

Family violence poorly understood in defensive homicide cases

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Women who kill their partners after years of family violence will have fewer options to defend themselves against murder charges if the current

Victorian law is abolished, according to a new study.

Defensive homicide applies to killers who unreasonably believed their actions were necessary to defend themselves or others; many are women who are victims of [family violence](#).

The study, by researchers from Monash University and Domestic Violence Resource Centre Victoria, examined eight cases of women charged with killing their partners since defensive homicide was introduced by the former Labor government in 2005. The study found family violence was still poorly understood and the perception of what is 'reasonable' self-defence continues to be shaped by gender-based stereotypes.

Monash University criminology expert Dr Danielle Tyson from the School of Political and Social Inquiry said there still remained a failure to understand how prior family violence may affect women's responses and why victims may remain in abusive relationships.

"If defensive homicide is abolished and no other partial defence is established to replace it, it is likely that some women who kill in the context of family violence will receive harsher sentences than is currently the case," Dr Tyson said.

"The current limited recognition of family violence gives us little confidence that women will successfully be able to claim self-defence at trial."

Dr Tyson said the need for law reform to ensure justice for women who kill violent partners has been well established for some decades.

"Currently defensive homicide is being used more often by men who kill other men and rarely by women, but the reliance on partial defences or

manslaughter by men who kill other men is nothing new and not a sound reason to abolish defensive homicide," Dr Tyson said.

"Victoria has led the way for other Australian jurisdictions in its commitment to bringing about more positive changes for women defendants.

"We need to continue our efforts to develop the law in a way that adequately recognises the impact of family violence on women's lives, but also to work with the [legal profession](#) to improve the applications of the law so that the spirit and potential of legislative reform can be effectively realised."

Dr Tyson said that until women victims of family violence can be seen to be successfully raising self-defence, defensive homicide should not be abolished.

"We need to see further shifts in the legal profession and culture around the recognition of family violence and women's responses to it. At present, there is no evidence that women's prospects of raising self-defence successfully have improved," Dr Tyson said.

"There is still a long way to go to improve legal responses for [women](#) who kill an abusive partner and this won't be achieved if the current laws are abolished."

Provided by Monash University

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