

A Significant Win for Victims of Intimate Partner Violence (Ahluwalia v. Ahluwalia)

Family Law | Litigation & Dispute Resolution | Torts

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The law does not remain static. Governments enact new statutes or amend existing statutes in response to changing circumstances. Similarly, courts can encounter factual matrixes that cry out for a remedy but do not easily fit within existing causes of action. In these circumstances, courts can recognize new torts.

In *Ahluwalia v. Ahluwalia*, 2026 SCC 16 (CanLII), the Supreme Court of Canada recognized a new tort of intimate partner violence.

This new tort provides a remedy to an intimate partner whose right to dignity, autonomy and equality within an intimate relationship is distinctly harmed because of the coercive and controlling conduct exerted by the other partner. Such conduct can include extreme acts of physical and psychological violence, tactics of isolation, manipulation, humiliation, surveillance, financial abuse, sexual coercion, and intimidation.

The creation of this new tort marks an important development in Canadian tort law, as victims of coercive intimate partner relationships can now pursue a direct, tailored cause of action against the other partner without the need to fit their claim into previously established torts, such as battery, assault, or intentional infliction of emotional distress, which may not adequately address the distinct nature and harms associated with coercive control within intimate partner relationships.

What Happened in *Ahluwalia v. Ahluwalia*

Mr. and Ms. Ahluwalia were married in India in 1999 and immigrated to Canada shortly after having their first child in 2001.

In 2016, Mr. Ahluwalia commenced divorce proceedings.

In response, Ms. Ahluwalia initially sought sole decision-making authority for their children, child support, spousal support, property equalization, and the sale of the matrimonial home. Subsequently, she amended her response to claim damages arising from harm she allegedly sustained from a pattern of abuse exerted upon her by Mr. Ahluwalia throughout their 16-year marriage.

Ms. Ahluwalia claimed that the abusive conduct included not only physical acts of violence, but more subtle forms of manipulation and coercion. More specifically, she claimed that Mr. Ahluwalia restricted her autonomy by limiting her ability to work, pursue education, and maintain relationships with her family and friends. He also prevented her from visiting her dying mother in India and exercised strict control over the family's finances, including her own earnings.

At first instance, the trial judge accepted Ms. Ahluwalia's claims as credible and found that the marriage was characterized by a persistent pattern of abuse, coercion, and control: *Ahluwalia v. Ahluwalia*, 2022 ONSC 1303 (CanLII). This abuse involved an inherent breach of trust, as Mr. Ahluwalia exploited the dependence and vulnerability inherent in their intimate partnership, especially considering Ms. Ahluwalia's status as a racialized newcomer to Canada.

The trial judge concluded that this conduct caused significant harm but that it could not be adequately addressed through other established torts. Accordingly, the trial judge recognized the new tort of "family violence".

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Mr. Ahluwalia appealed. He contended that existing torts provided an appropriate remedy for his alleged conduct and asked that the damages which the trial judge had awarded to Ms. Ahluwalia be reduced on the grounds that they were excessive.

The Court of Appeal for Ontario allowed Mr. Ahluwalia's appeal, finding that previously established torts, such as assault, battery, and intentional infliction of emotional distress, provide an adequate legal framework for addressing domestic abuse: *Ahluwalia v. Ahluwalia*, 2023 ONCA 476 (CanLII).

Although the appellate court observed that intimate partner violence was a "pervasive social problem" and a "cancer of domestic relationships," it held that based on established jurisprudence the existing torts were flexible enough to capture the recurring patterns of such behaviour. Accordingly, in the Court of Appeal's view, the creation of a new tort was unnecessary and any such development would be best left to the legislature to change.

This decision was appealed by Ms. Ahluwalia to the Supreme Court of Canada.

In May 2026, the Supreme Court released a decision in which the majority agreed that existing torts such as intentional infliction of emotional distress, assault, and battery did not adequately capture the wrongs associated with coercive control within intimate relationships and concluded that it was appropriate to recognize the new tort of intimate partner violence.

However, based on the specific relational context and rights violations at issue in the case, the Supreme Court defined this new tort more narrowly than the tort of "family violence" which had been recognized by the trial judge.

Unlike "family violence," which could encompass a broad range of harms aimed at various family members, the Supreme Court specifically narrowed the application of the new tort to committed, romantic, and intimate relationships characterized by financial, social, and emotional interdependence.

The narrow framing of this tort enabled the Supreme Court to justify its recognition as being consistent with the incremental development of the common law, while signalling that the law could continue to evolve to address other forms of family violence. For instance, future legal developments might address forms of family violence involving children or elders in a manner that reflected the unique vulnerabilities inherent in those relationships.

Why Existing Torts Do Not Suffice

In recognizing the new tort, the Supreme Court held that although existing torts might capture discrete incidents of physical or psychological harm, they failed to capture the broader, recurring deprivations of autonomy that defined intimate partner violence.

More specifically, the Court explained that while the tort of intentional infliction of emotional distress remedied behaviours that caused psychological harm, it was limited to flagrant or outrageous conduct and required proof of a visible and demonstrable psychological illness. These requirements were poorly suited to addressing intimate partner violence, as such abuse often consisted of persistent, low-level behaviours that might not rise to the high threshold of outrageousness or result in a provable psychological illness.

With respect to battery and assault, these torts were often inefficient in addressing the unique nature of harms of intimate partner violence.

The tort of battery protects against unwanted physical contact and preserves an individual's right to bodily integrity and personal autonomy

The tort of assault addresses conduct that intentionally causes a person to reasonably fear imminent harm and protects an individual's psychological integrity and sense of security.

In the Supreme Court's view, neither battery nor assault adequately captured the nature of recurring forms of abuse, such as manipulation, isolation, or financial control. The Court further reasoned that these traditional torts did not appropriately account for the fear and subordination that could develop over time in an intimate relationship, which eroded an individual's dignity, autonomy, and equality. A victim of ongoing patterns of behaviour that eroded their safety, autonomy, and equality could be left without a remedy in circumstances where a pattern of abusive behaviour deprived them of a freedom they otherwise enjoyed before the abuse started.

The Test for Intimate Partner Violence

In placing a framework around the tort of intimate partner violence, the Supreme Court of Canada stated that to succeed a plaintiff was required to establish three elements.

First, the plaintiff must demonstrate that the abusive conduct occurred during an intimate relationship or its aftermath.



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Second, the defendant must have intentionally engaged in the conduct at issue. At this stage, the plaintiff only needs to prove that the defendant intended to engage in the impugned conduct, not that the defendant subjectively intended to exert control over them.

Third, the conduct must amount to coercive control. This element is viewed objectively and assessed cumulatively. In other words, the court will ask whether a reasonable person, fully aware of the context of the relationship, would see the pattern of behaviour as asserting control over the plaintiff and depriving them of their dignity, autonomy, and equality.

What Conduct Falls Outside of the Scope of the Tort?

Although the new tort appears to be broad, the Supreme Court cautioned that this new tort is not overinclusive, as not all conflict within an intimate partnership meets the threshold for it.

Courts should avoid imposing liability based on “the inevitable ups and downs of a relationship” or for mere relationship dysfunction or imbalances between partners.

A victim’s acts of resistance to domination, or ordinary misconduct arising from a breakdown of a high-conflict relationship also should not qualify as falling under the new tort in the absence of coercive and controlling behaviour.

The Supreme Court also cautioned that an overinclusive tort might risk enabling perpetrators to bring retaliatory claims against victims who simply might be reacting in response to ongoing abuse.

Lastly, the Court stated that intimate partner violence was not simply about compensating a “bruised spouse”. The new tort was to be applied in a manner that addressed the deeper violation of autonomy when a spouse was “unfree”.

Take-Aways

This case represents a significant win for victims who experience violence in an intimate relationship.

Among other things, the new tort:

- i. acknowledges the realities and unique harms associated with intimate partner violence;
- ii. provides a more direct and practical legal cause of action for victims by allowing them to pursue claims without having to rely on existing torts that do not adequately capture the deprivation of autonomy that they experience;
- iii. advances the rights of women, as they are disproportionately affected by patterns of coercion and control in intimate relationships; and
- iv. improves access to justice by providing victims of intimate partner violence with a more accurate and effective remedy to compensate them for the harm they’ve endured.

One would reasonably expect that the already busy family law courts and practitioners will face a further expansion of the issues they grapple with in matrimonial disputes as a result of litigation surrounding the new tort. A PDF version is available to download [here](#).

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