

WOMEN WHO KILL: EXECUTIVE SUMMARY

1.

Introduction

This research study explores the response of the criminal justice system to women who kill abusive men. Through in-depth interviews with some key practitioners, and most crucially with women themselves, we examine the extent to which the law itself, and the way the law is applied, prevent women accessing justice.



2.

Summary of methodology

The research adopted a mixed methodological approach, employing both quantitative and qualitative methods.

Primary data

- 20 interviews with women who killed men who had been abusive to them, or were implicated in killings that had been carried out by men who were abusive to them;¹
- 14 interviews with legal practitioners with experience of representing or prosecuting women who had killed men who had been abusive to them, and two facilitated discussions with lawyers;
- two interviews with journalists experienced in reporting on such cases;
- an interview with an academic with expertise in the legal responses to women who kill their abusive partners; and
- observations of six trials that took place during the period of the research.

Secondary data

- 23 domestic homicide review reports;
- 17 case files involving women who had applied to the Criminal Cases Review Commission;
- data from the 44 police services in England and Wales and data from the Home Office, requested under the Freedom of Information Act 2000; and
- a review of media reports of relevant cases – these were used to construct a list of relevant cases dating from 2008 to 2018, to which other data sources could be compared, and to conduct analysis of the media’s response to such cases.

3.

Key findings

Prevalence

Official statistics show that women are more likely to be killed by men who have a history of abusing them, whereas men are rarely killed by intimate partners. According to official statistics, 38% of female victims of homicide were killed by a partner or ex-partner compared with 4% of male victims.² The most recent Femicide Census report,³ which collects data on women who have been killed by men in the UK, found that a history of previous abuse to the victim was evident in 59% (n=611) of the 1,042 femicides committed by an intimate partner or relative.

In contrast, this research shows that women who kill their partners do so in the context of being subjected to abuse from the men they kill. In 77% (n=71) of the cases included in this research, there is evidence to suggest that women had experienced violence or abuse from the deceased.⁴

Criminal justice outcomes

This research found that despite the high proportion of women who have experienced abuse from the men they kill, they are unlikely to be acquitted on the basis of self-defence. Of the 92 cases included in this research: 43% (n=40) of women were convicted of murder; 46% (n=42) of women were convicted of manslaughter; and just 7% (n=6) of women were acquitted.⁵

3.1 Failures by criminal justice agencies to provide protection to women before they kill

Poor responses by criminal justice agencies

'I had this injunction out on him and he was still coming to the house at half one, two, three in the morning. Just wouldn't stay away and then I'm in the house on my own.' (Interview 2)

Many women who kill violent partners report past failures of criminal justice system agencies to support them as victims of men's violence. Eight of the 20 women interviewed as part of this study discussed attempts to leave their violent partners (the men they had killed and previous abusers) and the problems they experienced when trying to seek protection from the police and other agencies.

This finding was confirmed in other data sources, for example domestic homicide review reports. The failure of criminal justice agencies to respond appropriately to domestic abuse is a key factor in the significant under-reporting of domestic abuse.⁶ Of the 20 women interviewed, less than half (n=8) had reported the abuse to the police. Some of the women who had reported the abuse disclosed that they had not called the police every time they were

assaulted, even when the abuse had included serious physical violence or attacks and threats involving weapons. This research found that if women did not disclose or report previous abuse to the police or other agencies, this made it more difficult to build a strong defence, as evidence of the abuse provided by agencies was seen to make their experiences of abuse more credible.

Triggers to women's lethal violence

Some of the women who participated in the research described feeling trapped within the relationship at the time of the incident and reaching a 'tipping point' – sometimes triggered by a particular instance of abuse.

'... the main thing for me, he had strangled me at the bottom of the stairs in front of my daughter. And that... frightened me because you can get punched in the face or your hand broken, but I had never lost my breath before. Thought I am going to die in that minute... so yes, I was frightened of him.' (Interview 18)

Other women described how their experiences of abuse from a number of different perpetrators had accumulated to a breaking point, where a current experience of abuse acted as a trigger to past experiences.

In some cases reviewed as part of the research, the women involved appeared to have exhausted all other alternatives to keep themselves safe, including multiple attempts to engage with criminal justice agencies, which left them believing there was no safe route out of their abusive relationship. Unlike men who kill female partners (where the killing is the culmination of increasing abuse and control of the female partner), this research found that it is often following the culmination of being subjected to increasing coercive control that women are driven to kill the perpetrator rather than be killed by him.

Following arrest

'When I got to the prison [custody suite] I was a mess partly, I don't remember much about this, they put me in cells and I just lost it. I was banging my head off the walls and everything, screaming out apparently, "He's not dead." "He's not dead." "I don't believe he's dead," and that and then they put me down healthcare. After that I lost it a bit.' (Interview 11)

The research findings demonstrate how women struggle to engage with those they come into contact with following

their initial arrest. As many lawyers who were interviewed as part of the research noted, the information shared at this point and the decisions made (for example, whether or not to speak at the initial police interview and the selection of a legal representative) may have important consequences, particularly when cases are taken to trial.

Many women had no previous experience of being arrested. Often, they were allocated a duty solicitor or used legal representatives sourced by their families, without realising that they were not experts in defending women who are victims of domestic abuse. Using a legal representative sourced by family members was a particular issue for women from minority communities. Once the initial representation has been conducted by one solicitor, the legal aid rules make it very difficult to change solicitor.

Prosecution approach

Unfortunately, it was not possible to interview prosecutors as part of this research. However a number of lawyers were critical of the approach of the Crown Prosecution Service (CPS) in these cases. Key decisions made by the CPS include whether to pursue a prosecution at all, whether to prosecute for murder or manslaughter, and whether to accept pleas by the defendant. Defence lawyers interviewed as part of the research cited cases where a murder prosecution had been pursued inappropriately in their view, and a number of women interviewed said they had offered pleas to manslaughter that had been rejected by the prosecution.

3.2 Court proceedings

Lawyers' understanding of violence against women and girls

The research found that lawyers' understanding of violence against women and girls is critical to their ability to provide good legal representation and identify the appropriate defence(s) for women in these cases. An understanding of coercive control was found to be particularly important, as this allows a woman and her lawyer to identify patterns of behaviour and her experience of abuse as a form of entrapment.

Building trust

The research found that good lawyering in these cases involves taking time to build trust, to enable disclosures, and to fully investigate the background and context to the abuse. However, several lawyers reported that the time, skills and resources required for this are often lacking, due to issues such as legal aid funding constraints.

'What would help [when asked what would help lawyers representing women in these situations] is knowing how to speak to her [client]. How I could have approached her – she had a problem with trust. Probably due to her

experience. And the system does not give you the time to build up the trust. Nor does it fund it. Legal aid has been cut. You don't have as long to spend with a client as you used to.'

(Lawyer interview 8)

Women's disclosure of abuse

One of the reasons why a relationship of trust between a woman and her legal team is so important in these cases is that it will help her to disclose the abuse she has experienced. The research findings show that late disclosure of abuse is common, with some women only disclosing the abuse after they have been convicted. This was particularly apparent in cases of coercive control.

'They [defence lawyers] asked me if he abused me and I said no, but I didn't know controlling, I didn't realise control was a part of abuse at the time. It's only because I've done therapy that I know that now. I thought it meant hitting me.' (Interview 20)

The problem of a victim identifying the perpetrator's behaviour as abusive and making a disclosure can be exacerbated for women from non-White

backgrounds, where controlling, abusive and violent behaviours may intersect with other cultural factors, creating greater complexity and isolation for women.

In addition to cultural barriers, women and lawyers who participated in the research identified other barriers to disclosure. These included difficulties in disclosing abuse, particularly sexual abuse, to male lawyers, and women feeling intense guilt at what they had done and not wanting to speak negatively of the men they 'loved'. The research found that this was compounded in some cases where women had been advised by their lawyers 'not to speak ill of the dead'.

Giving evidence in court

Being able to give evidence 'well' is key in these cases, but the research found that giving evidence in court was a traumatic experience for many of the women interviewed. Some women stopped giving evidence because of the barriers outlined above, and were convicted of murder and/or received long sentences for manslaughter. On the other hand, where women were able to disclose abuse and where this was explored expertly in court, this led to more positive outcomes. Many women told us they did not feel prepared to give evidence and that their lawyers could have done more to help them prepare. Another challenge identified by women was their reluctance to disclose the abuse in front of family members of the deceased.

'His family were all there and I didn't want to properly address what he was in front of his family. In the forefront of my mind I knew I'd murdered him and that was enough. I didn't want to be embarrassed saying what he'd done to me... there was something else that I didn't tell the court... a couple of days before the incident he said he would suffocate my two boys. He gave me Rohypnol and raped me and then he said he was gonna kill them and make me take the blame.' (Interview 9)

Exploring abuse in the courtroom

In addition to supporting women to be able to give an account of the abuse they have experienced, this research found that lawyers must also construct a narrative depicting the reality of that abuse for the jury by asking the right questions and exploring the abuse fully, not just mentioning it and moving on. Several women who were interviewed as part of the research reported that they felt the abuse they had experienced

had not been explored effectively in court. This was also a major theme in the Criminal Cases Review Commission cases analysed – in 14 of the 17 cases reviewed, women raised concerns that their experiences of abuse had not been considered effectively during their trial and, in some cases, during their appeal.

'Yeah I was asked about it [the abuse]. But I was told only to answer questions that I was asked. Not to go into anything when I could have really given more... they didn't know about how like four/five days out of seven he was getting drunk, I was getting attacked with knives and thrown down the stairs.' (Interview 2)

The judiciary

Unfortunately, the research team was not able to gain access to judges to hear directly their views and experience of presiding over these cases.

Lawyers highlighted the important role of judges and provided examples of where a judge's lack of understanding of violence against women and girls (VAWG) had had a strong influence on the outcome of the case. This was also evidenced in some of the trials observed by the research team. For example, in one case, the woman on trial had been subjected to physical, sexual

and psychological abuse over many years, including assaults, strangulation and threats with weapons. However, in the years leading up to the killing the deceased had limited his abuse to coercive control and sexual violence, as he did not need to use other forms of violence to exert complete control over her. The judge in this case concluded in his summing up that 'there had been no violence committed towards her from the deceased in the years leading up to the killing', although he recognised that 'there had been non-consensual sex' – demonstrating a very limited understanding of coercive control and sexual violence.

Given their relative power in the trial process – instructing the jury, deciding what evidence is admissible, determining the sentence, and generally controlling the way a case is conducted – judges' understanding of VAWG is crucial. Judges could play a much more active role in ensuring women are given the space to locate their action within the context of abuse, and to ensure their experience of abuse is interpreted more accurately by the jury – for example, in the same way as they give directions on myths and stereotypes in rape trials.

3.3 Additional challenges

Inability to remember the event

Memory issues were present in many of the cases analysed as part of the research. Often this is due to traumatic amnesia or the effect of substances. In an adversarial legal system, the inability to remember crucial events can be construed as a strategy – namely, that women remember only what is useful

to their case – and that the defendant is malingering.

'They played, they played the tape, what, when I phoned the ambulance and I phoned the police but even though they played the tape I can't remember what I said or done... the prosecutor said I had selective memory.'

(Interview 20)

An inability to remember the event in question can also lead women to give inconsistent or implausible accounts – for example, to the police attending the incident, in the initial police interview, and at later stages in the investigation. Many lawyers highlighted this as a particular challenge.

Violence 'on both sides'

Another common feature of these cases is that the abuse perpetrated in the relationship is portrayed as equal on both sides – that 'she gave as good as she got'. This is made worse by the poor response of criminal justice agencies to men's violence against women. Analysis of domestic homicide review reports demonstrated how common counter-allegations of abuse are when police are called to incidents of domestic violence. This provides 'evidence' of women's violent behaviour, which may have been fabricated by her abuser or which may have occurred because they were

defending themselves against physical attack.

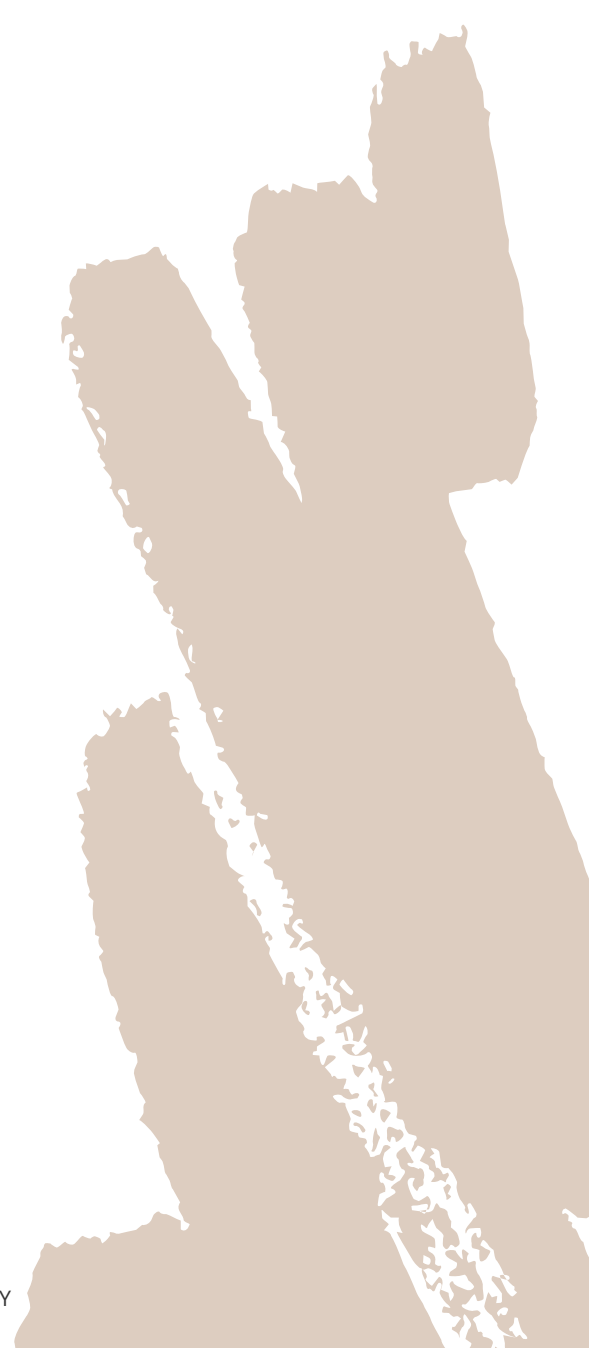
'They [the prosecution] did say that once or twice he came to work and had a few scratches. That is right though. I did admit to that. It was when he was trying to force himself on me [sexually] so many times. I had like lashed out and accidentally scratched him. But that was the extent of it. Nothing other than a scratch.' (Interview 5)

Stereotypes

The research found that commonly held myths and stereotypes about how a victim of abuse should behave are present in many cases and are believed not just by jurors, but by advocates and judges.

'If women don't fit the stereotype of a victim this can be a problem. X was loud, she was a Scouser, she answered back, she wasn't the typical victim and that didn't work well for her in court.' (Lawyer interview 10)

Such stereotyping can be particularly harmful when combined with misconceptions based on class, race or culture. The research found examples of cases where women had deviated from the 'norm' in some way, and their credibility as victims of abuse was questioned as a result. Appendix 2 contains examples of cases involving South Asian women who killed violent partners, where evidence of their 'defiant' behaviour was used to discredit their account of abuse, playing into stereotypes that South Asian women are subservient.



Substance use

It is well known that the use of legal and illegal substances is a common coping strategy for women experiencing abuse or other forms of trauma.⁷ Some of the women interviewed as part of the research had battled with substance use historically, and this had been a factor in their trial.

'They [police and prosecution] wouldn't accept it [account of abuse]. A lot of it was because of the previous history of my alcohol consumption... I lost a child to cancer in 2010, I lost my little girl... I kind of started to numb myself with alcohol. It wasn't an everyday thing. But I did sort of develop a reliance on it because it got rid of any pain I had, if that makes sense. Obviously the prosecution. This is what they have used on us.'

(Interview 18)

Some women reported that they were using substances during the trial itself (including medication prescribed by prison services), making it difficult to engage with the process, with likely

consequences for their defence. Intoxication at the time of the offence was also a factor highlighted by lawyers as it can lead to complications in the use of partial defences, when the effect of substance use and the effect of any mental health issues must be separated out.

3.4 Expert evidence

The use of medical experts

Overwhelmingly, psychiatrists and psychologists are called as expert witnesses in these cases. Lawyers reported a 'hierarchy of experts' with an over-reliance on psychiatrists, who are considered more qualified but may not have the necessary expertise in trauma or violence against women. Lawyers also provided examples of disagreement between the prosecution and defence on the use of experts, causing confusion for the jury, and examples of experts being employed by a certain side as a 'gun for hire' – telling the legal team what they wanted to hear. Women interviewed as part of the research also provided examples of poor practice in the use of medical experts.

Other types of expert

Lawyers and women also reported an absence of non-medical expert evidence, for example on the dynamics of domestic abuse. Expert evidence can help to explain key factors that may be relevant to the case, including why leaving an abusive relationship or seeking help may lead to further abuse or even death, why there may be

few independent witnesses available to corroborate a woman's account of her abuse, why allegations may have previously been withdrawn, or why it may take time for a woman to disclose what has happened.

Experts can also be critical to explain the impact of different cultural contexts, particularly for BME women from, for example, South Asian backgrounds where the impact of codes around shame and honour may not be widely understood.

Judges are often resistant to admitting such expert evidence, suggesting that knowledge of domestic abuse is well within the knowledge of juries, or family members giving witness evidence can explain cultural issues.

'The judge didn't accept their report [from a specialist BME women's organisation]. He said it had nothing to do with culture... basically they are trying to say that I was a westernised woman because I wore trousers, a top. I didn't dress not always in traditional clothing... it doesn't matter how I'm dressed, I'm still an Asian woman and we still have to abide by the rules and restrictions of our society. Doesn't matter what face we put on.'

(Interview 19)



3.5 After conviction

Sentencing

Lawyers reported that women are, on average, serving longer sentences than they were a decade ago. This is in line with an across-the-board upward trend in the use of custody and the length of prison sentences served in cases of homicide. However, there appears to have been very little assessment of how sentencing in cases of murder and manslaughter may disadvantage women. For example, the use of weapons is an aggravating factor in determining the sentence, and this research found that in 79% (n=73) of cases, women had used a weapon to kill their partner. This is unsurprising, given women's relative size and physical strength, and, in cases of abuse, their knowledge of their partner's capacity to be violent. In contrast, the second most common form of femicide is strangulation – a method almost never used by women who kill their male partners.⁸

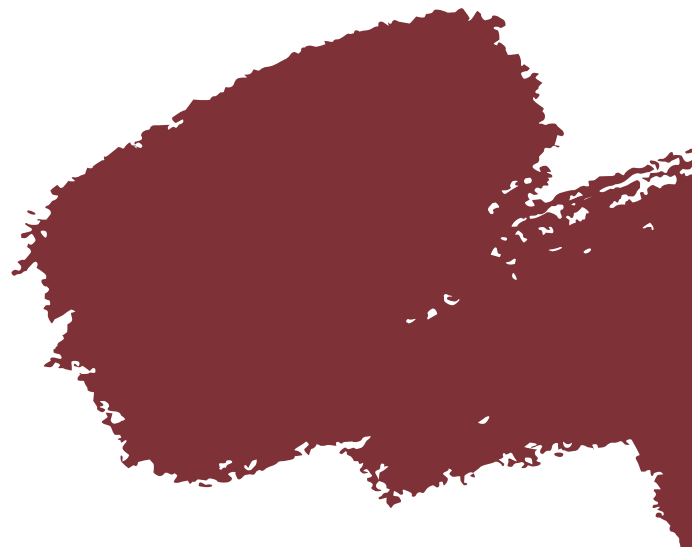
The appeal process

In 2018/19, the Court of Appeal (criminal division) allowed 6% of applications for appeals against a conviction,⁹ and since its establishment in 1997 the Criminal Cases Review Commission has referred less than 3% of cases received,¹⁰ demonstrating that once women are convicted, the chances of a successful appeal are extremely slim. As lawyers highlighted, many of the barriers women experience in the criminal justice system identified by this research are unlikely to be grounds for appeal.

'Finding grounds for appeal is very, very difficult. It has to be fresh evidence or incorrect legal direction. If you get a very weak defence team, or a prejudiced jury, you may be stuffed.' (Lawyer interview 6)

Parole

One of the central issues a parole board must consider is the extent to which an offender takes full responsibility for their offence. This can be problematic for a woman who failed in her use of self-defence or provocation at trial, but maintains that her culpability for the murder was reduced because of the circumstances of an abusive relationship.



'Their partial defences haven't worked or their appeals haven't worked and so they are convicted of murder. It's as if that negates the abuse that they've mentioned... it tends to be forgotten because the focus is always on, the woman is a perpetrator of violence and they are not allowed to then focus on the fact that they are also a victim of abuse and if they do they'll be accused of not taking responsibility as a woman who has perpetrated violence.'

(Discussion with lawyers 2, lawyer 1)

How risk is determined was also seen to be a significant barrier for women, as risk assessments (and the parole process in general) are designed to cater for the offending behaviour of men. As a consequence, women get 'stuck' in a prison system that lacks the resources to provide them with opportunities to rehabilitate which acknowledge their experience of abuse alongside their offending behaviour.

Lawyers reported that, in their experience, more and more women serving life sentences are being recalled to prison for minor incidences, rather than repeated violent behaviour. Lawyers also reported that community support for female offenders has been eroded to such an extent that women are often discharged from prison to situations where they have little or no access to appropriate support.

4.

Conclusion and recommendations

The research contains a detailed set of recommendations calling for further law reform and changes to practice at every stage of the criminal justice process – as well as change beyond the criminal justice system – in order to overcome the barriers to justice that women experience in these cases.

In summary, the recommendations focus on the following areas:

- Reforms to services and systems that play a key role in preventing and tackling violence against women, including housing, health and social care, welfare, the family courts, and specialist community services.
- A public education programme aimed at improving understanding of violence against women and girls. This must include specialist training for practitioners in key services including the police, the Crown Prosecution Service, legal services, the judiciary, and social care.
- Training and changes in the culture and practice of the criminal justice agencies that play a key role in responding to such cases, including the police, the Crown Prosecution Service, the judiciary, and the Parole Board. This must include close work with community agencies with expertise in violence against women and girls, including organisations led by and for women in minority groups.
- Specific reforms to the court process to support women, including: measures to support women to explore experiences of domestic abuse in court; measures to address memory issues, counter-allegations, and myths and stereotypes; and measures to support the effective use of expert witnesses.
- Reforms to the appeal process, including the Criminal Cases Review Commission and the appeal courts.
- Reform of sentencing tariffs and guidelines that recognises women’s experiences.
- Legislative reform, including: making non-fatal strangulation and asphyxiation a specific offence;¹¹ and extending the provisions of the ‘householder defence’ to women who use force against their abuser.¹²



ENDNOTES

1. Three of these cases were joint enterprise cases, where women were implicated in a killing carried out by their abusive partner/ex-partner. In one of these cases, the woman was involved in killing her ex-partner who had been abusive to her in the past. In the other two cases, women were involved in killing men known to them, but there was no evidence of previous abuse from the deceased. See appendix 1 for further details.
2. [Homicide in England and Wales: Year Ending March 2019 – appendix tables](#) (May 2019) Office for National Statistics.
3. Long, J., Wertans, E., Harper, K., Brennan, D., Harvey, H., Allen, R. and Elliott, K. (2020) [UK Femicides 2009 – 2018](#), Femicide Census.
4. This evidence was collated from information in the public domain, primarily media reports, which were then compared with other secondary and primary data sources where available – for example, domestic homicide review reports, CCRC reports, interviews with women, discussions with lawyers, and trial observations.
5. In the remaining four cases, women were convicted of other crimes, considered unfit to stand trial, or the outcome is unknown.
6. For evidence of police failings see [CWJ launch super-complaint: police failure to use protective measures in cases involving women and girls](#) (March 2019) Centre for Women's Justice.
7. Gezinski, L., Gonzalez-Pons, K. and Rogers, M. (2019) Substance Use as a Coping Strategy for Survivors of Intimate Partner Violence: Implications for Safety and Service Accessibility, *Violence Against Women*, pp1267–1285.
8. The Femicide Census (see note 3) found that, of the 1,425 cases 47% of women were killed using sharp instruments, 20% were strangled, 16% were killed using a blunt instrument, and 15% were killed by kicking/stamping/hitting.
9. [In the Court of Appeal \(Criminal Division\) 2018–19](#) (2019) Court of Appeal.
10. Since its establishment in 1997, the CCRC has referred, on average, 30 cases per year. In 2019/20, the CCRC received 1,334 applications, 29 of which were sent for appeal. [Annual Report and Accounts 2019–20](#) (2020) Criminal Cases Review Commission.
11. [CWJ Submission to Domestic Abuse Bill Committee 21 May 2020: The Need For an Offence of Non-fatal Strangulation](#) (2020) Centre for Women's Justice.
12. [Domestic Abuse Bill – legal protection for survivors who offend due to domestic abuse](#) (2020) Centre for Women's Justice.