




RESEARCH ARTICLE

Public perceptions on self-defence in householder and domestic abuse victim-defendant contexts

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Abstract

In the context of self-defence, successive governments have taken an inconsistent approach to using public opinion as a basis for reforming criminal law. In the case of householders acting in self-defence, reform was based on limited public opinion whereas in the case of the domestic abuse victim who uses force against their abuser reform proposals were rejected without considering public opinion. There is a limited evidence base of actual public perceptions in either situation and yet their value is substantial when considering the role of lay decision-makers in the criminal trial and the need to maintain public trust in the system. This paper explores theoretical justifications for the inclusion of public perceptions in the development of criminal defences. Using a social constructivist approach, the authors consider public perceptions, as found in a small-scale empirical study, towards self-defence claims in both a householder and domestic abuse context, concluding that the public can in some circumstances find that the latter is more deserving of a claim than the former.

Keywords: criminal defences; criminal law and criminal justice; domestic abuse; public perceptions; social constructivism; self-defence

Introduction

Legitimacy is important to public trust in the criminal justice system (CJS), supporting its authority and maintaining public participation as witnesses, jurors and lay magistrates.¹ Legitimacy takes on ‘a psychological property of an authority, institution, or social arrangement’ including the CJS ‘that leads those connected to it to believe that it is appropriate, proper, and just’.² The CJS’s legitimacy relies on the state holding and exercising ‘power with legality, justification and consent’.³ This requires compliance ‘with a political community’s laws, rules, and customs’⁴ and consistency across community ‘shared

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¹JL Wood ‘Why public opinion of the criminal justice system is important’ in JL Wood and T Gannon (eds) *Public Opinion and Criminal Justice: Context, Practice and Values* (Abingdon: Routledge, 2008) p 33.

²TR Tyler *Why People Obey the Law* (New Haven, CT: Yale University Press, 1990) p 375.

³B Gilley *The Right to Rule: How States Win and Lose Legitimacy* (New York: Columbia University Press, 2009) p 9. See also JM Coicaud *Legitimacy and Politics: A Contribution to the Study of Political Right and Political Responsibility* (Cambridge: Cambridge University Press, 2002).

⁴Ibid, Gilley, p 6.

norms and values'.⁵ This paper argues that, to secure moral credibility and social acceptability, there should be some congruence between the application of substantive criminal law and *informed* public opinion.⁶

There is little empirical data on public opinion on offence and defence frameworks compared with sentencing.⁷ Governments often claim criminal defence laws are influenced by public opinion, citing limited evidence – self-defence being a clear example. This is partially accurate, as consultation on law reform is open to the public, and responses often shape reform. It is debatable, however, whether these responses truly reflect public opinion, as consultations mainly attract responses from professionals, such as academics, practitioners and advocacy groups. Efforts to gather public opinion are understandably inhibited by the cost and time resources required for representative probability sampling.⁸ Lack of public support for criminal law reform, however, can undermine the CJS by reducing effective participation as witnesses, jurors or magistrates and eroding trust in its legitimacy.⁹

Whilst public opinion may guide criminal law, the question remains about how informed public opinion is on matters of criminal justice policy and what influences it. Knowledge from indirect sources such as the media is vulnerable to manipulation by the media itself, government, other powerful organisations and interest groups. This can result in punitive values¹⁰ based on misconceptions and stereotypes about victims and defendants.¹¹ We examine these challenges using a social constructivist perspective,¹² which highlights learning through dialogue, interaction and exposure to diverse social and cultural contexts.¹³ Our work shows how societal factors, individual beliefs and others' views shape public perceptions of self-defence.¹⁴

The authors review government assumptions about public perceptions which led to allowing disproportionate force in householder self-defence cases. It compares the circumstances of householders with victim-defendants who must use proportionate force in standard self-defence, and outlines reform proposals by the Centre for Women's Justice (CWJ) which would extend the householder defence to victim-defendants.¹⁵

We then consider how criminal law should respond to public opinion, drawing on the work of Tankebe, Robinson and Darley and feminist concerns regarding male-biased defences, which may be reflected in stereotypical public perceptions.¹⁶ While the law should generally align with public perceptions to maintain legitimacy,¹⁷ it should also educate when opinions are misinformed or prejudiced, especially regarding marginalised groups.

⁵Ibid.

⁶Ibid.

⁷R Morgan 'Privileging public attitudes to sentencing' in JV Roberts and M Hough (eds) *Changing Attitudes to Punishment: Public Opinion, Crime and Justice* (Cullompton: Willan, 2002) pp 215–228; PH Robinson and JM Darley *Justice, Liability and Blame* (Boulder Co, 1995).

⁸C Wolf et al (eds) *The SAGE Handbook of Survey Methodology* (London: Sage Publishing, 2016); DA Green 'Public opinion versus public judgment about crime: correcting the "Comedy of Errors"' (2006) 46(1) *British Journal of Criminology* 131.

⁹Wood, above n 1, p 44.

¹⁰B Rose et al 'Can criminology sway the public? How empirical findings about deterrence affect public punishment preferences' (2024) 13 *Crime Science* 43.

¹¹S Hamby 'Battered women's protective strategies' (Applied Research Forum, 2009) http://vawnet.org/sites/default/files/materials/files/2016-09/AR_BWProtStrat.pdf.

¹²J Zaller *The Nature and Origins of Mass Opinion* (Cambridge: Cambridge University Press, 1992).

¹³D Naidoo and M Mabaso 'Social constructivist pedagogy in business studies classrooms – teachers' experiences and practices' (2023) 41(2) *Perspectives in Education* 62.

¹⁴H Haryadi et al 'The constructivist approach: radical and social constructivism in the relationship by using the implementation career level on the vocational education' (2016) 12(1) *Innovation of Vocational Technology Education* 16.

¹⁵We use the term victim-defendant to represent victims of domestic abuse who respond to their abuser with violent resistance.

¹⁶J Tankebe 'Viewing things differently: the dimensions of public perceptions of police legitimacy' (2012) *Criminology* 51; Robinson and Darley, above n 7; J Conaghan *Law and Gender* (Oxford University Press, 2013); N Naffine *Criminal Law and the Man Problem* (Bloomsbury, 2019).

¹⁷See above n 3.

Our methodology used public opinion focus groups in Leicester, London and Newcastle to discuss eight vignettes on self-defence.¹⁸ Discussions focused on when the plea of self-defence would and should be available. Following discussions, participants ranked vignettes from ‘most’ to ‘least deserving’ of self-defence. Transcripts were analysed using Braun and Clarke’s thematic analysis framework.¹⁹

Our analysis and findings centre on ‘personal reflections on experience, media and the law’. Of the eight vignettes, participants selected two, featuring a female victim-defendant and a householder respectively, as ‘most deserving’; this paper focuses on them. In the householder case, participants assumed the defendant’s sex to be male, reflecting that the householder defence mostly applies to men, while women are more often domestic abuse victims.²⁰

Our research explores domestic abuse in heterosexual relationships and findings may be limited in their transferability to same-sex relationships where one partner uses violent resistance against their abusive intimate partner. In the context of domestic homicides, for example, it is evident that very few females kill their same-sex partner; between March 2020 and March 2022 there were no female domestic homicide victims killed by female partners or ex-partners. In the same period, seven men were killed by their same-sex intimate partner or ex-partner. In same-sex relationships there will less frequently be a size and strength differential compared with the male/female relationship equivalent, resulting in the victim-survivor being less likely to pick up a dangerous weapon. For some victim-survivors who present as masculine, they experience further stereotyping as police officers assume they are the aggressor thereby deterring them from seeking help from the authorities.²¹ Notwithstanding these observations, the concerns raised by participants in our study provide a comparator for any future research on self-defence use in the context of non-dominant sexualities.²² Furthermore, our participants’ support for increased accessibility to the plea of self-defence in fatal and non-fatal contexts adds to over 100 academics, practitioners, and organisations advocating for the decriminalisation of domestic abuse survivors.²³

1. Government responses to legal reform: householders v domestic abuse victim-defendants

The legal position of the householder resisting an intruder is different from a victim-defendant using violent resistance against their abuser. In standard self-defence, the force used must be necessary and proportionate in the circumstances as the defendant perceived them.²⁴ In householder cases, a discretionary area of judgement is applied, which permits the defence where the force is necessary and not grossly disproportionate in the circumstances as the defendant perceived them.²⁵ The effect is to apply ‘a gloss’ to the law, rendering disproportionate force potentially reasonable where a householder defends themselves against an intruder.²⁶

Public perception on the law was part of the rationale for providing a more liberalised defence to the householder. The Ministry of Justice (MoJ) explained:

¹⁸For a summary of vignettes see V Bettinson et al ‘Preparing a public perception study in the use of violent resistance as self-defence in domestic abuse cases’ in V Bettinson et al (eds) *Research Handbook on Domestic Violence* (Cheltenham: Edward Elgar, 2024).

¹⁹V Braun and V Clarke ‘Using thematic analysis in psychology’ (2006) 3(2) *Qualitative Research in Psychology* 77; V Braun and V Clarke ‘Reflecting on reflexive thematic analysis’ (2019) 11(4) *Qualitative Research in Sport, Exercise and Health* 589.

²⁰SK Howes et al ‘Women who kill: why self-defence rarely works for women who kill their abuser’ (2021) 11 *Criminal Law Review* 945.

²¹ONS *Domestic abuse victim characteristics, England and Wales: year ending March* (2023); NE Serra ‘Queering international human rights: LGBT access to domestic violence remedies’ (2012) 21(3) *American University Journal of Gender Social Policy and Law* 583.

²²C Donovan and R Barnes ‘Help-seeking among lesbian, gay, bisexual and/or transgender victims/survivors of domestic violence and abuse: the impacts of cisgendered heteronormativity and invisibility’ (2020) 56 *Journal of Sociology* 554.

²³Women in Prison ‘Open letter to the UK Government: provide support, end unfair criminalisation of women’ (2024).

²⁴Criminal Justice and Immigration Act 2008, s 76.

²⁵*Ibid*, s 76(5).

²⁶*R v Magson* [2022] EWCA Crim 1064 at [5]; *R v Ray* [2017] EWCA Crim 1391, [2018] QB 948.

It is rare for householders to be confronted by intruders in their homes and even rarer for them to be arrested, prosecuted and convicted [because ...] of any force they used to protect themselves. When such cases do occur, the Government believes they can give rise to a public perception that the law is balanced in favour of the intruder. In response to these concerns the Coalition Agreement committed 'to ensure that people have the protection that they need when they defend themselves against intruders'.²⁷

Generally, public input on criminal law reform is limited to consultations, but the householder defence reform represents a notable exception. An opinion poll was conducted, underpinned by a media-led 'Right to Defend Yourself'²⁸ campaign, supported by then Shadow Home Secretary, Chris Grayling. He claimed the law in householder contexts was unclear, and 'prosecutions and convictions should only happen in cases where courts judge the actions involved to be "grossly disproportionate"'.²⁹ In practical terms, there were only 11 prosecutions of such cases between 1990 and 2005, with only seven appearing to involve domestic burglaries.³⁰ The poll results were used to support extending the householder defence. However, where support for reform is canvassed in this manner, it undermines the legitimacy of those advocating for change and (being based on misleading, politically motivated information) of the ostensible support itself.³¹ Clarity regarding the reform's interpretation and application was lacking until the judicial review case of *R (on the application of Collins) v Secretary of State for Justice*³² (*Collins*; see below), undermining the government's claim that the change would make the law clear.

The effect of such liberalisation in householder contexts has been twofold. First, it opens a gateway to additional support for the householder defendant pre-trial and, given the increased protection afforded by the defence, provides less grounding for a charge to be brought by the Crown Prosecution Service (CPS). Guidance suggests cases must be 'dealt with as swiftly and sympathetically as possible', with an experienced investigator appointed to investigate and, should it progress to the CPS for a charging decision, prioritisation of the case and appointment of a senior lawyer.³³ Very few prosecutions are brought in householder contexts even where death or life-changing injury results, but that was long the case before reform.³⁴

The reform's increased pre-trial protection (an incidental impact of the householder defence)³⁵ was underlined by the high-profile rejection of the judicial review case, *Collins*.³⁶ Collins was restrained by headlock after entering the home of an unnamed householder in 2013, sustaining serious personal injury from which he is not expected to recover. The Court of Appeal upheld the CPS's decision not to prosecute, ruling the defence compatible with the claimant's right to life under Article 2 of the European Convention on Human Rights.

The support for householders is not afforded to victim-defendants pre-trial. Domestic abuse evidence is relevant to CPS determinations of whether prosecution is in the public interest, but women have had claims of self-defence rejected in favour of prosecution and, where death has resulted, some have been

²⁷ Home Office *Use of Force in Self-Defence in a Place of Residence* (MoJ, Circular No 2013/02).

²⁸ S Lipscombe 'Householders and the criminal law of self defence' (House of Commons Library, SN/HA/2959) 10 January 2013, p 6; P Hennessy et al 'Overwhelming support for campaign to protect householders who confront intruders' (*The Sunday Telegraph*, 16 January 2010).

²⁹ C Grayling 'A Tory government would seek to protect the rights of the victim' (*The Sunday Telegraph*, 19 December 2009). For discussion see MP Thomas 'Defenceless castles: the use of grossly disproportionate force by householders in light of *R (Collins) v Secretary of State for Justice* [2016] EWHC 33 (Admin)' (2016) 80(6) *Journal of Criminal Law* 407.

³⁰ Lipscombe, above n 28, p 6; Ministry of Justice *Crime and Courts Bill: Fact Sheet* (MoJ, 2013).

³¹ Liberty *Liberty's Report Stage Briefing on the Crime and Courts Bill in the House of Commons* (March 2013) p 10.

³² [2016] EWHC 33 (Admin).

³³ Joint Public Statement from the Crown Prosecution Service and the National Police Chiefs' Council *Householders and the Use of Force against Intruders* (CPS, 2018).

³⁴ Ibid.

³⁵ For discussion of guidance pre-dating reform see Lipscombe, above n 28, pp 3–6.

³⁶ See above n 32.

encouraged to plead guilty to manslaughter where a justification of self-defence might apply.³⁷ Defence counsel suggest that these decisions may stem from family pressure to prosecute and reluctance to acknowledge state failures that contribute to the dire circumstances in which these families find themselves.³⁸ During parliamentary debate, the government rejected claims that statutory extension of the householder defence to domestic abuse cases would ensure greater consideration of such cases by the CPS and law enforcement agencies pre-trial. According to the government, this was already the case.³⁹ However, householders receive greater pre-trial protection than victim-defendants, driven by the introduction of the householder defence.

Where cases proceed to court, the different threshold tests in self-defence and the householder defence have complicated legal proceedings. For example, the trial judge in *Gill*⁴⁰ directed the jury on standard self-defence where Gill stabbed a police officer during a raid on his premises. According to Gill, he believed the officer to be an intruder involved in drugs or his criminal enterprise.⁴¹ The trial judge considered that through his criminal activity (drug dealing and proceeds of crime), Gill had rendered himself vulnerable to possible attack. According to the trial judge, Gill's circumstances were far from the type Parliament intended to protect with the householder defence.⁴² On appeal, the conviction was regarded unsafe:

The proposition that a householder loses the benefit of [the householder defence] because he has admitted to criminal acts is contrary to the rule of law, which applies to everyone, and makes no-one an outlaw.⁴³

The householder defence potentially applies to every intruder case whether based on a mistaken belief or not, including a victim-defendant, if the court is satisfied she genuinely believed her abuser was an intruder. This strict application of the genuine belief principle has a perverse outcome, whereby it is easier to establish the householder defence in the case of a criminal fearing an attack from a criminal associate than for a victim-defendant, such as Magson.⁴⁴ Magson was convicted of her partner's murder. According to Magson, her partner, Knight, left the home after accusing her of an affair but returned, kicking open the door and attacking her. When he pinned her against the sink, she grabbed a knife and not intending serious harm, used it to defend herself. Knight later died from the wound.⁴⁵ The Court of Appeal rejected Magson's claim that the householder defence should have been left to the jury, despite the sentencing judge previously accepting she chose to keep Knight out of the home.

The Court of Appeal found 'no evidential basis' that Knight was a trespasser, referring to Magson's testimony that Knight had a set of keys and '[i]t was his home'.⁴⁶ However, the issue is not whether the victim is a trespasser in law, but whether the defendant *genuinely* perceives them as such, following *Gill*,⁴⁷ an approach which has been criticised for allowing 'any stupid or objectionable ground for believing oneself to be under attack'.⁴⁸ The threat victim-defendants experience does not depend on viewing the

³⁷Centre for Women's Justice *Women Who Kill: How the State Criminalises Women We Might Otherwise be Burying* (CWJ, 2021) pp 41–42.

³⁸*Ibid.*

³⁹*Hansard* HC Deb, vol 677, col 440, 17 June 2020 (Victoria Atkins).

⁴⁰[2023] EWCA Crim 259.

⁴¹*Ibid.*, at [11].

⁴²*Ibid.*, at [23]–[24].

⁴³*Ibid.*, at [33].

⁴⁴*R v Magson*, above n 26.

⁴⁵*Ibid.*, at [9].

⁴⁶*Ibid.*, at [23].

⁴⁷*Gill*, above n 40; Criminal Justice and Immigration Act 2008, s 76(3)–(5). See *R v Cheeseman* [2019] EWCA Crim 149 and G Betts 'Criminal law – murder – domestic violence – self-defence – householder defence' (2022) 27(2) *Coventry Law Journal* 71.

⁴⁸We agree with this observation. See J Rogers 'Have-a-go-heroes' (2008) 7310 *New Law Journal* 158. Mistaken belief based on intoxication is excluded: *R v Taj* [2018] EWCA Crim 1743, at [60].

abuser as an intruder, but this perception affects access to the householder defence. Victim-defendants are also unlikely to offer trespassing evidence unless counsel actively pursue such information.⁴⁹

Prolonged trauma may desensitise ... a householder to holding an honestly held belief in V as trespasser at the time force is used. In these cases, it is suggested, more hinges on when an inference will be made from ‘circumstances of events’.⁵⁰

The court’s or counsel’s recognition of the householder defence applying from the ‘circumstances of events’ depends on their awareness of those circumstances and the impact of domestic abuse. Anecdotal evidence suggests that defence counsel often advise clients against raising domestic abuse, assuming jurors perceive it as making an excuse.⁵¹

The Court of Appeal considered the householder defence unnecessary since Magson’s strangulation was a ‘ferocious attack’ which would justify self-defence ‘had the jury believed her’.⁵² Self-defence is often rejected in resisting strangulation cases,⁵³ despite homicide statistics showing it to be the second most common method of killing women.⁵⁴ Almost three-quarters of all homicides by strangulation and asphyxiation involve women as victims. Women are more likely to use a weapon given the respective size differential and threat posed by strangulation and other forms of abuse by the perpetrator.⁵⁵ As Wade states, women’s fatal use of a weapon is an aggravating factor compared with men’s use of bodily force.⁵⁶ Rejection of self-defence in cases where victim-defendants, such as Magson, resist strangulation undermines the government’s argument that self-defence works. More broadly, rather than experiencing an imminent threat as traditionally understood, victim-defendants are more likely to have a heightened awareness of the ongoing threat the abuser poses.⁵⁷ The cumulative impact of coercive control colours the victim-defendant’s experience of the threat and victim-defendants may use disproportionate force to protect themselves and/or dependents.⁵⁸ Arguments that force must be proportionate carry less weight following the inception of the householder defence, which maintains a safety valve in requiring that force is not grossly disproportionate and remains reasonable in the circumstances.⁵⁹

The CWJ recommended extending the householder defence to victim-defendants during the passage of the Domestic Abuse Act 2021 (DAA 2021)⁶⁰ and the Victims and Prisoners Act 2024 (VPA 2024).⁶¹ The proposals, marshalled as amendment 37 in the Domestic Abuse Bill, were accepted by the House of Lords but ultimately fell in the Commons. If enacted, the amendments would have inserted ‘or a domestic abuse case’ into section 76(5A) of the Criminal Justice and Immigration Act 2008 to read:

⁴⁹J Collins ‘Householder defence: R v Magson Court of Appeal (Criminal Division): Lord Burnett CJ, McGowan and Henshaw JJ: 29 July 2022; [2022] EWCA Crim 1064’ (2023) *Criminal Law Review* 81.

⁵⁰*Ibid.*, at 84.

⁵¹See above n 20.

⁵²See above n 26.

⁵³Justice for Women Fariessia-Martin, <https://www.justiceforwomen.org.uk/farieissia-martin>; C Wade *Domestic Homicide Sentencing Review* (2023).

⁵⁴E Yardley ‘The killing of women in “sex games gone wrong”: an analysis of femicides in Great Britain 2000–2018’ (2020) 27(11) *Violence Against Women* 1840.

⁵⁵Wade, above n 53; V Bettinson and N Wake ‘A new self-defence framework for domestic abuse survivors who use violent resistance in response’ (2024) 87 *Modern Law Review* 141.

⁵⁶Wade, above n 53.

⁵⁷A Clough ‘Battered women: loss of control and lost opportunities’ (2016) 3(2) *Journal of International and Comparative Law* 279.

⁵⁸Centre for Women’s Justice *Double Standards Report* (2022).

⁵⁹See *R v Ray*, above n 26.

⁶⁰Centre for Women’s Justice *Domestic Abuse Bill – Proposed Changes in the Law for Victim/Survivors Driven to Offend* (2021).

⁶¹Written evidence submitted by the Centre for Women’s Justice (VPB13).

in a householder case or a domestic abuse case, the degree of force used by D is not to be regarded as having been reasonable in the circumstances as D believed them to be if it [the force] was grossly disproportionate in those circumstances.

Under amendment 37, the defence would operate where ‘D is, or has been, a victim of domestic abuse’ and where the force is directed against the abuser. Akin to the householder defence, force would not automatically be deemed unreasonable, provided it is not grossly disproportionate. There would be no requirement to demonstrate that the victim-defendant believed the perpetrator to be trespassing at the material time, as is required under the householder defence. The recommendations require an imminent threat, limiting their usefulness in cases of psychological coercive control. Other defence models may be more appropriate in this context.⁶² Non-physical forms of coercive control require better understanding, as the perpetrator may use gestures or non-verbal methods to threaten the victim-defendant, and they may sense imminent harm from experience. Accordingly, necessity should be viewed through the lens of the perpetrator’s coercive control and the level of force used must be contextualised within the victim-defendant’s perception of the circumstances.⁶³

In response to the proposals, the (then) government claimed, counter to academic and practitioner commentary, that there was no gap in the law and existing defences could accommodate the circumstances of victim-defendants.⁶⁴ Rejecting proposals to extend the householder defence, Atkins suggested the ‘definition of domestic abuse in the [now DAA 2021] should assist with clarifying the wide-ranging and pernicious nature of domestic abuse and alerting all those involved in the CJS to it’.⁶⁵ Though policy and legal understandings of domestic abuse and its impact have evolved, reflected in the statutory definition of domestic abuse⁶⁶ and criminalisation of coercive control,⁶⁷ the extent to which this has translated to public knowledge remains unclear (see Section 2, below, for further discussion).⁶⁸

A growing body of literature has reinvigorated representation of coercive control as a form of social entrapment.⁶⁹ This approach requires assessment of the abuser’s conduct and its impact on the victim/survivor’s space for action;⁷⁰ the effectiveness of any authority response, including how poor responses may embolden the abuser, further limiting help-seeking options; and any intersectional characteristics impacting on the victim/survivor’s experience.⁷¹ Those from marginalised groups have greater difficulty in seeking support, fearing cultural alienation, discrimination, honour-based abuse, stigma, or that they will not be believed.⁷² Discrimination may be based, inter alia, on age, sexual orientation, gender identity,

⁶²Joint Submission, Victim and Courts Bill (24 June 2025).

⁶³Bettinson and Wake, above n 55. In fatal contexts, see Law Commission *Reviewing the Law of Homicide* (Law Com 2024).

⁶⁴*Hansard*, above n 39, col 439.

⁶⁵*Ibid.*

⁶⁶DAA 2021, s 1.

⁶⁷Serious Crimes Act 2015, s 76 as amended.

⁶⁸S Lagdon et al ‘Public understanding of coercive control in Northern Ireland’ (2023) 38(1) *Journal of Family Violence* 39, at 50; Domestic Abuse and Civil Proceedings Act (Northern Ireland) 2021, s 1. S Davidge *Come Together to End Domestic Abuse: A Survey of UK Attitudes to Domestic Abuse* (Women’s Aid, 2022) p 7.

⁶⁹J Ptacek *Battered Women in the Courtroom: The Power of Judicial Responses* (NorthEastern University Press, 1999) Vol 30, pp 54–74; H Douglas et al ‘Social entrapment evidence: understanding its role in self-defence cases involving intimate partner violence’ (2021) 44 *University of New South Wales Law Journal* 326, 328; J Tolmie et al ‘Social entrapment: a realistic understanding of the criminal offending of primary victims of intimate partner violence’ (2018) *New Zealand Law Review* 181; H Douglas et al ‘Facts seen and unseen: improving justice responses by using a social entrapment lens for cases involving abused women (as offenders or victims)’ (2020) 32 *Current Issues in Criminal Justice* 488.

⁷⁰N Sharp-Jeffs et al ‘Long journeys toward freedom: the relationship between coercive control and space for action’ (2018) 24(2) *Violence Against Women* 163.

⁷¹*Ibid.*; Law Commission *Defences for Victims of Domestic Abuse Who Kill Their Abusers – Background Paper* (Law Com BP, 2024); Tackling Double Disadvantage Partnership Group *Tackling Double Disadvantage Action Plan: One Year On; A Progress Report* (2023) p 13.

⁷²DG Dutton *Rethinking Domestic Violence* (UBC Press, 2006); V Kanuha ‘Domestic violence, racism, and the battered women’s movement in the United States’ in JL Edleson and ZC Eisikovits (eds) *Future Interventions with Battered Women and Their Families* (London: Sage, 1996) pp 34–50.

and immigration status.⁷³ Threats to disclose immigration status may be used by the perpetrator to control the victim.⁷⁴ Language barriers, lack of resources and dependence on the perpetrator can impact on help-seeking capacity.⁷⁵ Victims often fear custody implications where children are involved.⁷⁶ It is important for the public to understand these factors as they make decisions as jurors and magistrates in cases where victim-defendants use violent resistance in response to domestic abuse.⁷⁷

Limited knowledge about public understanding and perceptions of domestic abuse and self-defence signifies a gap in the literature upon which the Law Commission (LC) have invited research, specifically on their review of homicide.⁷⁸ We address this request through the use of focus groups (see methodology in Section 3, below), however the findings apply more broadly across fatal and non-fatal cases involving violent resistance.

2. Should public opinion influence criminal law?

There is an important question regarding the extent to which criminal law should be responsive to wider public opinion, particularly in terms of its legitimacy. From a theoretical perspective, Tankebe outlines four dimensions of legitimacy: lawfulness; procedural fairness; distributive fairness; and effectiveness.⁷⁹ Lawfulness requires state power to be obtained and effected in accordance with the rule of law,⁸⁰ requiring prospectivity, preservation of due process, and that law is drafted and applied in general terms to ensure equality.⁸¹ Procedural fairness requires decisions to be made in an impartial manner, allowing participation of the subject with consistent application;⁸² there is also a need for fairness in terms of treatment of different categories of individual.⁸³ Procedural fairness is perceived as the most powerful indicator of whether society regards laws as legitimate.⁸⁴ The law ought to be based on shared values; ‘without a common framework of belief ... the powerful can enjoy no moral authority for the exercise of their power, whatever its legal validity; and their requirements cannot be normatively binding, though they may be successfully enforced’.⁸⁵ In terms of distributive fairness, the law must not only be perceived to be fair, eg in deciding to prosecute, but the distribution of outcomes must be fair across different demographics.⁸⁶ Finally, the law must be effective, in a normative sense, in delivering outcomes that are beneficial to society.⁸⁷

The need for shared values has been explored by Robinson and Darley, who argue that community views should be reflected in the legal rules of society.⁸⁸ They acknowledge that desert theorists

⁷³Law Com BP, above n 71; EL Lombardi et al ‘Gender violence: transgender experiences with violence and discrimination’ (2002) 42(1) *Journal of Homosexuality* 89; Kanuha, *ibid*.

⁷⁴R Sultana et al ‘Barriers and facilitators for help-seeking behaviors in British South Asian women who have experienced domestic violence: a qualitative study’ (2024) *Families in Society*, DOI: 10443894241272176.

⁷⁵SE Scott et al ‘Economic abuse and help-seeking intentions among adolescents’ (2023) 39(1–2) *Journal of Interpersonal Violence* 107; C Anyango et al ‘Women with disabilities’ experiences of intimate partner violence: a qualitative study from Sweden’ (2023) 23(1) *BMC Womens Health* Jul 20; Age UK *No Age Limit: The Hidden Face of Domestic Abuse* (2023).

⁷⁶Above n 53.

⁷⁷*Hansard*, above n 39, col 440.

⁷⁸Law Com BP, above n 71.

⁷⁹See above n 16.

⁸⁰Tankebe, above n 16.

⁸¹*Ibid*.

⁸²*Ibid*, at 107.

⁸³*Ibid*, at 111.

⁸⁴*Ibid*, at 111–112.

⁸⁵*Ibid*, at 109, citing D Beetham *The Legitimation of Power* (London: Macmillan, 1990).

⁸⁶*Ibid*, at 111.

⁸⁷*Ibid*, at 112.

⁸⁸PH Robinson and JM Darley *Justice Liability and Blame: Community Views and the Criminal Law* (Abingdon: Routledge, 2018).

traditionally argue that distribution of ‘just desert’ according to community rules would be ‘immoral’ where the rules go beyond what is fair, should they be harsh and seem unfair if applied to themselves.⁸⁹ In Robinson and Darley’s view, the public determine what amounts to ‘just desert’ and the public’s ‘view may play a role in testing the derived rules’.⁹⁰ Perhaps more convincing is their response to the utilitarian position that shaping the criminal law on community values would produce an inefficient number of criminal violations.⁹¹ Robinson and Darley argue that the public provide necessary moral condemnation, generating a powerful form of deterrent, and that the moral credibility of the CJS depends upon social acceptance.⁹² When criminal law broadly aligns with the public’s moral code they are more likely to respect and obey it.⁹³ Where criminal law is out of step with public opinion, there is a risk to public confidence and its authority may be undermined.

This does not mean that the criminal law in its detail should be determined by public opinion, particularly where opinion is ill-informed.⁹⁴ Empirical evidence suggests that the DAA 2021 and campaigns regarding domestic abuse have impacted on public awareness of the issue:⁹⁵ 87% of UK adults believe domestic abuse should be reported to the police, while more men (7%) than women (2%) perceived it to be a private family matter.⁹⁶ Many consider that they should not get involved, with victims being blamed for what is viewed as a failure to report, despite factors which impact on their help-seeking, identified above.⁹⁷ Perceptions continue of victims being responsible for the abuse they experience.⁹⁸ Some 40% think domestic violence ‘is worsened and enabled by wider sexism in society’, whilst 36% believe abusers are simply ‘bad people’.⁹⁹ Failure to recognise societal impact on domestic abuse, combined with structural inequalities as identified above, results in failure to appreciate the additional impacts on minoritised groups.¹⁰⁰ Coercively controlling behaviour and psychological abuse continue to be perceived as less harmful than physical forms of behaviour, with the notable exception of sharing intimate images online.¹⁰¹ Financial control is perceived as more harmful than control limiting self-expression.¹⁰² Verbal abuse continues to be regarded as less harmful than other forms of controlling behaviour, with the result that the cumulative impact of domestic abuse is not considered.¹⁰³

In terms of maintaining legitimacy, views of the public ought to be considered in law reform but should be contextualised within broader legitimacy considerations. While public opinion is important in the reform process, where that opinion is ill-informed, eg based on stereotypes or discriminatory beliefs, it sends a clear message that education is required. This is important not least because of the public’s role as lay decisionmakers in the justice process. We have outlined recommendations for meeting this educative need elsewhere.¹⁰⁴ For legitimacy, a law based on the misconception that domestic abuse victims should simply leave is contrary to both procedural and distributive fairness for failing to address the abusive behaviour and is ineffective in addressing the societal ill of domestic abuse.

⁸⁹For desert theorists see A von Hirsch et al ‘Punishments in the community and the principles of desert’ (1989) 20 Rutgers Law Journal 595.

⁹⁰Robinson and Darley, above n 88, p 6.

⁹¹J Bentham *Utilitarianism* (Woking: Progressive Publishing Company, 1980).

⁹²Robinson and Darley, above n 88, p 6.

⁹³PH Robinson and JM Darley ‘Objectivist versus subjectivist views of criminality: a study in the role of social science in criminal law theory’ (1998) 18 Oxford Journal of Legal Studies 409.

⁹⁴B Mitchell ‘Multiple wrongdoing and offence structure: a plea for consistency and fair labelling’ (2001) 64 Modern Law Review 393, at 396.

⁹⁵Davidge, above n 68 p 7.

⁹⁶Ibid, p 9.

⁹⁷Ibid, pp 10 and 27.

⁹⁸Ibid, p 27.

⁹⁹Ibid, p 16.

¹⁰⁰Ibid, p 23.

¹⁰¹Ibid, p 20.

¹⁰²Ibid, p 25.

¹⁰³Ibid, p 26.

¹⁰⁴Bettinson and Wake, above n 55.

Indeed, how far the criminal law should be shaped by public opinion is a matter of debate. A traditional perspective, the consensus model, considers criminal law legitimate where it reflects high levels of agreement among the people governed by a state regarding what constitutes an offence and the appropriate level of sanction imposed.¹⁰⁵ This model assumes that the state exercises its power in a neutral way.¹⁰⁶

For feminist scholars, the legal domain is created and governed by the dominant class – men, imposing its own view upon the CJS, and self-defence provides a salient example of this thinking. Despite the generality of the law being designed to ensure equality in terms of legitimacy,¹⁰⁷ neutrality in the application of self-defence between men and women is lacking, given limited access for women.¹⁰⁸ Naffine explains that perceived objectivity behind words describing the objects of criminal law, ie ‘persons’ or ‘individuals’, belies the traditional masculinity of the law, disguising the fact that men’s experience dominates and obscures women’s. Whilst women are deemed equal to men, the object of criminal law is imbued with characteristics historically assigned to men, such as reasonableness in self-defence (generally negating use of a weapon). The gender-neutral language of self-defence makes it ‘very difficult to pluck gender out of the abstraction of the person’, thereby neutralising the effects.¹⁰⁹ A gender hierarchy can be extrapolated from discussions about the typically conceived male householder defending ‘his’ castle and family from an unknown intruder verses a heterosexual woman protecting herself from intimate partner abuse.¹¹⁰ In terms of shared values as articulated by Tankebe, the operation of self-defence is antithetical to the ‘shared aspiration in democratic societies’ mandating equal dignity of citizens and prohibiting ‘discrimination on account of social class, gender, race, or sexual orientation’.¹¹¹ This has significant legitimacy implications in procedural and distributive justice contexts.

Given the lack of neutrality emphasised by feminist scholars, self-defence could be more accurately said to reflect a ‘conflict model’ where the law is oppressive by supporting the values of the powerful to the detriment and criminalisation of those without power.¹¹² Much scholarship has identified the gendered nature in which defences, such as self-defence and provocation, have traditionally been – and continue to be – conceptualised and applied.¹¹³ But that does not mean that they must continue to be reflective of a ‘conflict model’.

Criminal laws are best created, legitimised and applied when conceptualised through a consensus model of public opinion¹¹⁴ – one that is based on *informed* public opinion, and attuned to the multiple dimensions of legitimacy, both empirical and normative.¹¹⁵ Self-defence should not drastically deviate from the public’s perception of just results.¹¹⁶ Policymakers seek to maintain public confidence in the CJS and do so by claiming their policies are (based on the consensus model) aligned with public attitudes.¹¹⁷ However, ‘our knowledge of public attitudes regarding the CJS remains relatively superfi-

¹⁰⁵ CW Thomas et al ‘Public opinion on criminal law and legal sanctions examination of two conceptual models’ (1976) 67(1) *The Journal of Criminal Law & Criminology* 110.

¹⁰⁶ *Ibid.*

¹⁰⁷ See above n 16.

¹⁰⁸ SM Edwards and J Koshan ‘Women who kill abusive men: the limitations of loss of control, provocation and self-defence in England and Wales and Canada’ (2023) 87(2) *Journal of Criminal Law* 75; Bettinson and Wake n 55; A McColgan, ‘Women and the Human Rights Act’ (2000) 51(3) *Northern Ireland Legal Quarterly* 417.

¹⁰⁹ Naffine, above n 16, p 171.

¹¹⁰ Bettinson and Wake, above n 55.

¹¹¹ Naffine, above n 16, pp 110–111.

¹¹² Thomas et al, above n 105.

¹¹³ Bettinson and Wake, above n 55; Edwards and Koshan, above n 108; Naffine, above n 16. Provocation was replaced by loss of control in England and Wales in 2010: Coroners and Justice Act 2009, ss 54–56.

¹¹⁴ *Ibid.* See J Habermas *The Structural Transformation of the Public Sphere* (Cambridge: Polity Press, 1992).

¹¹⁵ See above n 16.

¹¹⁶ Robinson and Darley, above n 7, 88, 93.

¹¹⁷ JV Roberts ‘Public opinion, crime and criminal justice’ (1992) 16 *Crime and Justice* 99, at 106.

cial'.¹¹⁸ As Mitchell highlights, 'assumptions about the state of public opinion have also been made in the rationalization of the law's approach to justifications and excuses', particularly in relation to homicide defences.¹¹⁹ The government's belief¹²⁰ that current defences are appropriate in domestic abuse cases cannot be justified across the entire defences framework.¹²¹ In terms of legitimacy, the law is simply ineffective for victim-defendants attempting to defend themselves against their abusers.

As much as the consensus model has its benefits for legitimising criminal laws, 'it is important to know whether a particular attitude is founded upon faulty knowledge, or some fundamental value'.¹²² This knowledge may emanate from different media types or other individual factors. Zaller adopted a model of public opinion formation which identifies individual and contextual variables that influence a person's comprehension of messages coming from the media.¹²³ Our social reality consists of both objectively observable facts and those we construct ourselves.¹²⁴ Individual construction of our social reality occurs collaboratively with other people; together members of society construct an 'intersubjective common-sense world', with shared meanings and perceptions.¹²⁵ What is constructed passes through generations and becomes historically conditioned, though we experience our construction as taken for granted. According to Couldry and Hepp, 'through the variety of our sense-making practices, we construct our social world as something "common" to us from the beginning'.¹²⁶

Epstein and Goodman illustrate how 'common' understandings can be detrimental in justice contexts, where decision-makers believe their choices and judgements are universal and deviations are inappropriate.¹²⁷ In cases involving householders responding to an intruder compared with a domestic abuse victim reacting to an abuser, this aspect of knowledge and constructed social reality may be at play. There may be more unity in how people feel they would react in householder contexts, whether they have actual experience or not, whereas pre-existing and public understandings of how domestic abuse operates can be at odds with an abuse victim's reality. This is reflected where views are expressed by non-survivors that victims should just leave relationships, when in truth that is a dangerous strategy for them.¹²⁸

Perceiving laypeople as 'pragmatic social thinkers',¹²⁹ we contend that the justice system's educative role is to assist people to make optimal decisions, to avoid producing ones based on uninformed bias. This is particularly so as community values and social norms evolve, requiring criminal law to adapt, reflecting current ideas of justice in terms of who is and is not deserving of punishment.

Public perceptions of criminal law in general and specifically in relation to self-defence claims are important as they provide insights into existing biases and gaps in knowledge. With these insights, policies and law reform can be designed to enable laypeople to flourish as social pragmatic thinkers. The aim should be to move closer to a consensus model of public opinion in self-defence cases, contextualised within the varied dimensions of legitimacy and informed by progressive research, practice experience

¹¹⁸Queensland Law Reform Commission *Criminal Defences Review: Community Attitudes Literature* by Jodie O'Leary (QLRC, no date).

¹¹⁹B Mitchell 'Public perceptions of homicide and criminal justice' (1998) 38(3) *British Journal of Criminology* 453; Thomas et al, above n 105.

¹²⁰Hansard, above n 39, col 439.

¹²¹V Bettinson et al 'A one-sided coin? Attributing agency and responsibility in contexts of coercive control' in M Bone et al (eds) *Criminal Law Reform Now Volume 2: Proposals and Critique* (London: Bloomsbury, 2024).

¹²²V Roberts and LJ Stalans *Public Opinion, Crime and Criminal Justice* (New York: Routledge, 1998) p 8.

¹²³Zaller, above n 12.

¹²⁴TR Lindlof 'Constructivism' in W Donsbach (ed) *The International Encyclopaedia of Communication* (London: Wiley, 2008) p 944.

¹²⁵PL Berger and T Luckmann *The Social Construction of Reality* (London: Penguin Books, 1991) p 34.

¹²⁶N Couldry and A Hepp *The Mediated Construction of Reality* (Cambridge: Polity Press, 2017) p 18.

¹²⁷D Epstein and L Goodman 'Discounting women: doubting domestic violence survivors' credibility and dismissing their experiences' (2019) 167 *University of Pennsylvania Review* 399, at 412.

¹²⁸Hamby, above n 11.

¹²⁹LJ Stalans and AJ Lurigio 'Editors' introduction: public opinion about the creation, enforcement, and punishment of criminal offenses' (1996) 39(4) *American Behavioral Scientist* 369, at 375.

and human rights considerations. In terms of criminal law generally, this can be achieved by providing the appropriate scaffolding for meaningful public involvement in consultations. This ought to go beyond traditional calls for responses or media-led opinion polls and necessitate targeted public engagement with research models designed to draw on knowledge and opinion, as recently requested by the Law Commission in its Background Paper on Defences to Domestic Homicide.¹³⁰

Below, we highlight the importance of meaningful public engagement as a mainstay in legal reform processes. The purpose is to appreciate educative requirements in terms of lay decision-making, and to assess the extent to which there is consensus regarding when self-defence would and should be available.

3. Methodology: public perceptions on self-defence in householder and domestic abuse contexts

A mixed methods approach was adopted to gather qualitative and quantitative data from the public in England about their perceptions of when self-defence should and would apply through focus group discussions based on eight accessibly drafted vignettes.¹³¹ Participants were also asked to individually rank the vignettes, providing a clear signifier as to those participants deemed most and least deserving of self-defence. A comprehensive pre-pilot study was undertaken to finalise vignettes and discussion questions.¹³² Ethical approval was granted through Northumbria University Ethics Committee (Project ID 3792). Participation was voluntary, based on informed consent. Adopting a trauma-informed ethical approach, the team provided trigger warnings and signposting to support services at the beginning of each session.¹³³ Two researchers, a facilitator and observer, ensured that should any participant become uncomfortable, the focus group could continue whilst the observer checked on the participant. Recordings of the discussion were transcribed, anonymised then analysed, with participants labelled by gender (M/F),¹³⁴ a letter denoting the city (A for Newcastle, B for Leicester and C for London) and a number, eg FC3.

The sample was selected using a market research company on a non-probability basis.¹³⁵ Being less resource-intensive than probability samples, non-probability samples are suited to exploratory studies.¹³⁶ Use of a market research company provided access to a wider audience/demographic, reducing the potential for recruitment bias.¹³⁷ Screening excluded those who were or had close family friends working in research, PR, law, studying law to degree level or having done so, and under 18s. Participants engaged in market research in the six months preceding the study were excluded. Participation was self-selecting, with responses to advertisement calls likely indicating some interest in the subject.¹³⁸ A total of 24 participants were recruited, with 19 engaging across the three focus groups, and 18 engaging in the ranking exercise. Males comprised 58% of participants and 42% were female. In terms of age: 21% were aged 20–29; 16% were aged 30–39; 21% were aged 40–49; 16% were aged 50–59; 21% were aged 60–69 and 5% were aged 70–79. Ethnicity was divided as follows: 5% were Arabic, 11% were Asian or Asian British, 5% were Black, 5% were Mixed or Multiple, and 74% were White or White British.

¹³⁰Law Com, above n 71. See Green, above n 8.

¹³¹On accessibility see J Törrönen 'Semiotic theory on qualitative interviewing using stimulus texts' (2002) 2(3) Qualitative Research 343.

¹³²See above n 18.

¹³³K Dowding *Trauma-Informed Social Research: A Practical Guide* (South-East Partnership), available at <https://www.tnlcommunityfund.org.uk/media/insights/documents/Trauma-informed-social-research-A-practical-guide-2021.pdf>; EJ Alessi and S Kahn 'Toward a trauma-informed qualitative research approach: Guidelines for ensuring the safety and promoting the resilience of research participants' (2023) 20(1) Qualitative Research in Psychology 121.

¹³⁴All participants identified as male or female.

¹³⁵MRFG, see <https://www.mrfgr.com/>. On non-probability samples see G Guest et al 'How many focus groups are enough? Building an evidence base for nonprobability sample sizes' (2016) 29(1) Field Methods 3.

¹³⁶PS Levy and S Lemeshow *Sampling of Populations: Methods and Applications* (London: Wiley, 2013); P Pandey and MM Pandey *Research Methodology Tools and Techniques* (Romania: Bridge Center, 2021).

¹³⁷C Parker et al *Snowball Sampling* (SAGE Research Methods Foundations, 2019).

¹³⁸R Olsen 'Self-selection bias' in *Encyclopedia of Survey Research Methods* (London: Sage, 2008) p 809.

(a) Qualitative method: focus groups

Three 90-minute focus groups took place in Newcastle (three female and four male participants), Leicester (three female and three male participants) and London (two female and four male participants). Focus groups 'are a kind of public opinion jury, in which the task is not to render a verdict but to provide their opinion',¹³⁹ and are useful where there is little known about the topic under consideration.¹⁴⁰ 'Saturation', where repeating of focus groups would identify no further themes, may be reached by the third focus group.¹⁴¹

Focus groups were structured around the consecutive presentation of eight vignettes by a facilitator, also provided on individual cards to each participant. Vignettes have been used across disciplines 'to explore diverse social issues and problems',¹⁴² and were used in our study to stimulate¹⁴³ discussion in response to two key questions, displayed throughout the session. These questions were 'simple to moderately complex':¹⁴⁴ do you think self-defence **would** be available? Do you think self-defence **should** be available? Avoiding overly complex questions enabled saturation to be reached sooner in our study. Unlike in juror simulation studies,¹⁴⁵ participants were not informed about the law. The study aimed to identify what the public thinks happens in self-defence cases and what they think ought to happen, unencumbered by an exposition of the law which might influence their views.

Whilst the topic area and issues presented are complex, the facilitator made clear that the questions were not a test. Participants were prevented from monopolising discussions through tight facilitation, ensuring every individual had the opportunity to respond to the questions in relation to all vignettes.

We gathered 'salient themes', rather than granular level data, considering the lack of rich qualitative data on public views on self-defence.¹⁴⁶ Similar themes arose across focus groups, with a clear suggestion that saturation had been reached by the third focus group. Braun and Clarke's thematic analysis framework was adopted.¹⁴⁷ Conscious of our positionality as Professors with experience researching the topic,¹⁴⁸ we adopted a bi-directional approach to coding. Coding was partially deductive given our experience, and partially inductive in identifying emerging and novel codes from the data content.¹⁴⁹ We familiarised ourselves with the data, identifying initial codes before meeting to discuss code reliability and validity. We agreed a codebook, applied across the transcripts to ensure consistency.¹⁵⁰ Coding continued remotely before the team met to finalise codes and develop themes. We identified four themes: 'culpability', 'personal reflections on experience, media and the law', 'understanding of domestic abuse and coercive control' and 'factors relating to the level of force applied'. This paper addresses the code: 'experience of media reporting and perceptions of the court/CJS' under the second theme.

(b) Quantitative method: rankings

At the end of each focus group, we asked participants to rank all vignettes providing a modest quantitative dataset which could be compared with the qualitative data. Ranking exercises, ie 'asking

¹³⁹See above n 122, p 106.

¹⁴⁰RS Barbour and J Kitzinger *Developing Focus Group Research: Politics, Theory and Practice* (London: Sage, 1999).

¹⁴¹See above n 135; G Guest et al 'How many interviews are enough?: An experiment with data saturation and variability' (2006) 18(1) *Field Methods* 59.

¹⁴²C Barter and E Renold 'I wanna tell you a story': exploring the application of vignettes in qualitative research with children and young people' (2000) 3(4) *International Journal of Social Research Methodology* 307, at 308.

¹⁴³See above n 131.

¹⁴⁴See above n 141.

¹⁴⁵N Pennington and R Hastie 'A theory of jury decision making' (1993) 25 *Advances in Experimental Social Psychology* 183.

¹⁴⁶See above n 141.

¹⁴⁷See above n 19.

¹⁴⁸J Warin 'Ethical mindfulness and reflexivity' (2011) 17(9) *Qualitative Inquiry* 805, at 811.

¹⁴⁹R Berger 'Now I see it, now I don't: researcher's position and reflexivity in qualitative research' (2015) 15(2) *Qualitative Research* 219. AE Pezalla et al 'Researching the researcher-as-instrument: an exercise in interviewer self-reflexivity' (2012) 12(2) *Qualitative Research* 165.

¹⁵⁰N King and JM Brooks *Template Analysis for Business and Management Students* (London: Sage, 2017).

respondents to rank-order a set of values according to their subjective importance’ is ‘regarded as the “gold standard” in obtaining empirical representations of individual value structures’.¹⁵¹ 18 out of 19 participants engaged in the exercise, with one voluntarily opting out. The sample size is justified on the basis that this is an exploratory study which for the first time provides novel and detailed insight into public views on self-defence in general and domestic abuse contexts in England. The use of focus groups in this way is particularly resource intensive but provides significant insight into the rationale underpinning public views. Here, we focus on the two vignettes identified by the participants as most deserving, both in terms of their individual ranking as first or second by participants and their mean average across all vignettes.

4. Findings

The two vignettes identified as ‘most deserving’ are detailed in Table 1 below. In terms of all eight vignettes, a hierarchy appeared to develop in relation to those deemed most to least deserving of self-defence. Whilst those identified in Table 1 were considered most deserving, in terms of the mean average, victims of domestic abuse who had committed a higher level of harm than in Fatima’s case (vignette 2) were regarded next most deserving. The public appeared to consider victim-defendants in domestic abuse cases where a child witnessed the abuse and child abuse cases as less deserving than domestic abuse cases per se. Bar brawl cases were consistently perceived as the least deserving. We discuss this hierarchy in greater detail elsewhere.

The raw data on the ranking exercise in relation to vignettes 2 and 5 are included in Table 2, below. One respondent omitted to include the card relating to vignette 5 and, as such, the mean averages for all vignettes were determined by calculated adjustment (removing bv’s rankings; note the ranking exercise was conducted anonymously and as such the quantitative identifiers do not align with the qualitative identifiers).

(a) Media reporting and perceptions of the court and CJS

(i) The domestic abuse victim-defendant (vignette 2)

Vignette 2, Fatima’s case, was taken *ab initio*, save the names, from a real-life case presented by a practitioner during a CWJ roundtable included in the CWJ’s Double Standards report.¹⁵² Participants were not

Table 1. the two vignettes

| Positioning | Vignette |
|-------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1.6 | Vignette 2 (Fatima) This case concerns a young Muslim woman (Fatima) who cut her husband’s (Aasim) hand with a knife after he ‘came at her’. Fatima was brought over to the UK as Aasim’s young wife. Aasim is three times Fatima’s age. Aasim locked Fatima in the house, beat, and sexually abused her. Previous police records showed a long history of police call outs where Fatima was the victim, and where she had been admitted to hospital with injuries. On the night in question, Aasim came at Fatima; she grabbed a knife and cut Aasim’s hand resulting in a small cut. |
| 2.8 | Vignette 5 (Stevie) Stevie had been watching a movie at home with family, Stevie left the family room and entered the kitchen to fetch more drinks, where Stevie came upon an intruder. Stevie got the intruder in a headlock and shouted for other family members to call the police. Stevie held the intruder until the police arrived. The intruder suffered life changing injuries as a result. |

¹⁵¹WG Jacoby ‘Measuring value choices: are rank orders valid indicators?’ (2011) Annual Meetings of the Midwest Political Science Association, Chicago 31.

¹⁵²Practitioner comment during Roundtable with the Centre for Women’s Justice; *Double Standards*, above n 58, 32. The following, similar case study, was presented to the government as part of the rationale for reforming the law; ‘Case study – Ioanna [1] Ioanna was convicted for attacking her abusive partner with a knife, having been subject to long-term coercion and

Table 2. raw data on the ranking exercise

| Identifier | Vignette 2 | Vignette 5 |
|------------------------------------------------------------------------|------------|------------|
| ai | 1 | 2 |
| a ii | 2 | 1 |
| a iii | 1 | 2 |
| a iv | 2 | 1 |
| av | 2 | 1 |
| av i | 1 | 2 |
| av ii | 1 | 2 |
| bi | 2 | 5 |
| b iii | 1 | 3 |
| b iv | 6 | 8 |
| b v | 1 | omitted |
| b vi | 1 | 4 |
| b viii | 1 | 4 |
| ci | 1 | 3 |
| ci ii | 1 | 2 |
| c iv | 2 | 4 |
| cv | 1 | 2 |
| cv iii | 2 | 1 |
| Mean average (rounded to nearest decimal point omitting bv's rankings) | 1.6 | 2.8 |

provided with any additional information other than that outlined in Table 1. It is significant that this case concerned not only violence against a woman, but against a minoritised woman whose immigration status was affected by the outcome of the case. The resulting discussion suggested that participants constructed the reality of the circumstances beyond the information available through consideration of media, and sharing of personal experience and the experience of others.

Participants felt strongly that Fatima should have a defence but considered this may not be the case based on media reports. There is a widely held assumption that media misrepresents crime¹⁵³ invoking a sense that the CJS is too lenient,¹⁵⁴ coupled with the view that media has significant influence over public

control by him. When he became threatening during an argument at home, she grabbed a knife lying nearby in the kitchen and raised it towards him. He tried to catch the knife and in the process received a small cut on his finger. He contacted the police. Ioanna received a community order' *Hansard*, Public Committee, Centre for Women's Justice Written Evidence Submitted to the Victims and Prisoners Bill, June 2023 [15], available at <https://publications.parliament.uk/pa/cm5803/cmpublic/VictimPrisoners/memo/VPB13.htm>. See also *Double Standards*, above n 58, 68.

¹⁵³C Greer 'News media, victims and crime' in P Davies et al (eds) *Victims, Crime and Society* (London: Sage, 2017).

¹⁵⁴Roberts and Stalans, above n 122.

perception¹⁵⁵ which governments may exploit.¹⁵⁶ Nevertheless, our study indicated that the public considered the law to be too harsh in some instances. For example, FA3 suggested:

[Fatima] should claim self-defence but having seen some of the cases in the news ... even though to me it's clear cut I'm still not sure a court would [accept it]...[I]t just seems ... everything's picked apart.

FA3's view reflects the stark reality. Contrary to the views of participants regarding what they thought the outcome would and should be in Fatima's case, the victim-defendant was charged with GBH, and spent two years in prison triggering deportation proceedings.¹⁵⁷ The case highlights the heightened risks for minoritised women with fragile immigration status. Not only did the state fail to intervene to protect the victim-defendant, but she was further victimised through deportation proceedings. At best, this reflects lack of understanding of domestic abuse. At worst, deportation combined with the poor agency response to previous domestic abuse help-seeking appears discriminatory. The outcome sends a clear message to minoritised women in similar circumstances that where they act to defend themselves against an abuse perpetrator, it may result in deportation. It is unsurprising that threats regarding deportation are often used by abusers to further the abuse.¹⁵⁸

It is important to appreciate the complexity of understanding how people make connections across competing influences in terms of constructing social reality.¹⁵⁹ Research regarding purported causal links between the media and people's attitudes provides significant insights.¹⁶⁰ Whilst Katz and Lazarsfeld argue the media is connected strongly with aspects of everyday life that shape people's thinking, attitudes and personality as a whole,¹⁶¹ media is 'potentially competing with other influences, and their messages are contextualised by individual and social interpretative mechanisms'.¹⁶² Participant responses did indicate media influence. Participants referred to Sarah Everard,¹⁶³ Oscar Pistorius,¹⁶⁴ Tony Martin,¹⁶⁵ and films, such as *Provoked*,¹⁶⁶ *Living with the Enemy*¹⁶⁷ and *Sleeping with the Enemy*.¹⁶⁸ Influence and agreement are not synonymous, however, and the views suggest that a more nuanced approach needs to be adopted. Whilst participants indicated that their *knowledge* of the law was often informed by media, their *opinions* frequently differed from representation of self-defence and how it is addressed or perceived to be addressed across such platforms by them. Our social reality does not

¹⁵⁵Ibid; GW Potter and VE Kappeler *Constructing Crime: Perspectives on Making News And Social Problems* (Long Grove, IL: Waveland Press, 2006).

¹⁵⁶N Peršak *Legitimacy and Trust in Criminal Law, Policy and Justice: Norms, Procedures, Outcomes* (Abingdon: Routledge, 2016).

¹⁵⁷See above n 152.

¹⁵⁸The VPA 2024 is silent on immigration status of victims and prisoners. See Domestic Abuse Commissioner *Safety before Status, How to Ensure the Victim and Prisoners Bill Meets the Needs of All Victims* (2023).

¹⁵⁹Berger and Luckmann, above n 125.

¹⁶⁰Z Boda and G Szabo 'The media and attitudes towards crime and the justice system: a qualitative approach' (2011) 8(4) *European Journal of Criminology* 329.

¹⁶¹E Katz and PF Lazarsfeld *Personal Influence: the Part Played by People in the Flow of Mass Communication* (Glencoe, IL: Free Press 1995).

¹⁶²Ibid, p 334.

¹⁶³A Topping 'Sarah Everard murder sparked UK reckoning with male violence, say charities' (*The Guardian*, 3 March 2022); House of Commons Public Inquiry *Sarah Everard's Murder: Home Secretary Commissions Public Inquiry*, 6 October 2021.

¹⁶⁴Oscar Pistorius was convicted of the murder of his girlfriend, Reeva Steenkamp, after repeatedly firing a 9mm firearm through the bathroom door, killing Reeva: B Ellen 'Let's not pity "poor" Oscar Pistorius. Reeva Steenkamp suffered far worse a fate' (*The Guardian* 6 January 2024).

¹⁶⁵H Burchell and A Dunlop 'Tony Martin, who killed burglar at farmhouse, dies' (*BBC News*, 2 February 2025).

¹⁶⁶Based on *R v Ahluwalia* [1992] 4 All ER 899.

¹⁶⁷A newlywed believes her husband was involved in the death of his first wife: <https://www.imdb.com/title/tt0465417/>.

¹⁶⁸Librarian fakes her death to escape her abusive husband: <https://www.imdb.com/title/tt0102945/>.

only consist of objectively observable facts; we construct parts of our social reality ourselves,¹⁶⁹ through media, interactions, dialogue, experience and other factors. According to Zaller, this makes public opinion ‘essentially unstable, fuzzy and difficult to grasp’,¹⁷⁰ and what the public may perceive as deserving or undeserving regarding law reform should not be assumed but actively sought.

In terms of legitimacy and whether the system operates in the public interest, MC4, reflected on the law’s function:

[I]n my belief the law is in there to keep us all safe, that’s why we have the law. Fatima doesn’t seem like a threat to society ... [S]he was acting out of self-defence.

For MC4, the outcome would not be effective in benefiting society. Robinson and Darley note that legal rules should resonate with public opinion for legitimacy and to retain trust in the CJS.¹⁷¹ In terms of legitimacy, participants considered contributory failures of the state in assessing Fatima’s position:

[T]he system, especially the police, have failed her because if they’ve been called numerous times, why haven’t they supported her ... rather than just keep leaving her? (MC1)

She’s gone to hospital. Why did that never get to court? (FA4)

In reaching out, Fatima has done what Women’s Aid explained the public generally expect of victims of domestic abuse.¹⁷² The case highlights, however, that help-seeking behaviour is not always met with an effective response. In this context, participants appeared sensitive to some factors embedded within the social entrapment approach in terms of limiting the victim-defendant’s help-seeking opportunities and capacity for action, but were less so in respect of intersectional characteristics.¹⁷³

Though participants in Newcastle and Leicester identified intersectional factors, stereotyping was prevalent and there was clear confusion regarding the relevance of ethnicity and age.

[H]e’s... three times her age, there’s...a clear power imbalance there (FA7)

He possibly brought [Fatima] to the country. So it sounds like [Fatima] was brought against her will as a child bride. The husband is three times her age (MB5)

Despite literature which highlights additional impacts of intersectional factors on domestic abuse victims, some participants considered these factors irrelevant.

[A]ge is only relevant because they put in young Muslim and older, if they’d taken out those words the scenario itself would still be the same. (FB1)

[W]e immediately relayed that to a Muslim situation, and it doesn’t make a scrap of difference. (MB4)

[T]he situation ... is what we should be looking at [rather than] other factors around it. (FB1)

Age and ethnicity were not commented on at all by the London participants, suggesting a lack of awareness regarding the additional impact of domestic abuse in intersectional contexts. Nevertheless, participants recognised the lack of choice in Fatima’s situation:

¹⁶⁹Lindlof, above n 124.

¹⁷⁰Zaller, above n 12.

¹⁷¹Robinson and Darley, above n 7, 88 and 93.

¹⁷²See above Davidge n 68.

¹⁷³See above n 69.

[Fatima] had no choice because this guy was attacking her, and it just happened that she ended up cutting him ...; a small cut in self-defence. (MC1)¹⁷⁴

She’s obviously gone through this for quite some time, she’s trapped. (FB2)

MA2 considered what Fatima did ‘entirely appropriate’, and MA5 noted that her ‘instinctively’ grabbing the knife ‘hadn’t been premeditated’. Participants did not consider use of the knife to be inherently dangerous, which runs counter to existing empirical findings on the issue, though this was likely influenced by the ‘small cut. It’s not life changing’ (MA5).¹⁷⁵

Qualitative comments were supported by the quantitative data obtained. Figure 1, below, showed participants considered Fatima’s case ‘most deserving’ of self-defence (61%) followed by Stevie’s case (22%). Only two other vignettes, both involving domestic abuse victims, were ranked ‘most deserving’ (collectively 17%).¹⁷⁶

(ii) the householder (vignette 5)

Views were mixed regarding whether Stevie, vignette 5, ought to be able to claim self-defence or more accurately, the householder defence. Vignette 5, based on Collins, ranked second, with 22% of participants considering Stevie ‘most deserving’ of self-defence. No additional information was provided beyond the text in Table 1 and participants tried to make sense of the case, constructing views based upon their knowledge of the media, personal experience and thoughts on domestic burglary. Qualitative comments aligned with the code, ‘experience of media reporting and perceptions of the court/CJS’ do

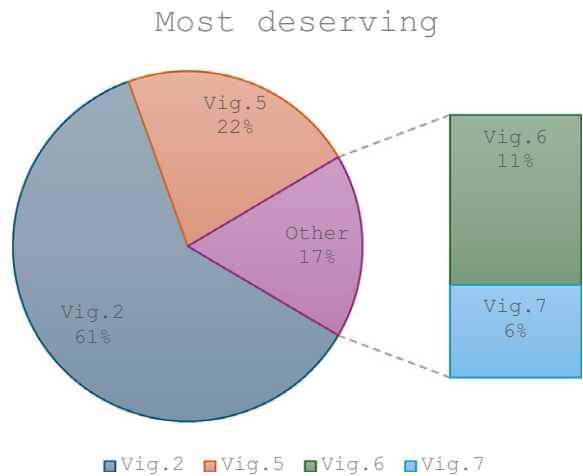


Figure 1. illustrates the ‘most deserving’ cases in terms of modal value ranking 1.¹⁷⁷

¹⁷⁴Bettinson et al, above n 121, outlined a defence model which would apply where a victim-defendant does not have a fair opportunity to comply with the law.

¹⁷⁵See above n 53.

¹⁷⁶Vignette 6: a female victim of domestic abuse stabs her former male partner when he enters her home where they once lived together and advances towards her. The injuries are not specified. Vignette 7: a male has a history of coercively controlling his female partner. The female hides in a room with the male’s gun after he physically attacks her. The male partner bangs on the door and the female partner shoots him dead when she opens the door.

¹⁷⁷Data is rounded to the nearest decimal point. Vignettes are only included where they were ranked ‘most deserving’ by at least one research participant. Removal of bv’s rankings would reduce the overall percentage for vignette 2 to 59% and increase the overall percentage for vignette 5 to 24% and other cases to 18%. Vignette 6 would increase to 12% whilst the value would remain the same for vignette 7.

provide some support for the MoJ's assertion that the public think there is inadequate protection for householders confronted by an intruder. This is where, aligned to Katz and Lazarsfeld's work, media influence appeared to have the most significant impact in terms of constructing societal understandings of the legal position.¹⁷⁸

You see stuff in the news ... where you think that's really reasonable but in fact ... they've said ... 'no, you shouldn't have restrained them'. (FA3)

Despite national media reporting on legal reform, guidance directed towards laypeople, and high-profile cases, none of the participants appeared to be aware of the increased latitude afforded to householders in self-defence cases.¹⁷⁹ This perhaps exemplifies Zaller's public opinion model, which recognises that a variety of individual and contextual factors impact on a person's consumption of media messaging,¹⁸⁰ whereby sensationalised headlines outweigh educational content. As MB4 reflected:

I've seen many cases reported in the media of people committing these kind of actions and the police have ended up taking them to court rather than the ... intruder because they've used unnecessary and excessive force. I think you're allowed to use commensurate force.

Similarly, FC3 expressed the following mistaken view:

[T]here's been quite a few of these ... cases with intruders and the person who lives at the house attacks ... the intruder and actually hurts them, and the person that owns the property gets into trouble not the intruder.

Aligned with Couldry and Hepp's research, there appears to be socially conditioned common understanding that self-defence is unavailable in householder contexts, which educative media cannot outweigh.¹⁸¹ Several participants considered that the law does not adequately protect those defending themselves from intruders because they perceived it only allows the use of 'commensurate' (MB4) force or, in the words of MC1, the courts 'would not be sympathetic because ... as far as the law's concerned you're only allowed to use sufficient force'. This erroneous thinking signifies that education on the operation of self-defence in this context may have been more beneficial than reform, given that the latter has not substantively changed the views of the public on the effectiveness of the law.

Participants considered the way an individual defends themselves would impact the availability of self-defence, perceiving the law to be more punitive than it is in householder contexts:

I would support but I don't think the law would ... – because the guy's restraining the intruder, the family members are there. They probably think well you should have tied him up or, you know, done something to keep him in a position until the police came but holding him in a choke hold or something like that is life threatening (MC2).

In terms of expressing retributivist views,¹⁸² some considered Stevie's defensive behaviour praiseworthy:

¹⁷⁸See above n 161.

¹⁷⁹BBC News 'Conservative conference: force against burglars to be allowed' (*BBC News*, 9 October 2012); BBC News 'Denby Collins: challenge to householder defence law rejected' (*BBC News*, 15 January 2016) <https://www.bbc.co.uk/news/uk-england-kent-35325168>; S Fenton 'Homeowners can beat up burglars using 'disproportionate force', rules High Court' (*The Independent*, 16 January 2016).

¹⁸⁰Zaller, above n 12.

¹⁸¹See above n 126.

¹⁸²See above n 89.

The chances are that Stevie ... would be charged [and] found guilty; no case of self-defence. ... [P]ublic opinion would be totally different ... Stevie deserves a medal because he might have life-changing disabilities or whatever but trust me he's not going to be burgling anybody else's houses. (MC1)

The Intruder's wrong for being there and deserves whatever they get ... [Stevie] didn't intend to ... give them life changing injuries. [Stevie] had no choice but to hold them down. (FC3)

I think the law probably would do something to the guy owning the property really. Do I think it's right? No ... if someone comes into your house with the intent to do something, I think they deserve everything they're going to get ... but the law doesn't work like that unfortunately. (MC3)

MB4, in contrast, considered that the defence should not be available, as the force used by Stevie was 'not commensurate' with the threat posed:

[D]oes that give Stevie the right to impose a life sentence on the intruder when the law would probably give him a slap on the wrist? He'd probably not even get a custodial sentence. The actual punishment ... by suffering life changing injuries isn't commensurate with the crime ... Stevie's got no right to be judge, jury and executioner.

In effect, for MB4 the threshold set by standard self-defence is appropriate in terms of moral condemnation; Stevie should not be able to rely on the defence. This appears to imply that MB4 would consider the householder defence too liberal in terms of moral credibility though, as noted, no participants appeared to be aware of this gloss on the criminal law.¹⁸³

Several participants also discussed their agreement with the unavailability of self-defence in the case of Tony Martin,¹⁸⁴ which pre-dated reform. Martin, who recently died aged 80, fatally shot a teenager and injured another who had attempted to burgle his farm, Bleak House. The case was notorious, with many supporting Martin's rights to defend himself and his home, and others considering him 'a violent eccentric who turned vigilante'.¹⁸⁵ Initially convicted of murder, the charge was subsequently reduced to manslaughter with evidence of his paranoid personality disorder forming the basis of a successful diminished responsibility plea.¹⁸⁶ At the time the householder defence was being considered, the Law Commission suggested, in reference to *Martin* amongst others, that public support was predicated on a fundamental 'misunderstanding of the state of the present law, contributed to by incomplete understanding of certain notorious cases'.¹⁸⁷ Incidentally, the outcome in *Martin* would have been no different under the householder defence, since the threat was no longer present.¹⁸⁸ Participants made mixed references to the case of *Martin*. However, views seemed to be more nuanced or at least more so than it was perceived at the time of the 2013 reform, which may have been influenced by recent documentaries and dramatisations of the case, though these were not specifically referred to by participants.¹⁸⁹

(iii) Rankings: *Fatima v Stevie*

Table 3, below, shows 'would' and 'should' rankings for Fatima (vignette 2) and Stevie (vignette 5) across all participants to the second nearest decimal point. A total of 13 (six female and seven male) of the 19 participants thought Fatima *would be able* to claim self-defence. Two, one female (FA3) and one male (MB5), thought Fatima *would be unable* to claim self-defence. The remaining participants did not

¹⁸³ *R v Ray*, above n 26.

¹⁸⁴ [2001] EWCA Crim 2245.

¹⁸⁵ Burchell and Dunlop, above n 165.

¹⁸⁶ Homicide Act 1957, s 2(1) as amended by the Coroners and Justice Act 2009, s 52.

¹⁸⁷ Law Commission *Murder, Manslaughter and Infanticide* (Law Com No 304).

¹⁸⁸ Thomas, above n 29; *R v Clegg* [1995] 1 AC 2.

¹⁸⁹ N Smith 'Tony Martin, the farmer who shot burglar, inspires verbatim TV drama' (*BBC News* 12 November 2018).

Table 3. Participant responses (by percentage) as to whether self-defence would and should be available in responses to vignettes 2 and 5

| Vig. | Would | Would Not | Did not commit | Total | Should | Should Not | Did not commit | Total |
|------|-------------|------------|----------------|-----------|-------------|------------|----------------|-----------|
| 2 | 68.42% (13) | 10.53% (2) | 21.05% (4) | 100% (19) | 78.96% (15) | 0% (0) | 21.05% (4) | 100% (19) |
| 5 | 68.42% (13) | 15.79% (3) | 15.79% (3) | 100% (19) | 63.16% (12) | 5.26% (1) | 31.58% (6) | 100% (19) |

indicate a conclusive view. 15 (six female and seven male) of the 19 believed Fatima *should be able to* claim self-defence. The remaining participants did not indicate a view either way.

A total of 17 of the 19 indicated whether they thought Stevie (vignette 5) would be able to claim self-defence: 14 (seven female and seven male) thought Stevie *would be able to* claim, despite expressing doubts; three male participants (MB4, MC1 and MC2) considered that Stevie *would not be able to* claim self-defence. The remaining participants did not indicate a conclusive view. Also, 12 (five female and seven male) of the 19 believed Stevie *should be able to* claim self-defence. MC4 caveated this view by requiring the intruder to be armed with a knife. One male (MB4) did not believe Stevie should be able to claim self-defence. The remaining participants did not express a conclusive view.

Fewer participants thought Fatima would have a successful self-defence claim under the current law than thought she ought to have it. Participants considered self-defence would be more available to Stevie than it should be. These findings are significant given that distributive fairness is a central tenet of legitimacy not only in how the law is perceived to operate but how it does in fact operate in the distribution of justice.¹⁹⁰ The findings are more stark given none of the participants appeared to be aware that the more liberal defence applies in the householder context. With regard to procedural fairness, the different treatment of these categories of offender may undermine the legitimacy of the law in terms of shared societal views on just outcomes.

Not one participant considered that Fatima should not be able to successfully claim self-defence, whereas a small percentage considered that Stevie should not. These tables do not include those who did not commit to an answer either way, and participants were more reticent about indicating whether Fatima and Stevie would not and should not be able to claim self-defence as compared with whether they would and should (see Table 3).

It is misleading to suggest that there is public support for the householder defence but not a more accessible defence for domestic violence situations, particularly considering the limited research on this issue. Our findings suggest, contrary to former government expositions, that there is indicative public support for extending the householder defence to victim-defendants. Though participants considered Stevie deserving of self-defence, they found Fatima more deserving. These findings reinforce the importance of obtaining data on what the public think would and should happen in such cases. If the public perceive the outcome of cases too harsh in some cases and too lenient in others, it risks undermining legitimacy of the law.

Conclusion

Government decisions on reform in the context of householders and victim-defendants has been based on limited evidence of public opinion.¹⁹¹ An effect of this is the application of different standards in self-defence cases for householders and victim-defendants, providing householders with more leniency in respect of decisions to prosecute and during trial.¹⁹² For householders, the MoJ argued that reform was needed due to public concerns about insufficient protection under standard self-defence, despite

¹⁹⁰See above n 16.

¹⁹¹See above n 28 and 29.

¹⁹²See above n 33.

evidence suggesting the law was functioning well.¹⁹³ In contrast, the calls of the CWJ to extend the defence to victim-defendants were rejected during the passage of the DAA 2021¹⁹⁴ and VPA 2024.¹⁹⁵ The government claimed there was no legal gap.¹⁹⁶

Our study provides the first in-depth insights into public opinion on self-defence in England and suggests the government's presumptions have been ill-founded, with participants determining that a domestic abuse victim-defendant was more deserving of self-defence than a householder responding to an intruder. These views are significant as they are based on real-life cases where the CPS chose not to prosecute a householder but did charge and convict the victim-defendant.¹⁹⁷ The current defence framework offers greater protection to householders, such as those who harm a police officer during a raid because they genuinely mistakenly believe him to be a drug dealer.¹⁹⁸ In contrast, victim-defendants defending themselves against abusers are less protected.¹⁹⁹ These discrepancies show, despite government claims and increased awareness of domestic abuse, that there is a gap in the law that needs to be addressed to maintain public and professional confidence in the CJS. Given the public are essential to the administration of justice in their roles as witnesses, magistrates and jurors, law and policymakers should have an awareness of public perceptions on these important issues, both in assessing educative needs and maintaining moral legitimacy of the law.

The findings of our exploratory study indicate that more research should be done on public perceptions of the criminal law to maintain the law's legitimacy and identify educative need. Future large-scale study would benefit from probability sampling or the implementation of stratum quotas to allow greater generalisability, though neither are without challenges.²⁰⁰ Surveys focused on scalability and generalisability of the quantitative data obtained could also be used; these could be supported by follow-up interviews or focus groups to explore understanding of the law and normative considerations regarding legitimacy and decision-making. Research could focus on specific facets of public understanding and views on self-defence, eg mistaken belief, assumptions regarding perpetrator and victim sex, and self-defence in non-dominant sexuality contexts.

The Law Commission has highlighted the importance of engaging with public perceptions on defences in consultations and this study has sought to do this in a meaningful way.²⁰¹ Proposals by the CWJ which seek equal protection for victim-defendants using violent resistance represent an optimal model for reform, aligned with shared community values.²⁰² With growing support from both the public and professionals, it is hoped that the current government, who previously supported the proposals in opposition, will address the issue and extend the householder defence to victim-defendants in line with renewed calls to do so.²⁰³

¹⁹³See above n 27 and 187.

¹⁹⁴See above n 60.

¹⁹⁵See above n 61.

¹⁹⁶*Hansard*, above n 39.

¹⁹⁷See above n 32 and 151.

¹⁹⁸See above n 40.

¹⁹⁹See above n 26.

²⁰⁰See above n 135 and 136.

²⁰¹Law Com, above n 71. Law Commission, *Homicide Law: Call for Evidence* (Law Com, 2025).

²⁰²See above n 194 and 195.

²⁰³Centre for Women's Justice *Change law, policy and practice to protect victim/survivors from being silenced or unfairly criminalised and address racial injustice* (2025).