

Comparative Study of Pre-Assault Intervention Capacity and Its Implications for Indonesian Domestic Violence Law

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Article Info	ABSTRACT
Article history: Received July 10th, 2026 Revised July 25th, 2026 Accepted July 29th, 2026 Keyword: Coercive control; Domestic violence; Indonesia; Legal reform; Pre-assault intervention.	Domestic violence law responds more readily to discrete incidents, whereas coercive control develops through surveillance, dependency, restriction, and intimidation that may become legally visible only after harm occurs. Existing scholarship has not sufficiently connected offence design, intervention timing, and reform of Indonesian domestic violence law. This study examined whether criminal law could recognise coercive control before physical assault became the principal basis of a case and identified a defensible model for Indonesia. It employed normative legal research using statutory, conceptual, and comparative approaches to Indonesian law and the offences of England and Wales, Scotland, New South Wales, and Queensland. The findings showed that coercive control could not be reduced to psychological violence because its central harm lay in cumulative restrictions on autonomy. Serious-effect offences provided clearer boundaries but tied liability to harm already experienced, while likely-harm models could operate earlier when combined with a serious course of conduct and a defined mental element. Indonesian law recognised psychological harm and economic control but did not connect controlling acts as one course of conduct. A hybrid model was more defensible, retaining existing offences while adding an autonomous pattern-based offence subject to seriousness, likely harm, intent, proportionality, and clear rules on concurrence.
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INTRODUCTION

Criminal law responds most easily to domestic violence when it appears as a discrete event: an assault, an explicit threat, damage to property, or an injury that can be documented. Coercive control is harder to capture because its meaning often lies in the relationship between acts rather than in any single act. Monitoring communications, controlling money, restricting work, isolating a partner, and imposing rules for ordinary life may each look ambiguous when separated from their context. Together, they can narrow the victim's choices and make disobedience costly. This is the central weakness of incident-based legalism: the law separates events into units, while domination is experienced as an ongoing pattern (Barlow et al., 2020). Coercive control should therefore not be treated simply as another label for psychological violence. Psychological suffering may be one consequence, but the pattern can also restrict access to money, employment, mobility, social relationships, and independent decision-making. Recent work describes this as social and systemic entrapment, in which agency is constrained by both the perpetrator's conduct and the conditions that make resistance difficult (Tolmie et al., 2024).

The phrase pre-assault intervention requires a narrow meaning in a documentary study. It does not imply that a victim has never experienced an undisclosed physical assault, nor does it claim that

criminalisation prevents later violence. Here, it refers to the legal capacity to recognise and process a serious pattern of non-physical domination before physical assault becomes the principal basis for reporting, charging, or proof. Indonesian law already provides a foundation for such an inquiry. Law No. 23 of 2004 recognises psychological violence and household neglect alongside physical and sexual violence. Article 7 covers fear, loss of self-confidence, loss of the ability to act, helplessness, and severe psychological suffering, while Article 9(2) recognises economic dependency created by restricting or prohibiting work. The difficulty is narrower: the Act does not expressly treat economic control, surveillance, isolation, implied threats, and related restrictions as one course of conduct. The problem is therefore not an absence of non-physical protection, but the way separate legal categories can obscure an interconnected pattern (Mahfud & Rizanizarli, 2021).

Comparative law does not offer one settled model. England and Wales require repeated or continuous controlling or coercive behaviour and a serious effect on the victim. Scotland places a course of abusive behaviour at the centre of a single offence and uses likely harm together with intention or recklessness. New South Wales and Queensland also avoid a strict requirement of actual harm, but attach liability to an intention to coerce or control. These differences matter because each design places the boundary of criminal liability at a different point. Earlier intervention may be easier where likely harm is sufficient, but broader reach increases the importance of a clear mental element, contextual limits, and proof that the behaviour forms a serious course rather than a collection of unpleasant incidents (Wangmann, 2022).

The literature has established why coercive control should be understood cumulatively, yet an important doctrinal gap remains. Studies of criminalisation often focus on recorded cases, enforcement difficulties, or the practical value of a new offence. Those questions are important, but they do not by themselves show when the offence becomes legally complete. A statute may recognise patterns and still require an effect that is visible only after domination has substantially altered the victim's life. Indonesian discussion of psychological violence similarly tends to focus on proving mental effects rather than on whether an effects-based structure delays legal recognition of the controlling course itself (Brennan & Myhill, 2022). The issue is therefore not whether coercive control has been studied, but whether offence design, evidential structure, and the timing of liability have been examined together.

This article uses pre-assault intervention capacity to connect those questions. It asks whether selected legal systems treat the pattern as the unit of wrongdoing, how harm and fault thresholds affect the point at which liability can arise, and what safeguards are needed when a victim's resistance might be mistaken for controlling conduct (Gutowski & Goodman, 2023). The comparison is used to assess what, if anything, can be adapted to Indonesian domestic violence law without weakening legality or proportionality. It does not assume that criminalisation is always the preferable response; concerns about overreach and the collateral effects of criminal justice remain part of the inquiry (Jones & Anyieth, 2025). The argument developed below is that earlier legal recognition becomes possible only when connected conduct, harm or risk, and the perpetrator's mental element are aligned in a way that captures domination without turning ordinary relationship conflict into a criminal offence.

RESEARCH METHODS

This article uses normative legal research with statutory, conceptual, and comparative approaches (Negara, 2023). The statutory approach examines provisions governing controlling or coercive behaviour in domestic relationships. The conceptual approach distinguishes coercive control from psychological violence framed primarily through effects experienced by the victim. The comparative approach examines England and Wales, Scotland, New South Wales, and Queensland, focusing on the course of conduct, harm threshold, and mental element. The jurisdictions are not ranked. They are used to identify differences in legal design that can clarify the options and limits of reform in Indonesia (Boulanger, 2020).

Primary legal materials consist of legislation, relevant judgments, and official prosecution guidance. Secondary materials include books, journal articles, and research reports on coercive control, psychological violence, pattern evidence, criminalisation, and victim misidentification. Materials were collected through library and document research using legislative portals, court websites, prosecution authorities, and academic databases. Cases and official guidance are used to clarify the interpretation and proof of offence elements, not to infer a uniform pattern of judicial practice. The materials are analysed qualitatively through grammatical and systematic interpretation. Grammatical interpretation

examines the terms defining conduct, harm, fault, and statutory limits; systematic interpretation reads each provision within the wider structure of domestic violence law in its jurisdiction (Taekema, 2021).

RESULTS AND DISCUSSION

1. From Incidents to Domination: Reconstructing the Legal Object of Domestic Violence

Control is difficult to identify when the individual acts look ordinary. A perpetrator need not confiscate all of a victim's income. Retaining a bank card, demanding explanations for every expense, or making access to money dependent on permission may be enough when those practices also restrict employment, social contact, or the possibility of leaving. No single transaction then explains the victim's position. The legal significance lies in the relationship between rules, monitoring, and the consequences of disobedience. Scholarship on coercive control developed partly from this criticism of incident-based readings of partner violence: the harm may lie less in the harshest single act than in the way connected conduct forces the victim to organise daily decisions around the perpetrator's expected response (Byrt et al., 2025).

Ordinary functioning does not necessarily show that control is absent. A victim may continue working, caring for children, or speaking calmly because she has learned which choices are safe and which will trigger retaliation. Coercive control intersects with psychological violence here, but the concepts are not identical. Fear and distress matter, while the inquiry also has to consider how choices, resources, and consequences are regulated. Severe psychological suffering may become visible only after freedom of action has already narrowed, so resilience should not be treated as proof that domination has not occurred (Kanougiya et al., 2022). Autonomy helps explain this harm without becoming a free-standing offence element. Intimate partners inevitably influence each other, and not every imbalance is criminal. The problem is a deliberately maintained restriction that leaves choices available only in a formal sense, such as where a victim technically can leave but lacks money, safe accommodation, or meaningful access to children (McCallum & Rose, 2021). The point is the imposed structure of choice, not simply the presence of distress or conflict (Mitchell & Raghavan, 2021).

A bad relationship is not automatically a criminal case. Jealousy, unilateral decisions, and unequal domestic roles may be harmful without meeting the threshold for punishment. Criminal relevance becomes stronger where conduct is repeated, sufficiently serious, and used to secure compliance through consequences that the perpetrator can impose. Context is therefore indispensable. An act that is trivial or unpleasant in isolation may carry a different meaning when it is repeatedly used to close off the victim's options. Without a seriousness threshold, criminalisation risks becoming a judgment on the quality of a relationship rather than on conduct that warrants criminal liability (Lagdon et al., 2023).

Article 7 of Law No. 23 of 2004 already moves beyond bodily injury by defining psychological violence through fear, loss of self-confidence, loss of the ability to act, helplessness, or severe psychological suffering. Its limit is not that every alternative requires severe mental damage; it is that a specified consequence must still be established. A pattern of surveillance or restriction may already have produced compliance, but legal proof remains tied to one of the listed effects, which can shift attention from how the perpetrator's conduct works to how the victim has changed (Nasyiah, 2024). Article 9(2) approaches control differently. It recognises economic dependency created by restricting or prohibiting work so that the victim is placed under the perpetrator's control. This provision identifies dependency as a process, not merely a final psychological condition. Yet its reach remains specific to economic control and does not itself connect social, digital, psychological, and other restrictions into one course of conduct (Postmus et al., 2020).

Read together, Articles 7 and 9(2) show two legal routes to non-physical harm: psychological effects and dependency produced through restrictions on work. They can operate in the same relationship, but the Act places them in separate categories. That separation supports precision while also making it easier to miss the functional link between acts. Preventing employment may ensure that a victim lacks resources to refuse or leave, while psychological pressure can preserve the dependency already created. Systematic interpretation should therefore maintain the statutory categories but keep the relationship between the acts visible when the elements of each offence are assessed (Setyowati & Rusdiana, 2020).

Scotland shows why the legal unit need not be each act viewed separately. Section 1 of the Domestic Abuse (Scotland) Act 2018 makes a course of abusive behaviour towards a partner or former

partner the core of one offence. The course is not criminal merely because at least two incidents occurred. Liability remains limited by the likelihood of harm, the offender's mental element, and a defence for reasonable conduct. The value of the comparison is narrower than direct transplantation: it shows that repetition provides a temporal dimension while the relationship and function of the acts can give the course its legal unity (Cairns, 2020).

Indonesian law therefore already contains recognition of psychological effects and of control produced through economic dependency. What it lacks is a general basis for connecting different forms of conduct as one serious controlling course. Coercive control should not become a new label for all psychological violence, and a pattern cannot be established simply by counting incidents. Liability would need conduct that is sufficiently serious, connected, and directed towards restricting the victim's ability to act. Autonomy explains the interest at stake, while conduct, harm or risk, and fault are still needed to preserve legal certainty. Without such limits, reform could produce an offence too broad to distinguish coercive domination from ordinary domestic conflict (Rogers et al., 2023).

2. Designing Pre-Assault Criminal Liability: Comparative Thresholds, Mens Rea, and Pattern Evidence

A course of conduct may be established before the victim experiences an effect expressly required by legislation. The timing of completion therefore matters. An actual-harm threshold gives the offence a more visible boundary, but it also makes liability depend on a change in the victim that can already be proved. A likely-harm approach can operate earlier, although it needs stronger limits elsewhere. Repetition alone cannot do that work. The law must explain why the course is serious, what connects its acts, and to what object the offender's fault attaches. Pre-assault capacity consequently depends not only on whether actual harm is required, but also on where the offence locates the mental element (Bettinson et al., 2026).

Section 76 of the Serious Crime Act 2015 in England and Wales requires repeated or continuous controlling or coercive behaviour, a serious effect on the victim, and proof that the offender knew or ought to have known that the behaviour would have that effect. Serious effect can consist of fear that violence will be used on at least two occasions or serious alarm or distress with a substantial adverse effect on usual day-to-day activities. Physical assault is unnecessary, but an experienced effect remains part of the offence, so proof centres on the link between the course and a change already experienced by the victim (Myhill et al., 2023). That does not mean the law invariably acts too late. Fear and changes in routine may arise at different stages, and adaptations can themselves demonstrate serious effect. The narrower point is that a course which has already constrained choices may still fall outside section 76 until a statutory effect can be established (Wydall & Zerk, 2021).

Scotland locates the threshold differently. Section 1 of the Domestic Abuse (Scotland) Act 2018 requires a course of behaviour that a reasonable person would consider likely to cause physical or psychological harm. The offender must intend to cause harm or be reckless as to whether harm is caused. Actual harm need not first be proved. The inquiry therefore turns to the nature of the course and the harm it was likely to produce. This allows an earlier point of legal completion, but the breadth is constrained because the course must be abusive, likely harm is assessed objectively, fault attaches to that harm, and reasonable behaviour is excluded.

New South Wales and Queensland also avoid a requirement of actual harm, but their offences are not identical. Section 54D of the Crimes Act 1900 (NSW) applies to a course of abusive behaviour towards a current or former intimate partner, with an intention to coerce or control and a reasonable likelihood of fear of violence or serious adverse impact on ordinary activities. Queensland's section 334C applies to a course of domestic violence on more than one occasion within a broader domestic relationship, also requiring an intention to coerce or control and a course reasonably likely to cause harm. The difference in relationship scope and defined conduct matters. In both systems, intention may have to be inferred from the way the course is organised and maintained. Queensland also makes clear that each isolated act need not itself be proved to have been committed with the controlling intention; the intention concerns the course as a whole (Gibbon & Buxton-Namisnyk, 2025).

The sharper distinction is therefore the object of *mens rea*. England and Wales connect knowledge to the serious effect experienced by the victim. Scotland attaches intention or recklessness to physical or psychological harm. New South Wales and Queensland require a purpose to coerce or control. These are not interchangeable. A perpetrator may seek obedience without desiring a particular

psychological injury, while awareness of possible harm does not necessarily prove a purpose of domination. The same factual course may consequently satisfy different offences at different stages and through different forms of proof. This difference is more important than a simple contrast between actual harm and likely harm.

The breadth of a pattern-based offence is also controlled by defences and evidence. England and Wales recognise a limited best-interests and reasonableness defence; Scotland, New South Wales, and Queensland likewise use reasonableness within their own statutory structures. The common point is that apparently legitimate explanations must be tested against the course as a whole, not one isolated act. Evidence has to be organised in the same way, particularly where technology is part of the controlling course (O'Brien & Maras, 2024). A series of messages may be innocuous individually but show imposed rules through their frequency, demands for immediate replies, or the response to delay; digital records can therefore reveal continuity and monitoring that would otherwise be fragmented (Cuomo & Dolci, 2021). In *CA v HM Advocate*, the Scottish court treated the course of abusive behaviour as the core of one offence, while Queensland similarly allows proof to focus on the course rather than requiring every act to carry the full burden of a separate charge.

Pre-assault intervention ultimately depends on how the offence combines the course, the harm threshold, and fault. A serious-effect model offers a clearer boundary but ties liability to a consequence already experienced. A likely-harm model permits an earlier point of completion, while a specific-intent requirement narrows liability through the offender's purpose. None is automatically superior. A defensible offence must treat connected conduct as one course, attach fault to a clearly defined object, and apply contextual limits without fragmenting the pattern back into isolated incidents. Otherwise, a statute may appear to recognise coercive control while still reproducing the evidential logic of incident-based domestic violence law (Munro et al., 2024).

3. Beyond Legal Transplantation: Reconstructing Indonesian Domestic Violence Law without Penal Overreach

Law No. 23 of 2004 already recognises control in specific forms, but through separate legal routes. Article 7 addresses psychological violence through its effects, while Article 9(2) treats restrictions on work as a means of creating economic dependency and placing the victim under the perpetrator's control. The gap arises when surveillance, resource restrictions, and other forms of control reinforce each other but cannot be treated as one course-based offence. This analysis is limited to the architecture of the Domestic Violence Act rather than every national offence that might overlap with particular conduct. Reform must also fit Indonesia's general criminal-law framework, including the rules on fault, sentencing, and concurrence under the post-2026 penal structure. The issue is therefore not simply whether a new offence can be drafted, but how it would coexist with offences that already address parts of the same course.

A controlling course can enter Article 7 only after it is linked to one of the effects named in the provision. Connections between acts may establish causation and context, but they cannot replace the statutory consequence with likely future harm. Article 9(2) has a different limit. It expressly recognises control, yet the prohibited conduct is tied to restricting or prohibiting work and the resulting economic dependency. Social, digital, or psychological conduct cannot be brought within that provision simply because it serves a similar controlling purpose. Technology-facilitated abuse illustrates the problem: monitoring, repeated contact, account access, or location tracking may form part of domination without fitting the economic route in Article 9(2) (Kuo et al., 2023). Control is therefore present in the Act, but not as a general basis for linking different forms of behaviour into one course.

Interpretation can preserve the relationship between facts without changing the elements of the existing offences. Article 5 separates physical, psychological, and sexual violence from household neglect; Articles 7 and 9 then define different wrongs with different consequences. A systematic reading can show that psychological pressure maintains economic dependency or that restrictions on work deepen helplessness. It cannot turn several acts into one offence by itself. Guidance may help investigators and prosecutors retain the connection between facts, but it cannot remove the effects requirement in Article 7 or extend Article 9 beyond work-related dependency. If the relationship between acts is to become the core of criminal wrongdoing, the legislature must state that basis with sufficient certainty.

A new offence is defensible only if the wrong located in the course itself cannot be adequately recognised through interpretation, protective measures, or existing offences. Protection orders, economic assistance, and specialist services remain important, but they perform a different function from declaring an interlocking course to be one criminal wrong (Dula, 2022). Criminalisation must still satisfy legality, proportionality, and the idea of punishment as a last resort. A separate offence should therefore require a sufficiently serious course that is objectively likely to cause physical, psychological, or economic harm, or a significant restriction of the victim's capacity to act. Actual harm need not invariably occur, but the broader threshold should be counterbalanced by proof that the offender intended the course to coerce or control and by an exclusion for conduct that was necessary and proportionate in the circumstances. The hybrid model proposed here would retain Articles 7 and 9 while adding that autonomous offence. Where the same course also satisfies an existing offence, charging and sentencing would have to follow the rules on concurrence so that the same facts are not counted twice without legal justification.

A course-based offence does not remove the risk of misidentification. A victim who hides money to prepare an escape may appear to exercise economic control if the act is detached from the history of the relationship. The inquiry therefore has to consider who created the broader pattern, who could impose consequences, and whether the act maintained domination or responded to it. Guidance on identifying the dominant or primary perpetrator may assist application, but it should not become a new offence element. Evidence from other jurisdictions cannot establish that the same error occurs in Indonesia in the same way; it does, however, show why reform should anticipate the possibility that resistance will be mistaken for domination (Reeves et al., 2025).

The principal weakness of the Domestic Violence Act is not a failure to recognise non-physical abuse, but the absence of a legal basis for connecting psychological effects, economic control, and other conduct as one serious course. Interpretation can preserve context, but it cannot create elements that the legislature has not enacted. An autonomous offence within a hybrid model is therefore defensible only if its boundaries are clear: the course must be serious, likely harm or a substantial restriction must be established, the perpetrator must act with a controlling purpose, and necessary or proportionate conduct must remain outside the offence. Such reform may make an interlocking wrong more visible, but it also expands punitive power and creates risks of overlapping charges and mistaken application. Those risks are part of the design problem, not matters that can be left to enforcement after enactment.

CONCLUSION

Domestic violence law can operate before physical assault becomes the principal basis of a case if liability is designed around a serious pattern rather than a collection of isolated events. Coercive control cannot be reduced to psychological violence or individually minor acts because its harm lies in the way connected conduct narrows the victim's choices and maintains compliance. Comparative analysis shows that serious-effect offences provide a clearer boundary but tie liability to harm already experienced, whereas likely-harm models can reach an earlier stage if the course, mental element, and contextual limits are clearly defined. The timing of criminal liability therefore depends on how the law connects the course of conduct, the harm threshold, and the object of the offender's fault.

Indonesian law already recognises psychological violence through Article 7 and economic control through Article 9(2) of Law No. 23 of 2004. Its weakness is the absence of a basis for linking different controlling acts as one course-based offence. Systematic interpretation can preserve the relationship between facts, but it cannot remove statutory elements or expand economic neglect beyond the text. A hybrid model is more defensible: existing offences should remain, while an autonomous offence may be considered for a serious coercive course, with clear rules on concurrence, proportionality, and legitimate conduct. Criminalisation may improve legal recognition of controlling patterns, but it cannot by itself guarantee victim safety or prevent later violence.

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