

Reforming the Law to Allow a Duress Defence to Those Committing Crime under Coercive Control

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Abstract : Women in abusive relationships who commit crimes under duress are unfairly treated by the English legal system. Despite the offence of Coercive Control being introduced in 2015 that recognises that a woman's autonomy has been eroded, coercion is no longer a defence to women who feel compelled to act due to their partner's behavior or abuse. This problem is intensified by the fact that women in abusive relationships are more likely to commit crimes to ensure their survival. Furthermore, the very fact that they are 'associating' with their abusive partners means that they are excluded from pleading a defence of duress. Women who kill their abusers may be able to reduce their conviction from murder to manslaughter, but this depends on successfully pleading either loss of control or diminished responsibility, both not without their issues, but this does not provide a defence where a lesser crime is committed. Self-defence is also widely unavailable to either murder or non-fatal offences, as the amount of force used is often deemed disproportionate because women are more likely to use weapons in their defence. Regardless, this would not provide a defence where the crime committed is one such as theft. An alternative that has been proposed would be to introduce a new defence that would work similarly to the exemption to prosecution afforded to those who are trafficked that commit crime under duress. Despite having support in the Lords in March 2021, this recommendation has been rejected by the Government on the basis that it would not achieve an appropriate balance of justice. The result is that abused women who commit crime are left without an appropriate defence. A doctrinal approach highlights the injustices in these types of cases and concludes that it is time for the current law of duress to change.

Keywords : coercive control, crime, defences, duress

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