

JUSTICE FOR WOMEN



men, women and murder



NEWSLETTER Summer 2006

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Introduction



London Justice for Women has a long and proud history of feminist campaigning against male violence, and of lobbying for legal change. We are now re-launching in order to challenge male violence and homicide. We hope you will join forces with one of the most formidable feminist campaigns against male violence in the UK.

Justice for Women began life as the Free Sara Thornton campaign in 1991. Over the past decade the campaign has had some stunning successes. In 1991, Justice for Women organised a demonstration calling for the release of Sara Thornton, Kiranjit Ahluwalia (for whom the Southall Black Sisters were running a campaign to overturn her conviction, supported by Justice for Women) and Amelia Rossiter, all of whom had been jailed for life for killing their violent partners. The murder convictions of all three women were overturned. In 1995, the Court of Appeal also freed Emma Humphreys, convicted of murder at the age of 17 for killing her abuser.

As a result of our campaigns, the Court of Appeal cases of Emma Humphreys, Sara Thornton and Kiranjit Ahluwalia, changed the law of provocation as a defence for murder. Until the mid 90s, "sudden, temporary loss of control" had to be proved if provocation was to be used as a defence. Justice for Women argued that this was inappropriate in cases involving domestic violence.

Now there can be a gap between the final act committed by the abusive partner and the homicide. The idea of cumulative provocation is widely understood.

The group gathers expert witnesses, lobbies MPs, organises fundraising events and public meetings and, crucially, supports women for whom we campaign and keeps their morale high. Lawyers in the group and other members spend a lot of time visiting women in prison, trying to build up as full a picture as possible of the abuse.

As well as campaigning around individual cases of injustice, we always highlight the wider context of domestic violence and male violence against women. The injustice of individual cases is thus contrasted by ceaseless examples of men, often with a history of violence against women, getting away with murder.

Although Justice for Women has been fairly low-profile of late, the group has still been active. We are now at a stage of re-launching, and plan to become more vocal and visible. Please join the group (if you are not already a member) and give as much support as you are able. Tell others about Justice for Women, send in your membership forms and join with us to take action; help us achieve the high profile necessary to continue making a difference.



'A new Homicide Act for England and Wales'

The Law Commission proposals may make the situation worse for battered women who kill.



This year, the Law Commission will be advising the government on ways to reform the laws in relation to murder and manslaughter. If the government follows the advice and enacts new legislation, this will be the first overhaul of the Homicide Act in 50 years. Justice for Women has contributed to the Law Commission's consultation and we await the final proposals. We are eager that this may be an opportunity to improve the situation in relation to domestic violence and the law in respect of killing; at the same time we are very concerned that some of the draft proposals could prove to be a setback for 'battered women who kill'.

The Law Commission consultation followed one two years previously in which the government asked the Law Commission to look specifically at partial defences to Murder, namely the defences of Manslaughter by reason of provocation and diminished responsibility. That consultation recognised that the defence of provocation had become almost unworkable and proposed a re-wording which took into account Justice for Women's submissions. The proposed new defence would recognise provocation as a defence for the first time where the Defendant acted out of a serious fear of violence from the deceased and also proposed limiting acts of provocation to "gross provocation". Thus the Law Commission appeared to be taking into account Justice for Women's two-fold concerns – firstly that women who kill may do so more out of a possibly exaggerated fear of the deceased, rather than out of anger, which is a more male response.

Secondly, by limiting provocation to 'gross' forms of words or conduct, there appeared to be recognition of the concerns we have always raised about men getting away with murder by relying on the 'provocation' of 'nagging' and infidelity and other forms of behaviour which should not, in our opinion, be even a partial justification for killing someone.

We argued that this proposed reform to the defence of provocation should be enacted, but the government instead referred the matter back to the Law Commission asking them to conduct a more far-reaching consultation on the homicide laws as a whole. The Law Commission published a consultation paper in January 2006 and invited comments from a whole range of organisations including the police, lawyers and other organisations that form part of the Criminal Justice System as well as voluntary groups like Justice for Women.

The consultation paper, 'A New Homicide Act for England and Wales' proposed a new ladder system of offences, introducing for the first time in English law the distinction between First and Second degree murder, and retaining manslaughter but only for cases where there was no evidence of an intention to do serious harm.

First degree murder would be limited to cases where there was an intention to kill and no mitigating circumstances to the offence. The mandatory life sentence would be the only option available for persons convicted of this offence.

'A new Homicide Act for England and Wales'



Second degree murder would include cases where the person committing the crime intended to cause really serious harm but not kill, or was recklessly indifferent as to whether their actions might cause death. Additionally, it is proposed that those with the partial defence of diminished responsibility, provocation and duress would be convicted of second degree. Sentencing for second degree murder would include the full range of options from Life to non-custodial options. Thirdly, the offence of manslaughter would remain but would be limited to killings where either the defendant was grossly negligent or where the defendant's act was unlawful and intended to cause less than really serious harm. Sentencing would be limited to a fixed term of years. Finally, consultees were asked to comment on whether specific homicide offences (with short maximum determinate sentences) which do not fall into the regime above, should remain on the statute book, including the offences of infanticide and assisted suicide.

Our full response to the consultation can be found on the Justice for Women website. We have made strong representations against the proposal that persons able to use the partial defences of provocation or diminished responsibility should be convicted of the new offence of second degree murder. Many of the individual cases that Justice for Women have supported fall into this category. They include cases where women have suffered from severe abuse by the deceased and may have been defending themselves against an attack at the time or pre-empting

a further attack, but their actions do not meet all the requirements of self defence (which would have led to their acquittal). Essentially, even where the sentencing options might be the same as for those defences which may presently reduce a murder charge to manslaughter, the Law Commission's proposals can only be seen as signalling that such offences are more serious than is currently the case. We have pointed out that the stigmatisation associated with a murder conviction, often a key issue for many of the women we have supported, would remain. Thus women like Kiranjit Ahluwalia and Emma Humphreys would, under such a new regime, again be labelled as 'murderers', having fought so hard to clear their names. We hope the Law Commission will take account of our arguments but should they fail to do so, we will be asking our supporters to campaign with us.

These proposals are all the more unfortunate, as the discussions in relation to the offences of provocation and diminished responsibility have been mainly very helpful with proposed reforms to both defences representing a step in the right direction.

For further information, you can read the Law Commission consultation paper on their website:

www.lawcom.gov.uk/murder.htm

and our full response on the Justice for Women website:

www.justiceforwomen.org.uk

or request a copy by email from:

info@justiceforwomen.org.uk

Update on Justice for Women cases



Rose Swan: Court of Appeal, 7th June 2006

Rose Swan was convicted in February 2002 of the murder of John Stevens, a manipulative and violent man who had 'befriended' her during a period of her life when she was particularly vulnerable. He had regularly been violent to her, had taken control of her medication and had admitted to raping her while she was asleep on two occasions. At her trial, despite two psychiatrists supporting a finding of diminished responsibility and despite evidence of provocation, she was found

guilty and a mandatory life sentence imposed.

With the support of Justice for Women, Rose was finally granted Leave to Appeal in July 2005. At her appeal hearing on 7th June 2006, the court adjourned for further psychiatric evidence to be obtained.

Letters or cards of support can be sent to Rose at HMP Send, Ripley Road, Woking GU23 7LJ.

Emma Protheroe: Jury takes minutes to acquit 18 year old

We are very pleased to be able to report the success of the case of Emma Protheroe, who was unanimously acquitted of the murder and manslaughter of her violent partner at the Old Bailey in September 2004.

Emma was 18 at the time of the killing. She had been subjected to a catalogue of violence and abuse at the hands of her boyfriend, an obsessive body builder who dealt in drugs and kept firearms in his flat.

On the night Emma stabbed him, he had subjected her to a prolonged episode of violence, causing her to lose consciousness at one stage, and repeatedly attacked her while she was locked in his flat and unable to escape. Eventually, during the attack, Emma was able to grab a kitchen knife from a sideboard, stab her attacker and escape, calling for help from neighbours and the emergency services. She was taken straight to hospital where she was treated for the extensive injuries and bruising she had sustained, before being arrested and charged with murder. At the trial, the jury

returned their verdict of not guilty after only a few minutes. Emma's case should never have come to trial. The evidence of self-defence was overwhelming, the prosecution case alone revealing extensive evidence of the violence Emma was subjected to, both throughout the relationship and on the night of the killing. The prosecution had offered a plea to manslaughter before the trial started which Emma had rejected. She thereby persevered with her defence, risking a murder conviction, which would have carried a mandatory life sentence. The proper course for the prosecution would have been to examine the evidence as a whole and drop the case against her on the basis that she was clearly acting in self-defence.

This case once again highlights the problem many women face; whether to accept a plea of guilty to manslaughter, even when they have a good defence, or run the risk of a life sentence by going to trial. In Emma's case it was a risk worth taking, but in many cases women feel pressured to accept a plea of guilty to manslaughter even where they have a good defence.

Update on Justice for Women cases



Zoora Shah: Finally 'free' on licence

Zoora Shah, 53, an illiterate woman from rural Pakistan, came to Bradford in the early 70s after an arranged marriage. She was abused by her husband and forced to undergo a number of abortions to avoid giving birth to girls. Her husband threw her out when she had managed to give birth to only one son, and she and her three children ended up homeless.

In 1980 she met Mohammed Azam, a prominent local Muslim, who befriended her and helped her financially. But in return he expected her to have sex with him where and when he chose, including in public places. He would beat her if she refused. She asked male community leaders for help, but they all refused. When Azam was sentenced to 10 years in jail for dealing heroin he began pimping her from his prison cell. Men would come to the house demanding sex, sent by Azam.

After his release he hinted that he would start abusing one of her daughters, so Zoora poisoned him in the hope that he would be too ill to have sex. He died and Zoora was charged with murder, attempted murder and plotting to murder.

At her original trial, she chose not to give evidence in the interests of preserving family honour. But when she appealed against her conviction in 1997, she was advised to tell the truth in the hope that the violence and sexual abuse she had suffered would convince the court that she was not a cold-blooded murderer. Her lawyers argued diminished responsibility and had psychiatric evidence to prove it, but the appeal was dismissed.

Zoora was released earlier this year having served almost 14 years, 2 years longer than her tariff.

Jane Andrews: Tariff Appeal

Jane Andrews, named by the media as 'Fergie's dresser' on account of her previous employment with the Duchess of York, was convicted of the murder of her boyfriend, Thomas Cressman, in May 2001. Justice for Women supported her appeal against conviction as there was fresh psychiatric evidence to show that memories of her early child abuse were triggered by the sexual abuse she sustained at the hands of Cressman, causing significant psychiatric disturbance. Unfortunately, at a hearing in September 2003, the Court of Appeal declined to admit the fresh evidence (including reports by two reputable psychiatrists) and her appeal was therefore dismissed. As Jane was convicted

prior to the provisions introduced in 2003 for tariffs to be fixed in open court, representations were made to reduce her tariff of 12 years recommended by the Lord Chief Justice following her conviction. At a hearing last month, a High Court judge formally set Jane's tariff at 12 years, apparently ignoring all the new evidence and representations made showing the compelling mitigating circumstances surrounding the offence.

An appeal against this tariff has now been lodged. Jane is currently at HMP Send prison and cards and letters of support are always welcome.

Update on Justice for Women cases



Sharon Akers: new appeal bid

Sharon Akers was convicted of the murder of her partner Nick Doolan on 19th May 2004 after the jury rejected her defence of provocation. Doolan subjected Sharon to violence, abuse and humiliation throughout their on and off six year relationship. He used pornography, made her engage in anal sex and forced her to have sex with his friends. He harassed her sister and mother and often told Sharon that he had had sex with her mother, thereby alienating her from her closest ally. During their relationship Sharon attempted suicide nine times and on one occasion was sectioned under the Mental Health Act.

Doolan, who spent time in prison during their relationship for GBH on a neighbour, was

also violent to Sharon. Six weeks before his death, he was arrested for assaulting her. Unknown to Sharon until after her conviction, the solicitors who represented her at her murder trial had previously advised Doolan in relation to the assault offence against Sharon.

With the support of Justice for Women, new lawyers are now in the process of lodging Grounds of Appeal. These will include the argument that her solicitors may have failed to put forward defences in her best interest because of the obvious conflict of interest, having previously represented the deceased in an assault charge against Sharon.

Kiranjit Ahluwalia: film

A film has been made about the life of Kiranjit Ahluwalia, a Sikh housewife from West London whose landmark case was instrumental in changing the law to take account of the abuse many women suffer prior to the act of killing.

In 1989 Kiranjit's husband, Deepak, attacked her with a hot iron but neither that, nor the 10 years of abuse she had previously suffered, were taken into account during her trial.

Kiranjit killed her abusive husband by pouring petrol over him and setting him alight; she was found guilty of pre-meditated murder and sentenced to life.

A sustained campaign by the Southall Black Sisters, with the support of Justice for Women, led to the quashing of her murder conviction and a fresh trial ordered. Two months later in September 1992, Kiranjit pleaded guilty to manslaughter on grounds of diminished responsibility and was immediately released.

Aishwarya Rai, a Bollywood Star and former Miss World, is playing the lead role of Kiranjit Ahluwalia in the film, entitled 'Provoked'. Other actors in the film, which premiered at the Cannes Film Festival in May, include Miranda Richardson, whose character befriends Kiranjit in prison, and Robbie Coltrane as the QC who takes up the legal fight on her behalf.

Men getting away with murder

Spousal homicide is almost always as a direct result of domestic violence.



When women kill men there is often a history of domestic violence against the woman; when men kill women there is often a history of previous domestic violence by those men towards the women. In both cases it is normally the history of male violence which provides the context for such killings.

Louise Beech, aged 24, was beaten and strangled by her estranged husband on the 29th December 2003 at their home in Gosport, Hampshire. Shaun Beech then stripped and had sex with her body, before attempting suicide. The 41 year-old navy reservist denied murder but admitted attacking his wife. In November 2004 he was found guilty of manslaughter on the grounds of diminished responsibility and sentenced to seven years imprisonment; the jury accepted that he had been severely depressed at the time of the killing.

Constance Fish, aged 70, was hit over the back of the head with a baseball bat and killed by her husband on the 2nd January 2004. Ernest Fish, her husband of 53 years, then took an overdose. He survived, and in August 2005 was sentenced to three years for manslaughter.

Bronwen Jones, aged 55, was hit in the head and strangled by her husband on the 14th May 2004 at their home in Rhyl, North Wales. John Jones, aged 69, went to Benidorm on holiday and was arrested a week later on his return. Jones said he had killed his fourth wife because she was too drunk to go on holiday to Benidorm. The court heard there was a history of Jones assaulting his wife. Mr Justice Curtis said "The reason for your attack, I am satisfied, was that she had drunk so much that she was unfit to

go on holiday". Jones was found guilty of manslaughter and sentenced to six and a half years in October 2004.

Tae Hui Dalton, aged 38, was found by her husband's parents on the 7th June 2004 in a number of packages in a freezer at the couple's home in London. Paul Dalton had punched his wife, then cut up her body with an electric saw. He told the Old Bailey he had suffered years of provocation from his wife and did not mean to kill her. Mr Justice Gross said "You lashed out at your wife in the course of an argument and in my judgment after no little taunting on her part". He was cleared of murder but convicted of manslaughter and preventing a burial, and sentenced to two and three years respectively. He is appealing.

Lorraine Macdonald, aged 43, was stabbed 12 times and strangled by her husband at their home in Bognor Regis on the 14th September 2004. Shaun Macdonald, 38, admitted manslaughter on the grounds of diminished responsibility, after telling Lewes Crown Court that he was haunted by his service in the armed forces. He was given four and a half years imprisonment in July 2005.

Amanda Lewis, aged 42, died from a single stab wound at her home in Suffolk on the 24th October 2004. Her husband Gareth Lewis said he could not remember killing her and pleaded guilty to manslaughter due to diminished responsibility. Ipswich Crown Court heard that he had a history of depression. In June 2005 he was sentenced to three years and four months imprisonment.

Men getting away with murder



Jeanette Willsher, aged 48, was stabbed 112 times by her husband Christopher Willsher on the 23rd November 2004. Plymouth Crown Court heard that the couple had a happy marriage until his physical and mental health began to deteriorate and he had become impotent and urged his wife to sleep with other men. Anthony Smith QC, defending, said that “the marriage had been happy until impotence struck. He loved her and was besotted. What he did he did because he wanted to keep his wife”. The judge said “he lost by his own hand the one person he loved”. He pleaded guilty to manslaughter on the grounds of diminished responsibility and was sentenced to six years imprisonment.

These are a small number of the many cases where violent men have not received adequate sentences; where men have got away with murder.

For someone to be convicted of murder there must be the intention to kill or cause really serious harm. Murder convictions carry a mandatory life sentence. A murder conviction can be reduced to manslaughter if there is a finding of either diminished responsibility or provocation. Where there has been a finding of manslaughter rather than murder, the judge has total discretion on how to sentence, ranging from life to a probation order.

Reasons not accepted by juries and judges for why women kill men known to them:

- rape and/or sexual violence
- frequent assault
- severe injury
- the abuser’s threats to kill
- the woman’s belief that her abuser would eventually kill her

Reasons accepted by juries and judges for why men kill women known to them:

- she nagged him
- she was unfaithful or he thought she was unfaithful
- she had left him or she was about to leave him or he was afraid that she would leave him
- he was depressed
- she was too drunk to go on holiday

The civil liberties of women include the right not to live in fear of their lives. In the same way jail sentences are appropriate for perpetrators of racist or homophobic attacks, the law must be seen to deter the perpetration of all hate crimes, including those against women. By giving violent men who kill women appropriate sentences, we can go some way towards protecting women and children. By adequately punishing violent men we are no longer giving the message that the lives of women are of less value.

What you can do:

- monitor the press and send us details/cuttings of cases
- write to the papers to protest against cases where men have got away with murder
- write to: The Rt Hon Dr John Reid MP, Home Secretary, Home Office, 2 Marsham Street, London, SW1P 4DF and/or the Attorney General to protest against these cases
- become a supporting member of Justice for Women

Other news



Changes in the law on Provocation - *R v Holley (2005)*

In 2001, Justice for Women, Southall Black Sisters and Liberty were given leave to intervene in the case *R v Smith (Morgan)*. There, the House of Lords stated that a jury, in deciding whether the provocation was enough to make a reasonable person lose their self control, must consider all the defendant's 'characteristics', not just her or his age and sex. The Court made clear that a tendency to violence is not a relevant 'characteristic'; rather it is a defect in character which should not be taken into account, but other characteristics. Most importantly those that may arise from a history of domestic or sexual violence could be considered relevant by a jury.

Unfortunately, the Privy Council in the case of *R v Holley* have now contradicted the House of Lords, stating that a jury are not to take into

account any characteristic, other than the defendant's age and sex, in deciding whether the provocation is enough to make a reasonable defendant lose self control.

The judgment represents a serious threat to battered women wishing to rely on the defence of provocation; if a woman reacts in a particular way because of violence she has experienced, this can no longer be taken into consideration when assessing whether she was acting reasonably. The Court of Appeal has upheld the *Holley* ruling in the case of *R v James* and *R v Karimi*, which is now being appealed in the House of Lords. Justice for Women are considering a further third party intervention. If you would like to read the cases the full references are:

R v Smith (Morgan) (2001) Cr App R 31

HM Attorney General for Jersey v Holley (2005) UKPC 23



The Emma Humphreys Memorial Prize is awarded each year to commemorate the life and work of Emma Humphreys, who tragically died, aged 30 in 1998. Emma was a writer, campaigner and survivor of male violence who fought an historic struggle to overturn a murder conviction in 1995, supported by Justice for Women and other feminist campaigners. Emma is a heroine of our time, her bravery and fight for justice continues to inspire women.

The annual prize of £1,000 will be awarded to a woman or group who, through their writing or campaigning, have raised awareness of violence against women and children. The aim of the prize is to provide recognition for that initiative against

violence and to bring it to the attention of a wider public through media coverage. If you would like to make a nomination for the prize you can download a nomination form from the website: **www.emmahumphreys.org** or email EHMP at: **joanscanlon@britishlibrary.net**

Full details are provided on the nomination form with regard to application and required information. Please note the deadline date has been extended. **FINAL DEADLINE August 11th 2006.**

This year's annual award and Memorial Prize event will be held at Bankside restaurant on the evening of October 26. For more details please visit the Emma Humphreys website.

Volunteer needed

Justice for Women is supporting a woman with learning disabilities who killed her violent abuser after a long history of domestic violence. She is currently serving a life sentence for murder in HMP Send in Surrey. Justice for Women is trying to collect further evidence to assist in a referral to the Criminal Cases Review Commission.

We need a volunteer who can visit the woman to take a statement. If you are a woman with a background of working with women with learning difficulties who have experienced sexual violence, AND you could spare one afternoon per month (for around 6 months or as long as necessary) please contact us.



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