



Victims and Prisoners Bill

Second Reading on Monday 15 May 2023

Briefing from the Centre for Women's Justice

Preventing the unjust criminalisation of victims of domestic abuse and other forms of violence against women and girls (VAWG)

“Modern slavery is more likely to be considered ... than the impact of domestic violence.”
Prosecutor

“They are not giving us a safe space.”
Woman with lived experience of domestic abuse and the criminal justice system

Summary

The Victims and Prisoners Bill does not address the gaps in law and practice that can lead to the unjust criminalisation of victims of domestic abuse and other forms of VAWG and exploitation. This could be resolved by:

- a) Adding new statutory defences to the Bill to provide effective defences for those whose alleged offending results from their experience of domestic abuse;
- b) Ensuring the Victims' Code includes a requirement to protect victims of domestic abuse and other forms of VAWG and exploitation from unjust criminalisation, including by addressing intersectional discrimination and inequality faced by Black, Asian, minoritised and migrant women.

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. Our evidence base is built on the experience of frontline women's sector support workers discussed during our training sessions with them, the requests for legal advice they send to us, and our research. In 2021 we responded to a total of 1,081 legal enquiries, including 559 in which we gave legal advice.

Why now is the time for these reforms

Of 173 women screened at HMP Drake Hall, 64% reported a history indicative of brain injury and for most this was caused by domestic violence. Fifty-seven per cent of women in prison and under community supervision report that they are victims of domestic abuse. The true figure is likely to be higher because of barriers to women disclosing abuse. [Research](#) by CWJ and others shows that, for many of these women, their alleged offending results directly from their experience of abuse. Yet gaps in law and practice mean this is often not properly taken into account. Intersectional discrimination and inequality experienced by Black, Asian, minoritised and migrant women can increase the risk of unjust criminalisation.

Our proposals for a legal and policy framework to protect all victims of VAWG from unjust criminalisation, including new statutory defences, gained significant support during the passage of the Domestic Abuse Bill. Subsequent research has further strengthened the case for reform, including CWJ's recent [research reports](#) and new [research](#) published this year on the police response to victims of coercive control who are accused of offending.

The government-commissioned [Domestic Homicide Sentencing Review](#) by Clare Wade KC has recommended a comprehensive review of the defences to murder, in part to ensure equal access to self-defence for women who kill their abusers. CWJ will shortly be publishing a briefing on reforms undertaken in other comparable jurisdictions to address the ineffectiveness of defences for victims of domestic abuse in these cases.

How these proposals would help victims

CWJ's [Double Standard report](#) sets out how women's offending is often directly linked to their own experience of domestic abuse, and how victims can be unfairly criminalised. This is also reflected in cases referred to CWJ's legal advice team, and in the work of Justice for Women and Harriet Wistrich over many years. It has been further underlined by our 2022 [No Safe Space](#) report findings, based on discussions with women with lived experience and frontline practitioners in the West Midlands. New [research](#) published this year illustrates the injustices faced by victims of coercive control who are accused of offending.

Our proposed amendments to the Bill would help to ensure appropriate protection for victims of VAWG who are accused of offending. They would offer legal protection in line with the public interest and stimulate a strategic focus on implementing reforms throughout the criminal justice process in order to achieve the following outcomes:

- **Identification of victims:** Suspects/defendants who are potential victims of domestic abuse and other forms of VAWG are identified as such at the earliest possible stage in proceedings.
- **Protection of victims:** Once identified, victim suspects/defendants are protected from abuse, effectively referred to support services, have their rights upheld as victims, and are not stigmatised.
- **CJS competency and accountability for considering the context of abuse in which offending may have occurred:** Criminal justice practitioners at every stage (police, CPS, judges, magistrates, juries, prisons and probation) have access to the necessary guidance, tools, processes and expertise to enable them to take proper account of the abuse suffered by victim suspects/defendants/offenders and its relationship to any alleged offending – including cultural competency in relation to Black, Asian, minoritised and migrant women - and are accountable for doing so.
- **Accessible procedural safeguards:** Effective procedural safeguards are accessible to enable victim suspects/defendants to give their best evidence about any context of domestic abuse in which the alleged offending took place.

This would also encourage disaggregated data collection and analysis to improve understanding of the criminalisation of victims of domestic abuse and other forms of VAWG, including intersectional discrimination experienced by Black, Asian, minoritised and migrant women, as highlighted in the [Tackling Double Disadvantage action plan](#).

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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.