A course of domination cannot be established by counting incidents without examining their relationship to power and constraint.

Measurement research reinforces this caution. Myhill's work examines the difference made by identifying control within population survey data.[189] Stark and Hester discuss the difficulties of capturing the concept across settings.[190] These studies do not determine the content of Indian criminal law. They show why neither a simple incident count nor a broad description of an unhappy relationship provides a sufficient test. Financial conduct presents the same difficulty. Economic abuse may involve exploitation, deprivation or interference with earning and access to resources.[191] The issue for a proposed offence is whether such conduct forms part of a culpable and serious restriction of freedom.

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186 Cheryl Hanna, "The Paradox of Progress: Translating Evan Stark's Coercive Control into Legal Doctrine for Abused Women" 15 *Violence Against Women* 1458–1476 (2009).
187 Mary Ann Dutton and Lisa A. Goodman, "Coercion in Intimate Partner Violence: Toward a New Conceptualization" 52 *Sex Roles* 743–756 (2005).
188 Joan B. Kelly and Michael P. Johnson, "Differentiation among Types of Intimate Partner Violence: Research Update and Implications for Interventions" 46 *Family Court Review* 476–499 (2008).
189 Andy Myhill, "Measuring Coercive Control: What Can We Learn from National Population Surveys?" 21 *Violence Against Women* 355–375 (2015).
190 Evan Stark and Marianne Hester, "Coercive Control: Update and Review" 25 *Violence Against Women* 81–104 (2019).
191 Amanda M. Stylianou, "Economic Abuse within Intimate Partner Violence: A Review of the Literature" 33 *Violence and Victims* 3–22 (2018).

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A partner's income, household role or cultural background cannot answer that question without evidence of how the arrangement operates.

III. Testing the Coverage of Existing Indian Law

A Protection under the Domestic Violence Act

The Domestic Violence Act offers the strongest starting point for recognising non-physical abuse. Section 3 includes several forms of harm within its definition, and its explanation of economic abuse reaches deprivation of necessary resources, disposal of assets and restriction of access to resources or facilities. Explanation II requires consideration of the overall facts and circumstances.[192] A pattern of withholding money, preventing access to the home and threatening the withdrawal of necessities can therefore be examined together. The legal text does not compel a Magistrate to wait for physical injury or isolate every act from its setting. Describing the Act as concerned only with discrete physical incidents would misstate its scope.

Its remedial structure is equally relevant. Protection orders can restrain specified conduct, residence orders address housing, monetary relief responds to expenses and losses, and compensation can address mental torture and emotional distress. Interim and ex parte relief is available within the statutory conditions.[193] These remedies may change the conditions that make control effective. A woman who can secure housing and financial support has a different range of practical choices from one who must depend entirely on the respondent. The history of the campaign for the Act also explains why a remedy outside the ordinary prosecution of cruelty was considered necessary.[194] Any case for further criminalisation must account for what this existing structure can already achieve.

The Act nevertheless makes a distinction between establishing domestic violence for protective relief and establishing an offence. Section 31 criminalises breach of a protection order or interim protection order; the broad definition in section 3 does not itself make every instance of domestic violence a separate offence under the Act.[195] This distinction identifies an important limit of coverage. If a course of serious control falls outside another criminal provision, criminal accountability under section 31 ordinarily depends on an order and its breach. That is not a defect in a protective statute merely because it differs from a penal code. It does, however, leave a question about how the underlying course should be characterised when direct criminal accountability is sought.

The opening illustration shows why the distinction matters. Restrictions on access to salary or housing may justify relief under the Act if its relationship and other requirements are met. That conclusion does not automatically establish cruelty under the BNS. Nor would proof of economic abuse alone answer whether a new autonomy-based offence should apply. The court would still need evidence of the connected conduct, its coercive operation, the seriousness of the restriction and the respondent's state of mind. Protective relief can properly have a broader reach than criminal punishment. The proposed reform must preserve that difference.

192 The Protection of Women from Domestic Violence Act, 2005 (Act 43 of 2005), s. 3.
193 *Id.*, ss. 17–23.
194 Indira Jaising, "Bringing Rights Home: Review of the Campaign for a Law on Domestic Violence" 44 *Economic and Political Weekly* 50–57 (2009).
195 The Protection of Women from Domestic Violence Act, 2005 (Act 43 of 2005), s. 31.

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B Criminal cruelty under the Bharatiya Nyaya Sanhita

Section 85 applies to a husband or his relative who subjects a woman to cruelty. Section 86 defines cruelty through two routes. The first concerns wilful conduct of the specified gravity, including conduct likely to drive the woman to suicide or cause grave injury or danger to life, limb or mental or physical health. The second concerns harassment connected with an unlawful demand for property or valuable security.[196] The first route does not require a property demand, and the reference to mental health prevents the offence from being confined to bodily violence. A course of control may satisfy these requirements. It would therefore be inaccurate to place all coercive behaviour outside criminal cruelty.

The possible gap lies in the relationship between the wrong identified and the threshold selected. Suppose persistent monitoring and credible retaliation cause a woman to abandon employment and contact with friends. The restriction may be serious even where the evidence does not establish an unlawful property demand or the likelihood of grave injury or danger to health required by section 86. That does not establish that every such case falls outside the provision. It identifies a question that must be answered on the evidence rather than assumed away: does the statutory threshold capture the loss of practical freedom as such, or only when the course also satisfies the specified conditions of cruelty?

This is a difference in legal focus, not a claim that mental health and autonomy are unrelated. They may be closely connected. Yet a proposed offence directed at serious restriction of choice would require the prosecution to prove that restriction, while section 86 directs it to the consequences or purpose stated in its text. Stretching the meaning of grave injury or danger simply to reach every troubling pattern would weaken certainty. A reform should state the additional wrong openly. It should also require sufficient seriousness to explain why the criminal law, rather than protective relief alone, is justified.

Criminal cruelty is not the only relevant offence. Stalking under section 78 and criminal intimidation under section 351 of the BNS may cover particular acts within a coercive course when their respective requirements are met.[197] Their availability prevents an inference that conduct outside sections 85 and 86 is necessarily lawful. A prosecutor should examine suitable existing charges before asserting a gap. The additional argument for a course-of-conduct offence concerns the organisation of connected behaviour into a serious restriction of freedom. It is strongest where the course has a distinct coercive meaning that a charge directed at a particular act does not adequately express. Duplication of an adequate existing charge would be a weak justification for reform.

C Relationship coverage and judicial interpretation

The relationships covered by each statute create another boundary. Section 85 concerns the husband and his relatives. The Domestic Violence Act uses the wider concept of a domestic relationship, including a relationship in the nature of marriage, within its shared-household framework.[198] These categories should not be treated as interchangeable. An allegation arising from a relationship outside marriage requires attention to the relevant statutory category; the label intimate

196 The Bharatiya Nyaya Sanhita, 2023 (Act 45 of 2023), ss. 85–86.
197 *Id.*, ss. 78 and 351.
198 The Protection of Women from Domestic Violence Act, 2005 (Act 43 of 2005), ss. 2(a), 2(f) and 2(s).

partner is not itself enough. Conversely, separation does not necessarily remove a woman from protection merely because the parties no longer occupy the same home.

In *Prabha Tyagi v. Kamlesh Devi*, the Supreme Court explained the breadth of domestic relationship and the availability of remedies in relation to past domestic relationships, subject to the statutory connection.[199] The decision resists an approach that makes current co-residence an automatic condition of relief. *Krishna Bhattacharjee v. Sarathi Choudhury* likewise recognised the continuing significance of retained stridhan despite judicial separation.[200] These decisions make an assertion that Indian protection simply ends upon separation untenable. Their limits also matter: neither judgment creates an unrestricted offence covering all former dating relationships, nor does a holding concerning retained stridhan establish that every form of post-separation control has the same legal character.

The identity of the respondent has also received constitutional scrutiny. In *Hiral P. Harsora v. Kusum Narottamdas Harsora*, the Court struck down the words adult male from section 2(q), broadening the persons against whom the Act's remedies may be sought.[201] The relevance here is the need to identify participation rather than assume it from gender or family position. Relatives may help enforce control, but a relationship to an alleged perpetrator does not establish personal responsibility. A separate offence would require proof of each accused person's conduct and culpability. General allegations against a household would not satisfy that requirement.

D Constitutional protection and the limits of interpretation

Articles 14, 15 and 21 supply the constitutional setting for the inquiry.[202] *Justice K.S. Puttaswamy (Retd.) v. Union of India* recognises privacy and decisional autonomy as constitutional interests.[203] *Joseph Shine v. Union of India* rejects a legal conception of marriage that subordinates a woman's identity and choices to her husband's authority.[204] These decisions support the importance of autonomy within intimate life. They do not independently supply the ingredients of a new criminal offence. Constitutional principle can guide the evaluation of legislation without allowing punishment through an undefined analogy between a constitutional wrong and statutory cruelty.

The coverage test therefore produces a qualified finding. Existing law can recognise cumulative non-physical abuse and provide substantial protective relief. Criminal cruelty can reach serious psychological conduct, but it retains particular relationship, purpose and consequence requirements. A proposed offence must demonstrate an additional contribution at those boundaries. Its justification cannot rest on replacing careful statutory analysis with the general claim that controlling behaviour is unacceptable.

IV. Assessing Alternatives to a Separate Offence

The first alternative is fuller use of the Domestic Violence Act. Its contextual definition can support recognition of linked conduct, while its remedies can address the resources and access on which control depends. Better availability of Protection Officers, prompt consideration of interim applications

199 (2022) 8 SCC 90.
200 (2016) 2 SCC 705.
201 (2016) 10 SCC 165.
202 The Constitution of India, arts. 14, 15 and 21.
203 (2017) 10 SCC 1.
204 (2019) 3 SCC 39.

and effective service of orders may matter more to an individual woman than the label attached to the conduct. These measures address access and implementation. They cannot, however, change the fact that protective relief and direct criminal liability answer different legal questions. Their value should be assessed without treating every absence of punishment as a failure of protection.

A targeted amendment to the cruelty provisions is another possibility. Parliament could expressly recognise a course of coercive conduct or reconsider relationship coverage. This would avoid an unnecessary multiplication of overlapping offences. Its difficulty is whether the amendment would merely clarify existing cruelty or introduce a different protected interest under the same name. Adding an express reference to autonomy while retaining every existing relationship and seriousness requirement might leave the identified gap substantially unchanged. Removing those limits would involve a larger legislative choice. The preference for a separate offence depends on whether a distinct definition would make that choice clearer and more accountable.

The strongest objection to criminalisation concerns the assumption that a new text will change institutional practice. Agnes's assessment of earlier Indian reforms questions that assumption, particularly where legal protection operates through institutions that reproduce disadvantage.[205] Goodmark's critique of the criminal legal response in the United States supplies a further reason to examine the diversion of resources and the consequences of punitive intervention.[206] Neither source proves what an Indian coercive-control offence would do. Together, they require the reform proposal to explain how prosecution would support, rather than displace, housing, financial assistance and women's ability to make decisions about their own lives.

There is also a risk of misidentification. A broad offence may be invoked against a woman whose actions are attempts to resist or manage another person's control. The risk is a reason for more exact elements and investigation, not an assumption that women cannot offend. Tolmie's analysis makes clear that a new offence depends on changes in how criminal justice institutions understand a relationship.[207] Walklate and Fitz-Gibbon question the capacity of criminalisation to deliver the protection claimed for it.[208] These objections are substantial. A reform that leaves them to be solved after enactment has not established its practical justification.

International obligations frame the state's responsibility without deciding the precise legislative form. CEDAW requires measures against discrimination, including in social practices and conduct by private persons.[209] General Recommendation No. 35 connects gender-based violence with obligations of prevention, protection, prosecution and redress.[210] This supports an effective response to coercive abuse, but it does not establish that a particular foreign offence should be copied. The Law Commission's earlier consideration of section 498A also demonstrates that criminal accountability and procedural concerns have long required examination together.[211] That report concerns the former IPC

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205 Flavia Agnes, "Protecting Women against Violence? Review of a Decade of Legislation, 1980–89" 27 *Economic and Political Weekly* WS19–WS21, WS24–WS33 (1992).

206 Leigh Goodmark, *Decriminalizing Domestic Violence: A Balanced Policy Approach to Intimate Partner Violence* (University of California Press, Oakland, 2018).

207 Julia R. Tolmie, "Coercive Control: To Criminalize or Not to Criminalize?" 18 *Criminology & Criminal Justice* 50–66 (2018).

208 Sandra Walklate and Kate Fitz-Gibbon, "The Criminalisation of Coercive Control: The Power of Law?" 8 *International Journal for Crime, Justice and Social Democracy* 94–108 (2019).

209 Convention on the Elimination of All Forms of Discrimination against Women, 1979, arts. 2 and 5.

210 Committee on the Elimination of Discrimination against Women, *General Recommendation No. 35 on Gender-Based Violence against Women, Updating General Recommendation No. 19*, UN Doc. CEDAW/C/GC/35 (2017).

211 Law Commission of India, "Section 498A IPC", Report No. 243 (August 2012).

framework; it is used here as a record of the reform debate, not as a statement of present BNS procedure.

On this analysis, a separate offence is defensible where the prosecution can identify serious restriction of practical freedom that is not adequately characterised by an existing charge, and where a distinct definition improves legal clarity. It should be introduced as part of a functioning protective system. The argument is conditional because doctrinal comparison can establish a mismatch between legal requirements, but cannot establish how many additional cases would be proved or whether prosecution would make a particular woman safer.

V. Comparative Lessons for Offence Design

A England and Wales

Section 76 of the Serious Crime Act 2015 requires repeated or continuous controlling or coercive behaviour between personally connected persons, a serious effect on the complainant, and knowledge or the statutory ought-to-know standard. The serious-effect requirement concerns repeated fear of violence or serious alarm or distress producing a substantial adverse effect on usual daily activities.[212] It gives the prosecution a defined structure for explaining linked conduct. It also creates a separate evidential issue concerning the effect on the complainant. The criminal wrong is consequently narrower than any social description of a controlling relationship.

Section 68 of the Domestic Abuse Act 2021 amended the relationship provisions, including the earlier cohabitation limitation affecting former partners and family members.[213] The change is relevant to India because residence and the continuation of control are different questions. Official guidance explains how behaviour, its context and its effect should be evidenced.[214] For the present proposal, the useful lesson is the need to state relationship coverage expressly. An offence concerned with control after separation should not leave liability to an uncertain inference that a former couple still shares a household.

B Scotland

The Domestic Abuse (Scotland) Act 2018 uses a course of abusive behaviour towards a partner or former partner. Its conditions include a reasonable-person assessment of likely physical or psychological harm and an intention or recklessness requirement. The Act also explains relevant effects and the meaning of a course of behaviour.[215] This differs from the English and Welsh structure by focusing on likely harm under the statutory test rather than making proof of a completed serious effect operate in the same way. The comparison exposes a choice for India: whether liability should turn on a demonstrated restriction of freedom or on the risk created by an abusive course.

Neither approach can be selected solely because it produces a broader definition. A risk-based offence may avoid making liability depend on a complainant's visible response, but it places considerable weight on the assessment of likely harm. An actual-restriction requirement gives the

212 Serious Crime Act 2015 (UK, c. 9), s. 76(1), (4) and (5).
213 Domestic Abuse Act 2021 (UK, c. 17), s. 68.
214 Home Office, "Controlling or Coercive Behaviour: Statutory Guidance Framework" (2023).
215 Domestic Abuse (Scotland) Act 2018 (asp 5), ss. 1–3 and 10–11.

prosecution an additional fact to prove, while potentially excluding unsuccessful efforts at domination. This paper favours the latter for the bounded offence proposed below. The choice is a limit on that proposal, not a finding that unsuccessful coercion is harmless or that other offences cannot apply.

C What implementation evidence can establish

Official and published research qualifies any claim that enactment settles the problem. The Home Office's review examines the operation of the English and Welsh offence, including challenges in its use.[216] Barlow and her colleagues' study of practice in one police force area identifies both possibilities and problems in translating the offence into investigation.[217] Scotland's interim reporting material likewise presents an early and partial picture of operation, affected by the circumstances of its reporting period.[218] These sources support attention to training, evidence and support. They do not provide a sound basis for forecasting conviction rates or safety outcomes in India. Comparative research is most useful here for identifying design choices and questions that implementation must answer.

VI. Proposed Legal Framework and Safeguards

A Defining the wrong and the required mental element

The proposed offence should address a serious restriction of practical freedom through a connected course of coercive conduct. It should require repeated or continuous behaviour, coercive means, the specified restriction and culpability in relation to that restriction. The seriousness requirement should concern the interference with the complainant's life, assessed in context. It should not depend on a diagnosis of psychiatric injury or proof that she attempted to leave. Equally, the prosecution should identify more than offensiveness, unequal preferences or an arrangement that an observer considers undesirable.

An illustrative formulation is: a person commits an offence where, in a current or former intimate relationship between adults, that person intentionally engages in a repeated or continuous course of behaviour which, through intimidation, enforced isolation, surveillance or coercive restriction of resources, without lawful justification seriously restricts the other person's practical freedom to make and act on decisions concerning movement, personal association, work, finances or health, and intends that restriction or knows that the course will produce it. This is a proposed definition for legal evaluation, not existing Indian law. Each element would remain for the prosecution to establish beyond reasonable doubt.

The subjective mental element is a deliberate restriction on liability. Knowledge or intention may be inferred from warnings, communicated demands, responses to refusal and the continuation of the course. It should not be presumed from gender, marriage or the fact that a relationship has broken down. Unlike the English and Welsh ought-to-know formulation, this proposal would not allow that objective standard alone to establish culpability. The cost is a more demanding prosecution burden. That cost is justified where the offence reaches behaviour whose criminal meaning depends

[216] Home Office, "Review of the Controlling or Coercive Behaviour Offence" (March 2021).
[217] Charlotte Barlow, Kelly Johnson, *et al.*, "Putting Coercive Control into Practice: Problems and Possibilities" 60 *The British Journal of Criminology* 160–179 (2020).
[218] Scottish Government, "Domestic Abuse (Scotland) Act 2018: Interim Reporting Requirement" (January 10, 2023).

substantially on context. The proposed rule should be evaluated against that trade-off rather than presented as an unqualified improvement on foreign law.

A lawful restriction, or an arrangement freely chosen and open to withdrawal, should not satisfy the proposed definition. Where reasonable care is raised, the court should examine the specific risk, available alternatives, duration and proportionality of the restriction. An accused could raise evidence of lawful authority or reasonable necessity, with the prosecution retaining the ultimate burden on criminal liability. A general claim of acting for the partner's welfare would be insufficient. Family approval or customary expectations would not, by themselves, justify a serious deprivation of choice.

B Relationships and the position of women

Coverage should include current and former intimate partners without requiring marriage or cohabitation. The relationship must still be proved; it should not become an invitation to criminalise disputes between any two people. The scope proposed here is limited to adult relationships, leaving the interaction with child-protection offences for separate examination. Participation by a relative or another person should depend on the applicable rules of individual or accessorial responsibility. Neither family membership nor silence in a difficult household should automatically establish participation in the offence.

Although this paper examines women's autonomy, a gender-neutral offence can identify the prohibited conduct while preserving the women-specific protection available under the Domestic Violence Act. A neutral text must not become a claim that the social conditions of abuse are uniform. Investigation must examine the direction and operation of control, economic dependence and the consequences of resistance. Hester's analysis of English police records is relevant to this contextual inquiry, although its findings cannot determine an individual Indian case.[219] The complainant's conduct should be assessed on the evidence, with the same care as the conduct alleged against the accused.

C Proving a course of conduct

A complaint and charge should identify the alleged period, principal episodes, coercive connection and restriction relied upon. Evidence may include communications, financial records, restrictions on work, testimony about contact with others, and the complainant's account of the consequences of refusal. A message that appears innocuous in isolation may acquire meaning from a demonstrated history; the history must itself be established. The accused must have a fair opportunity to dispute authenticity, context and the alleged connection. A vague assertion of control should not relieve the prosecution of these requirements.

Digital evidence requires particular care. Sections 61–63 of the Bharatiya Sakshya Adhiniyam govern relevant aspects of electronic and digital records, including the conditions for admissibility under section 63.[220] Preserving the original material and the surrounding conversation can matter more than collecting a large number of cropped screenshots. Investigation should seek only material reasonably relevant to the allegation and should avoid unnecessary exposure of intimate information.

[219] Marianne Hester, "Who Does What to Whom? Gender and Domestic Violence Perpetrators in English Police Records" 10 *European Journal of Criminology* 623–637 (2013).
[220] The Bharatiya Sakshya Adhiniyam, 2023 (Act 47 of 2023), ss. 61–63.

Absence of a digital record should not become a compulsory corroboration rule where reliable admissible testimony can prove the elements. The ordinary criminal standard remains unchanged.

The model also needs to confront apparent compliance. A woman may continue working while taking costly steps to avoid monitoring or retaliation; outward persistence does not establish unrestricted freedom. Courts should examine the practical conditions of her decisions. Yet if the prosecution cannot prove a serious restriction, the completed offence proposed here would not be established. Other applicable offences or attempt liability would require their own legal analysis. This limit prevents the concept of autonomy from becoming a presumption of harm whenever controlling intentions are alleged.

D Procedure and coordination with protective relief

Safeguards should operate within the process, rather than through a blanket assumption that a complaint is true or false. In *Arnesh Kumar v. State of Bihar*, the Supreme Court required attention to the legal necessity of arrest instead of mechanical arrest following an accusation.[221] The current statutory framework must be applied through the relevant BNSS provisions, including section 35 and its conditions.[222] The earlier judgment was decided under the CrPC. The applicable arrest conditions for a new offence would depend on its classification and maximum sentence. In a future offence, investigation would need to record the grounds for any arrest and assess specific risks of retaliation, interference with evidence or intimidation. A presumption against taking a complaint seriously would be as unsatisfactory as automatic detention.

The criminal process should not make protection depend on a conviction. Applications for protection, residence, financial support and compensation should continue to be considered under their own legal standards. Information shared between proceedings should be handled lawfully, with attention to privacy and the accused person's opportunity to respond. The burdens created by overlapping proceedings are relevant to whether relief gives a woman a usable choice.[223] Practical support should therefore include legal assistance, safe communication arrangements and access to the remedies already available, alongside any prosecution.

Evaluation after enactment should examine more than the number of cases registered. Useful questions include whether charges identify a coherent course, whether complainants are wrongly treated as perpetrators, whether protection is accessible and why cases fail. Those questions require properly designed empirical research. This paper supplies legal criteria for that later assessment. It does not supply the data needed to answer it, and a favourable doctrinal case should not be mistaken for proof of successful implementation.

VII. Findings and Conclusion

The analysis supports a limited case for a separate offence. The Domestic Violence Act already permits recognition of cumulative non-physical abuse and provides remedies capable of addressing the conditions of dependence. The BNS cruelty provisions can also reach qualifying mental and physical

221 (2014) 8 SCC 273.
222 The Bharatiya Nagarik Suraksha Sanhita, 2023 (Act 46 of 2023), s. 35.
223 Heather Douglas, *Women, Intimate Partner Violence, and the Law* (Oxford University Press, New York, 2021).

harm. Their requirements should be applied accurately before a legislative gap is asserted. The additional case concerns a serious restriction of practical freedom that does not necessarily satisfy the particular relationship, purpose or consequence requirements of existing criminal cruelty.

A distinct offence is justified only if it states that additional wrong clearly. The framework proposed here requires a connected course of coercion, an actual serious restriction of specified areas of practical freedom and intention or knowledge in relation to that restriction. It extends to current and former adult intimate partners without treating cohabitation as essential. Ordinary prosecution burdens, individual responsibility and a fair opportunity to contest the evidence remain necessary. The actual-restriction requirement and subjective mental element deliberately limit the proposal's reach.

The working hypothesis is therefore supported in a qualified form. There is a defensible difference between existing legal protection and the distinct wrong proposed for criminal recognition, but its size and practical consequences cannot be established through statutory comparison alone. Reform should preserve protective remedies and be assessed through evidence about its operation. Its value will depend on whether women gain an effective means of challenging sustained control while the law remains precise about the conduct for which it imposes punishment.

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