



Victims and Prisoners Bill

Report Stage in the House of Lords from 16 April 2024

Briefing from the Centre for Women's Justice

Restricting parental responsibility where one parent kills the other (clause 16) – impact on women who kill their abuser

About the Centre for Women's Justice

Centre for Women's Justice (CWJ) is a lawyer-led charity focused on challenging failings and discrimination against women in the criminal justice system. We carry out strategic litigation and work closely with frontline women's sector organisations on using legal tools to challenge police and prosecution failings around violence against women and girls.

Summary

This government amendment imposes a duty on the Crown Court to make a prohibited steps order restricting parental responsibility where the parent of a child is convicted of the murder or voluntary manslaughter (through loss of control or diminished responsibility) of the child's other parent.

We understand the motivation behind the amendment. However we are concerned that it is likely to have catastrophic, unintended consequences in relation to mothers who kill their abuser. We also believe it is inappropriate and probably unworkable for a process concerning parental responsibility to begin in the criminal court. We believe changes are needed to ensure the process is governed throughout by consideration of children's best interests, that legal aid is available for defendants and other interested parties to participate in the process, and to put in place sufficient safeguards to ensure there is proper consideration of the defendant's experience of domestic abuse, where applicable.

Women who kill their abuser

As part of our research on women who kill, we collected data on 92 cases from 2018 to 2018. In 77% of these cases, there was evidence to suggest the woman had experienced violence or abuse from the deceased.ⁱ Despite this, 43% of the 92 cases resulted in a murder conviction and 46% led to a manslaughter conviction, while only 7% led to acquittal. We have supported women with small children who have appealed their murder convictions, such as Kiranjit Ahluwalia and Fariessia Martin. Had this provision been in place there would likely have been disastrous consequences for their children.ⁱⁱ

ⁱ This is likely to be an undercount as our research team relied on information in the public domain, and many women do not disclose the abuse they have experienced to others.

ⁱⁱ For a summary of Fariessia (Fri) Martin's case and to see her interviewed in a short film, go to: www.centreforwomensjustice.org.uk/stop-criminalising-survivors

We understand the government has indicated that there would be an exemption for these cases, but this is not clear on the face of the Bill. The government minister at Committee stage suggested that the exception provided in the Bill provides a 'clear route' for victims of abuse to be protected from inappropriate restriction of their parental responsibility.

However our research makes clear that criminal courts are currently poorly equipped to take proper account of the context of domestic abuse in cases where women kill their abuser. We are therefore concerned that giving the criminal courts discretion not to make an order where this is contrary to the interests of justice will not be an effective safeguard in these cases. It is also likely to be very difficult for women in such cases to challenge the imposition of restrictions on their parental responsibility; Black, minoritised and migrant women, and women with limited financial resources and/or support networks, may face additional barriers to exercising their rights.

We are not satisfied that the safeguards included in the amendment are sufficient to avoid potentially disastrous unintended consequences. At the very least, provision is needed on the face of the Bill to indicate that the court must take account of domestic abuse experienced by the defendant, whether they have been convicted of murder or manslaughter.

Children's best interests and other concerns

In our view the proposal needs to be amended further in order to:

- Ensure the process is governed from the outset by Children Act principles, making children's best interests paramount and ensuring their wishes and feelings are taken into account;
- Ensure legal aid is available for defendants and other interested parties to take part in the process;
- Ensure sufficient time and safeguards are put in place to allow proper consideration of the defendant's experience of domestic abuse perpetrated by the deceased parent, where applicable.

We believe it is inappropriate and probably unworkable for this process to begin in the criminal court, and that it should instead begin with a referral to the family court, either by the criminal court or by the relevant local authority following sentencing.

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Five women who were criminalised as a result of their experience of domestic abuse tell their stories in our new series of short films. To watch the films and read a short summary of their stories, go to: www.centreforwomensjustice.org.uk/stop-criminalising-survivors

Download CWJ's research reports:

CWJ's '[Women who kill' report](#) (Feb 2021) is the culmination of a four-year research study that explores the criminal justice response to women who kill abusive men. Through in-depth interviews with key criminal justice practitioners, and most crucially with women themselves, our research explores the extent to which the law itself, and the way it is applied, prevents women accessing justice.

Our [Double Standard report](#) (March 2022) sets out evidence of the unjust criminalisation of victims of VAWG in England and Wales for alleged offending resulting from their experience of abuse, and the reforms in law and practice that are needed to address this. It includes new research, legal analysis and case studies, and draws out the wider learning from our 'Women Who Kill' report. A chapter on the experiences of Black, Asian, minoritized and migrant women was contributed by [Hibiscus Initiatives](#).

Our [No Safe Space](#) report (July 2022) sets out the findings of qualitative research with women with lived experience and frontline practitioners, examining the approach taken by statutory and non-statutory agencies in the West Midlands towards victims of domestic abuse who are accused of offending and drawing out lessons for national policy and local practice throughout England and Wales.

Our [Making Self-Defence Accessible](#) briefing (July 2023) provides analysis of reforms that have been proposed or implemented in Canada, New Zealand and Australia to make self-defence more accessible to victims of domestic abuse who use force against their abuser, their impact and applicable lessons for England and Wales.