
DOMESTIC ABUSE DURING THE UK'S COVID-19 LOCKDOWN: FROM NORMAL TO NEW NORMAL AND WHAT SURVIVORS' EXPERIENCES MIGHT TEACH US

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Abstract

This article considers emerging data on the escalation of domestic abuse in lockdown and, with reference to the proposed Domestic Abuse Bill 2020, explores how the depiction of, and response to, domestic abuse during lockdown sheds light on wider socio-legal issues and challenges.

Key words: domestic abuse, domestic violence, COVID-19, tech abuse, remote access

[A] COVID-19 LOCKDOWN: ESCALATING DOMESTIC ABUSE, ESCALATING PUBLICITY

Given the unprecedented and robust nature of the restrictions placed upon the UK population during lockdown, it is not difficult to imagine why existing domestic abuse might escalate, or new patterns of abusive behaviour emerge. A Home Affairs Select Committee report, recently published on 27 April, identified a global surge in pandemic-related domestic violence and noted that the UK was following this pattern with cases 'escalating more quickly to become complex and serious, with higher levels of physical violence and coercive control' (Home Affairs Select Committee 2020: paragraphs 1-3).¹ Slipping somewhat under the radar, despite the extensive media coverage of lockdown-related abuse, on

¹ To place this in comparative perspective the Home Affairs Select Committee's report (2020: paragraph 1), based on an article in *The Guardian* (Graham-Harrison & Ors 2020), found that: 'In Hubei province, China, domestic violence reports to police more than tripled in one county during the lockdown in February. In Brazil it has been estimated that cases have risen by 40-50% in consequence of coronavirus isolation requirements, and calls to domestic abuse helplines in Catalonia and Cyprus rose by 20% and 30% respectively in the week after confinement measures were introduced. In Italy activists have reported "an overwhelming emergency" as women who are no longer able to access helplines without being overheard have sought to make contact with support services by text and email.'

28 April the Domestic Abuse HC Bill, first tabled in 2019, received its second hearing in the House of Commons. If made law, it will, for the first time, create a statutory definition of domestic abuse. Presently, there is no specific criminal offence of domestic abuse in England and Wales. Prosecutions may fall under criminal offences such as assault or threatening behaviour. Alternatively, under the Crime and Security Act 2010 police have the power to obtain domestic violence protection notices and orders. Provisions for prosecuting non-violent abuse were expanded under section 76 of the Serious Crime Act 2015, which created a new offence of coercive or controlling behaviour. But the transition to a concept of domestic abuse as something more than physical violence has been uneasy and, arguably, incomplete.

When the UK entered lockdown on 23 March 2020, the prospect that a direct result would be an increase of domestic abuse was already in evidence. On 25 March, the day that the Coronavirus Act 2020 was enacted, Beverley Hughes, Greater Manchester's deputy mayor for policing and crime, cited reports of abuse linked to the lockdown and stated that authorities were preparing for serious incidents (Hughes 2020). Elsewhere, Avon and Somerset police reported a 20.9 per cent increase in domestic abuse incidents during the two-week period of voluntary social distancing that had already been in place (Parveen and Grierson 2020). In the weeks that followed, the issue remained in the public eye. On 11 April, the Home Secretary launched a targeted response, announcing an extra £2 million fund for domestic abuse online support services and helplines, which came on top of a previous government pledge to provide frontline charities with £750 million as part of its pandemic response package (Patel 2020). A new national communications campaign was launched under the hashtag #YouAreNotAlone. At the same briefing, the National Police Chiefs' Council chair Martin Hewitt addressed 'victims of domestic abuse or controlling behaviour' directly, stating: 'We will come when you call for help. To abusers, do not think this is a time you can get away with it. We will still arrest, we will still bring people into custody, and we will still prosecute.' (Parveen and Grierson 2020)

The government's commitment to address the issue of abuse during lockdown is surely welcome. Yet, this seemingly unequivocal statement of victim support is not without ambiguity. The reassuring emphasis on tackling abuse as a crime belies the complex socio-legal reality that both victims and perpetrators inhabit. Domestic abuse covers a wide spectrum of behaviours and its consequences are addressed across a range of sectors. Incidents that transition to the criminal courts are in the

minority, and, whilst the family and civil courts offer alternative routes to legal remedy, the majority of domestic abuse remains outside the scope of the judicial system. Its effects are only indirectly quantifiable through impact upon other social support networks and healthcare services (Office for National Statistics (ONS) 2019b).² Moreover, the response to COVID-19-related domestic abuse risks underplaying the need for integrated, whole family services; something that is echoed in the current draft of the Domestic Abuse Bill. In its consultation submission for the Bill, SafeLives undertook a survey of survivors that found that:

82% of respondents said that they supported the introduction of more perpetrator programmes, nearly 80% wanted tougher sentences, 74% wanted mental health support for perpetrators, and 73% wanted public awareness campaigns specifically targeted at perpetrators. And yet, less than 1% of perpetrators are challenged to change (SafeLives 2019b: paragraph 13).

As is discussed below, in its current form the Domestic Abuse Bill may unintentionally divert resources towards accommodation-based refuge, at the expense of other services that cultivate early intervention and whole family support.

[B] THE DOMESTIC ABUSE BILL 2019-2021: FIRST STEPS

Nonetheless, the Domestic Abuse Bill, as presently drafted, represents a step towards addressing some important issues. It includes within its scope non-violent forms of abusive behaviour, such as controlling or coercive behaviour; economic abuse and psychological, emotional or other abuse (Part 1, section 1(3)).³ Of particular note, is that the Bill will prohibit abusers cross-examining survivors in the family courts, an occurrence which has hitherto been inadequately dealt with. Special measures such as separate entrances and exits, separate waiting rooms and a screen in court so that neither party can see the other may be currently requested in the family court, with judicial guidance for such provisions laid out in the Family Procedure Rules 2010. However, a 2018 survey by Women's Aid—a federation of frontline domestic abuse services—found that 61 per cent of their respondents were not provided with special measures in

² The ONS (2019b) provides a comprehensive overview of how data on domestic abuse is captured. It includes data from multiple sources to map how victims and perpetrators of domestic abuse engage with the criminal justice system and support services and outlines how the limitations of such data leave the true extent of domestic abuse difficult to accurately quantify.

³ This reflects a pre-existing cross-party, non-statutory, definition of domestic abuse that has been in place since 2012, see Home Office 2012: See [Bill documents — Domestic Abuse Bill 2019-21](#) for the current draft of the Bill, and any subsequent amendments as it continues its passage.

family court and that 24 per cent had been cross-examined by their abusive ex-partner (Women's Aid and Queen Mary University of London 2018: 27). That judicial discretion in applying procedural rules can negatively impact upon the right to a fair hearing in the family court has been highlighted by *JH v MF* (2020), an appeal which dealt with a case in which a mother—the appellant—was refused a request for special measures, and in which the judge directed that both appellant and respondent should give evidence from counsel's row in order to maintain what he described as the 'feng shui' of the courtroom (paragraph 16). A victim support service noted how such cases exacerbate pre-existing fears about court procedures, stating that: 'We advise women on our family law advice line every week who fear the response of the court to allegations of abuse' (Rights of Women 2020).

Whilst the issue of domestic abuse during lockdown has remained in the public eye, media coverage has depicted the crisis primarily as one of violence and homicide. That violent offences should be met with a sense of urgency is understandable, but, as the Domestic Abuse Bill seeks to confirm, abusive behaviour encompasses more than physical violence. The depiction and response to rising domestic abuse during lockdown highlights the hurdles that the Bill must overcome if it is to provide an effective and sustainable framework for addressing the issue. Indeed, the challenges are discernible within the very statement issued as part of the government's lockdown response. When Martin Hewitt (Parveen and Grierson 2020) assured the public that perpetrators of abuse would be arrested and 'victims of domestic abuse or controlling behaviour' would be aided by police, domestic abuse was framed squarely as a criminal matter. To push the point further, even the use of the conjunction 'or' in the statement 'victims of domestic abuse or controlling behaviour' underscores an uncertainty about how domestic abuse is understood. Perhaps the result of a simple verbal misstep, the separation of the term 'domestic abuse' from the expression 'controlling behaviour' is reminiscent of the transition that the concept of domestic abuse has made, as the term has been redefined through law and policy over the past decade. The definition contained within the current Bill derives from a cross-party policy agreed in 2012 which was published as a 'New Definition of Domestic Violence', which explicitly recognized: 'Any incident or pattern of incidents of controlling, coercive or threatening behaviour, violence or abuse between those aged 16 or over who are or have been intimate partners or family members regardless of gender or sexuality' (Home Office 2012). This was later published as a policy document in 'Definition of Domestic Violence and Abuse: Guide for Local

Areas' (Home Office 2013). The new Bill sees the elision of violence from the legislative title, marking its evolution from the primary descriptor, to a secondary subcategory of abuse.

It may seem pedantic to fixate upon a single word when preliminary research by Counting Dead Women estimated that there had been at least 16 domestic abuse killings of women and children in the UK in the first three weeks of the lockdown, which amounts to the largest number of killings in a three-week period for a decade, and an approximate doubling of the weekly average (Smith 2020; see also ITV 2020). However, violence is not simply a physical act. The Oxford English Dictionary (OED) includes within its list of definitions, quite separately from any act of physical force: 'Undue constraint applied to some natural process, habit, etc., so as to prevent its free development or exercise' (OED Online 2020: *violence*, n p 1) and 'vehemence or intensity of emotion, behaviour, or language; extreme fervour; passion' (OED Online 2020: *violence*, n Art 4).

The linguistic shift from domestic violence to domestic abuse reflects a recognized need to move beyond reactive responses to physical assault. Women's Aid reported in 2017 that:

From our work with survivors, we know that coercive and controlling behaviour is at the heart of domestic abuse. It is a repeated pattern of behaviour that perpetrators use to intimidate, isolate and frighten victims, and has a long-lasting and devastating impact on the survivor. Yet since it was made a criminal offence in December 2015, less than 1% of all domestic abuse-related offences recorded by the police were classified as coercive control and an even smaller number of these cases resulted in a charge or conviction (Ghose 2017).

This was supported by a report from Her Majesty's Inspectorate of Constabulary and Fire and Rescue Services (HMICFRS) (2017) on the police response to domestic abuse, which found that some officers lacked the training to adequately understand the role of coercive control. A 2019 report (HMICFRS 2019) indicates training has since improved support provision. But it is evident that all forms of domestic abuse have far-reaching social consequences, with research suggesting that victims of intimate partner abuse frequently suffer long-term mental and physical health symptoms, such as anxiety, depression, suicidality, post-traumatic stress disorder and chronic pain (Loxton & Ors 2017; Pico-Alfonso & Ors 2006).

Against this backdrop, the response to the crisis of domestic abuse during lockdown raises significant issues. The publicity generated around lockdown-related domestic abuse has led to calls for the public to increase vigilance and report possible incidents. DCI Dan St Quintin, of Cumbria

police, for example, asked everyone, including ‘postal workers, delivery drivers, food delivery companies and carers who will still be visiting houses, to keep an eye out for any signs of abuse and to report any concerns to us’ (Parveen and Grierson 2020). A report on the Home Office’s preparedness for COVID-19-related domestic abuse (Home Affairs Select Committee 2020: paragraph 35) found that approximately 40 per cent of notifications of abuse to the police come from neighbours and that, overall, 120 such reports had been made through Crimestoppers in the week beginning 6 April. This represented ‘an increase of 49.3 per cent from the average of 80.4 reports per week across a five-week period in January and February, before the lockdown’ (see also Sparrow & Ors 2020). Yet, this emphasis upon the potential visibility and criminality of domestic abuse risks detracting from the insidious nature of coercive control and psychological abuse and further compounds a lack of clarity about the support that both victims and perpetrators seek.

The recent increase in arrests for domestic abuse in lockdown and its related reportage capture only a specific sub-category of affected persons. In normal times, within the legal system, domestic abuse is less likely to appear as a matter of criminal justice—it is estimated that only 80 per cent of domestic abuse survivors contact the police (SafeLives 2019a: 20), and that only 8 per cent of domestic abuse-related crimes reported to the police will end in conviction (ONS 2019a). Within the judicial system, domestic abuse will, more likely, arise before the family court for reasons such as divorce and childcare arrangements. Or, as a private legal action to bring an injunction against a perpetrator, with part IV of the Family Law Act 1996 providing for the civil remedies of a non-molestation order or an occupation order. These injunctions, if breached, may lead to arrest. Here, once more, the significance of fear to the legal process becomes evident, albeit in an altogether different context: Women’s Aid has found that: ‘While getting a court order may provide some protection, it isn’t always helpful: sometimes it makes very little difference, and it can even (in some cases) be counter-productive. It really depends on the perpetrators fear of being arrested’. The impact of fear on domestic abuse is, therefore, not only critical to evaluating how a victim engages with remedial legal processes; it is also important when considering the way in which perpetrators perform and sustain patterns of abusive behaviour.

This dynamic of fear, and its complex interplay with socio-legal responses to abuse from the standpoint of both survivors and the perpetrators, is likely to have been amplified by the COVID-19 crisis. It was recognized early on that the ‘stay home to save lives’ mantra of lockdown would confine some to homes that were not safe. The awareness

campaign launched by the Home Secretary stressed that victims would not be reprimanded if they left their home to seek refuge. Attention was drawn to the fact that victims could contact emergency services using a silent option of dialling 999 and then 55, or even coughing or tapping in response to questions (Patel 2020; West Midlands Police 2020). However, the very nature of lockdown, and the wider context of the pandemic, means that victims may remain under the surveillance of their abuser. Access to telephone and digital support may be limited, even unsafe. Meanwhile, in an environment rendered potentially fatally unsafe by an invisible yet pervasive pathogen, the assurance that victims may flee their homes, and that the police are arresting perpetrators and breaking down doors to protect victims (Lenihan 2020), places an incalculable burden upon victims to assess risk and navigate competing objects of fear. The Women's Aid (2020b) Survivor Survey found that not only was domestic abuse intensifying under lockdown but that '72 per cent said that their abuser has more control over their life since COVID-19'. Difficulties accessing support were raised, such as NHS counselling services being stopped, and informal face-to-face networks being curtailed. One respondent, required by government guidance to not leave their home for 12 weeks for even essential supplies, reported: 'I am reliant upon my abuser to get food and medication as shielding for 12 weeks. This is being used against me.' Such testimony may represent a minority of victims, but nonetheless draws attention to the much broader, and important, issue of how domestic abuse is portrayed and perceived.

In its written evidence to the Domestic Abuse Bill consultation, SafeLives (2019b: paragraph 13) noted that 'The Domestic Abuse Bill makes no substantive provision for perpetrators to change, yet we know that the vast majority of survivors want perpetrators' behaviour to be challenged' and stated that:

Instead of asking 'why doesn't she leave' the Government needs to ask 'why doesn't he stop?' and then take the necessary measures to embed this principle as a practical reality. This principle remains the same whatever the gender of the victim or the perpetrator and whatever the nature of their relationship. (SafeLives 2019b: paragraph 14).⁴

Indeed, some of the measures within the Bill that seek to improve support services may well have the inadvertent effect of removing access to specialist services that address domestic abuse within the community. The Bill will place a legal duty on local authorities to assess the need for and commission refuge services. Given that a decade of austerity

⁴ This warning was reiterated in the SafeLives (2020) briefing following the Bill's second reading, which warns that this issue remains unaddressed by any amendments thus far.

measures have left refuge shelters underfunded, with 64 per cent of refuge referrals being declined last year (Women's Aid 2020a: 30), this has potential to redress what has become an increasing deficit in support provision. Yet, the focus on accommodation-based support, where the victim flees the home to seek refuge, risks removing funding from independent domestic violence advisors (IDVAs), who support abusers within their own homes and communities.⁵ The vital role of IDVAs is plain. SafeLives has found that most victims do not wish to flee the home, or feel ready or safe to do so. Furthermore, sometimes what is sought is someone able to deal with the perpetrator. As one survivor stated:

he was the one with mental health issues. Had he been picked up sooner, he might have been sectioned and the story could have been very different. He went to the doctors once because his anxiety levels were getting worse, he needed some kind of counselling because he had a history of DA in his family and his brother had committed suicide. The doctors told me to phone Mind, who said there was a 13 month waiting list. There was no whole family approach (SafeLives 2019b: paragraph 15).

The above statement draws attention to the critical, but inadequately addressed, need to understand how both victims and perpetrators engage with other social services, and in particular the health system. As touched upon in a previous 'Note' that I published (Kellam 2020: 292) on disability welfare reform in England and Wales, there is a growing body of research that identifies a complex, bidirectional interaction between law and health, and that 'social and economic problems with a legal dimension can exacerbate or create ill health and, conversely that ill health can create legal problems' (Genn 2019: 159). There are multiple issues relating to domestic abuse, including how it is experienced, responded to and portrayed, that are suggestive of a similar bidirectional interaction. Certainly, it seems unlikely, at least in its present form, that the legal system has capacity or means to provide the safety net that those affected by domestic abuse deserve and require without the facilitation of an integrative, multi-agency approach. This is supported by a recent quantitative study of domestic abuse, in its physical and non-physical

⁵ A summary of the role and duties of IDVAs is provided by SafeLives (2019b: paragraph 19): 'Established in England and Wales in 2005, IDVAs are trained specialists who act as a single point of contact to help victims who are at the highest risk of serious harm or death to become safe, ensuring their voice is heard by statutory agencies. An IDVA carries out a risk assessment to identify the level of risk to a victim (high, medium or standard) and supports them with immediate safety plans, such as helping to increase security at their home through target hardening, sanctuary schemes, protection orders or accompanying them to court hearings (family, criminal and civil), and implementing longer-term interventions to ensure their safety, such as accessing counselling, drug or alcohol misuse or mental health services.'

forms, which examined the impact of providing IDVAs in a hospital setting. It concluded that:

Hospital IDVAs can identify survivors not visible to other services and promote safety through intensive support and access to resources. The co-location of IDVAs within the hospital encouraged referrals to other health services and wider community agencies (Haliwell & Ors 2019: 1).⁶

Significantly, there was a greater reduction or cessation of abuse in survivors accessing hospital IDVAs and an overall improvement in their physical and mental health prospects (Haliwell & Ors 2019: 7-8).

[C] A NEW NORMAL

Given that domestic abuse, even in normal times, is mostly a hidden issue, then the government response to, and media coverage of, domestic abuse during lockdown may offer some insight into the prospects and challenges that lie ahead. In particular, the data explored within this article suggests that the recognition of, and response to, coercive control remains fraught within the justice system as a whole, from initial contact with the police through to the procedures of the criminal and civil courts. Given such complexities, how are we to evaluate official lockdown guidance requesting delivery drivers, postal workers, and even the wider public, to identify and report domestic abuse? Is it helpful to encourage social vigilance and awareness in this context? Or does such publicity, during a time that requires the population as a whole to live a life hidden behind private doors, risk heightening perceptions that domestic abuse is primarily a crime of physical violence? After all, by its very nature, coercive control can remain unrecognized by the victim themselves, as famously depicted in Patrick Hamilton's play *Gas Light* (1938)—and its later film adaptations—to which we owe the term *gas-lighting*: 'The action of manipulating someone by psychological means into accepting a false depiction of reality or doubting their own sanity' (OED Online: *gas-lighting*, n 2). As one survivor reported: 'It took me 13 years before I realised that I was being subjected to emotional and psychological abuse. I used to think abuse was just when someone hit you' (SafeLives 2019a: 20).

Nonetheless, the collective necessities of lockdown have also led to an unprecedented expansion of digital technologies across both public and

⁶ Hospital-based IDVAs were more likely to connect and support survivors currently experiencing abuse from a cohabiting partner, whereas community-based IDVAs supported more survivors experiencing abuse from an ex-partner (Haliwell & Ors 2019: 5). Of further note is the fact that people presenting to hospital IDVAs were more likely to have first sought help from their GPs, whereas those accessing community IDVA support had a greater tendency to report to the police (Haliwell & Ors 2019: 6).

private sectors. The rise of remote working to enable social connectivity during isolation also raises the prospect of improved digital access to support for domestic abuse survivors. Even in normal times, one of the challenges that survivors of abuse face is finding a safe space to contact support lines. As one respondent stated to the SafeLives' (2019a: 29) 'Tech v Abuse Design Challenges' initiative:

At the beginning, online information as quickly as possible is key. Calling a helpline or service is a huge barrier, even just finding somewhere private and safe to call from is really difficult – if you have time in the toilets at work you can't just call there. We haven't met that need yet.⁷

In an attempt to bridge this gap—before the pandemic crisis unfolded—Refuge (2020) launched an online chatbot, designed to guide users towards the most appropriate information and support. Meanwhile, in October 2019, Women's Aid introduced a live online chat service to augment its existing email support staffed by trained support workers, and its moderated community survivor's forum (Women's Aid 2019).

After lockdown, the National Domestic Abuse helpline reported a 25 per cent increase in calls and online requests for help (West Midlands Police 2020). Elsewhere, it was reported that 'Calls to Refuge increased by 49% in the week before 15 April,' that visits to the domestic abuse charity Chayn website had trebled in March 2020, and that calls to the Men's Advice Line had increased by 16.6 per cent (ITV 2020). Conversely, Somerset Integrated Domestic Abuse Service said: 'We're very much open for business at the moment, but we're concerned that calls to our helpline and referrals have reduced.' (Avon and Somerset Police 2020)⁸ In response to the latter statement, Avon and Somerset Police (2020) pointed to the fact that domestic abuse 'survivors living in isolated rural communities are less likely to report it or ask for help'. Yet, this alone seems inadequate for explaining a lack of take-up of remote support services: the response relied upon a previous report that hypothesized that differences between rural and urban support access was driven by physical circumstance, with those living in rural areas 'at high risk of under-reporting for a number of reasons such as lack of access to available services due to location, fear of reprisals from tight-knit communities, as well as the stigma and shame associated with domestic abuse' (Avon and Somerset Police 2019). It will require further research before a clearer picture can

⁷ See also Snook & Ors 2017.

⁸ In a follow-up with the Team Manager (29 April 2020, on file with the author), it was stated: 'At present we're not able to provide any data/analysis or statement due to it being too early into the lockdown period. It's a very complex situation and things are changing daily.'

be obtained.⁹ Nonetheless, even at this preliminary stage, it is evident that digital services have potential to connect survivors, who may have historically remained hidden, to a network of support that spans multiple formal and informal networks, including online communities, charities, national health services and the legal system.

In this regard, the rapid expansion of remote working during lockdown represents an opportunity for developing and improving remote support access for those affected by domestic abuse. But this push towards tech support is not without caveats. In the government's daily briefing of 11 April 2020, when an extra £2-million fund for domestic abuse online support services and helplines was announced, specific emphasis was given to the Bright Sky app, which provides victim support and can be disguised for people worried about partners checking their phones (Parveen and Grierson 2020). Yet, such apps are not without their limitations. Bright Sky, for example, allows a user to call 999 within a few screen clicks. It also allows survivors to maintain a journal of incidents, uploaded to a cloud location. But these facilities are not unavailable through other means, and the very fact that Bright Sky has received such publicity presents cause for concern. It may well be that the app can be disguised, but what use is such a disguise if it becomes a well-recognized public pseudonym—in this case an easily identifiable weather app? There is an inherent risk that utilizing such technology may escalate situations in which domestic abuse occurs, rather than mitigate against it.

This is especially so, given that the emergence of new technology, including smartphones, online services and the internet of things (IoT) have all been used to perpetrate domestic abuse. Refuge, the UK's largest domestic violence charity, reported that in 2019, 72 per cent of users accessing its services experienced abuse through technology, such as 'persistent telephone calls from perpetrators, being targeted via social media, having their location tracked or spyware installed in their homes' or through abusers 'impersonating their online identity, putting recording devices inside children's toys, attaching GPS trackers to cars, or logging into online storage to monitor messages' (Refuge 2020; see also Snook & Ors 2017; Parkin & Ors 2019). Bowles (2018) reported that some victims who presented at WomenSV, a domestic violence programme in Silicon Valley, had been 'put on psychiatric holds—a stay at a medical facility so mental health can be evaluated—after abuse involving home devices'. She identified a range of cases in which domestic abuse was:

⁹ Disparities in data on help-seeking behaviour during lockdown might present for a number of reasons, such as, for example: limited data; survivors turning to highly publicized national support services rather than local support networks; or deprivation such as tech poverty.

ted to the rise of smart home technology. Internet-connected locks, speakers, thermostats, lights and cameras that have been marketed as the newest conveniences are now also being used as a means for harassment, monitoring, revenge and control.

The scope and availability of tools such as spyware to facilitate domestic abuse should not be underestimated. In 2017, *Forbes* published an article about a software company which provided tools through which partners could spy on their partner's phone (Brewster 2017). In my own research, I contacted the same company, Flexispy, and was assured by a sales rep that I could use their software on the 'target's phone' to secretly take audio and video recordings, access text and WhatsApp messages and monitor call logs and social media activity. On questioning if, and how, I could install such software on a phone that was not my own, I was assured that the software could be installed without leaving a trace, that no notification would be evident if recording was switched on, and that all data would be uploaded to a remote server which I could access through a personal dashboard provided through a monthly subscription service (Webchat with FlexiSpy, 28 April 2020, screenshots on file with author).

The Domestic Abuse Bill in its current form has yet to fully address tech abuse. Despite reports that it has been designed to be future proof and that it will make tech abuse illegal (Hymas 2020; *The Verdict* 2020), it does not provide clear and comprehensive measures. Issues raised in written evidence during the Bill's consultation still remain. This includes addressing a need for further government research on the availability and (mis)use of spyware, and for court orders allowing for the homes and electrical devices of victims to be swept for spyware or tracking devices. This requirement was highlighted by McCurley in written evidence to the draft Bill committee:

21st Century slavery is depressingly common as a feature of abuse of women not being allowed out of the house, not allowed access to money, bank account, even a key to the door and the ability to install CCTV cameras which could be monitored by the perpetrator's phone is also a very significant and sinister form of control (McCurley 2019).

In addition, my own research suggests that there is what may be described as a substantial technological inequality between the tools of abuse and tools of support. Put bluntly, the technology available to perpetrate abuse is more sophisticated, pervasive and less risky to use than the digital tools available to survivors. This is compounded by a lack of certainty about the admissibility of covert recordings as evidence in the family courts. The Family Procedure Rules (22.1) allow for such recordings to be admitted at the court's discretion. The nature of coercive behaviour and emotional abuse is such that it may be difficult to prove without

corroboration, yet resorting to covert recording presents a conundrum in that such recordings may provide:

inferential evidence of controlling or coercive behaviour. On occasions, the use of recording equipment or tracker devices demonstrates possessive and obsessive tendencies – which are unattractive qualities for litigants to place before a court. Far from providing cogent evidence to support a case, in many instances, the surveillance of another party may damage a litigant's case (Dent 2017).¹⁰

The Domestic Abuse Bill's statutory provision to increase funding for accommodation support should therefore be met with an equally robust statutory obligation to provide funding for safe, comprehensive and stable technologies to expand remote support access across digital platforms.¹¹ Measures should also be considered to clarify when and how survivors can record evidence, and use it thereafter.

[D] CONCLUSION

As the Domestic Abuse Bill continues its path to becoming law, the concurrent increase in lockdown-related domestic abuse arrests and the extensive media coverage that this has engendered should give pause for reflecting upon wider socio-legal perceptions of domestic abuse—even a reconsideration of the concept of violence itself. This is not to diminish the need to address physical violence within the home. Rather, it should be cause for (re)assessing the routes to justice that are available to victims trapped within dysfunctional, abusive relationships. Given the extensive media coverage given to the subject, with its particular emphasis upon reactive responses to domestic abuse as violent crime, it should also be a cause for evaluating how popular culture depicts and modifies perceptions of domestic abuse and the ways in which this may alter the characteristics of legal engagement.

As Diane Shoos (2018) stated in her study of depictions of domestic violence in Hollywood films: 'There are ways in which genre formulas have brought this issue to the screen, and that's important, but at the end of the day, visibility for domestic violence is not enough. The question is

¹⁰ See also the Family Justice Council's debate on the use of covert recordings (Family Justice Council 2018).

¹¹ It should be noted that funding such development and research would not only reduce the human cost of abuse, in terms of lives lost and trauma caused, but has strong potential to reduce the economic cost of domestic abuse. A Home Office (2019) report found that economic cost of domestic abuse overall (for the year ending March 2017) was £66 billion and that, of this: 'The largest element of domestic abuse cost is the physical and emotional harm suffered by the victims themselves (£47 billion). The next highest cost is for lost output relating to time taken off work and reduced productivity afterwards (£14 billion).'

what kind of visibility it has.’ Shoos draws attention to the disproportionate effect that film can have upon social perceptions of domestic abuse because what is portrayed is, by its very nature, something that is largely unobserved and generally takes place behind closed doors. Her study of film reflects the statement that SafeLives (2019b: paragraph 13) gave in its written evidence for the Domestic Abuse Bill: ‘Instead of asking “why doesn’t she leave” the Government needs to ask “why doesn’t he stop?” and then take the necessary measures to embed this principle as a practical reality.’

Shoos similarly found that popular films portrayed victims being empowered by the act of fleeing, thus emphasizing that it was the responsibility of the victim to change their identity. Given that this same emphasis is evident in the government’s COVID-19 guidance for abuse survivors, and also in the media coverage of incidents during lockdown, this is suggestive of a wider need to question the dynamics of popular culture’s engagement with domestic abuse-related law and policy. Given the disparate, multi-arena response of the justice system to domestic abuse, it is also necessary to question the impact that popular portrayals of courts may have upon individuals seeking access to justice for domestic abuse disputes. As mentioned above, a lack of measures to prevent perpetrators from cross-examining survivors in the family court has allowed the courtroom to propagate fear. This material obstacle to access to justice is potentially amplified by portrayals of court in popular culture. To take a recent example, watched widely during lockdown, the drama *Quiz*¹² drew fire from barristers who slammed it for inaccuracies such as gavel-banging and advocates wandering about the courtroom. As one advocate, Pauline Roberts, pointed out, such criticism signifies more than mere flippancy: ‘It matters,’ she stated. ‘I spend hours supporting witnesses whose only knowledge of a court room is based on what they see in TV dramas. Their biggest fear nearly always relates to barristers wandering around the court and approaching the witness in the box. TV companies need to get it right.’ (Hussain 2020)

During COVID-19 lockdown, it is likely that an unprecedented segment of the UK population will, at some point, have experienced increased tension within their home. The ONS (2020) reports that almost half of people in the UK experienced a sudden decline in happiness and an increase in anxiety in the days around lockdown during 20 to 30 March 2020. A further breakdown of data of the 16-69 age group shows that

¹² *Quiz* is a courtroom drama mini-series based upon a real case, in which Charles and Diana Ingram, along with a Tecwen Whittock, were convicted of attempting to swindle a £1-million cash prize on *Who Wants to Be A Millionaire?*.

between 3 to 13 April 2020, 50.9 per cent reported that their wellbeing had been affected, with either 28.1 per cent reporting that this was the result of a strain on relationships or, alternatively, 19.5 per cent reporting reduced wellbeing from spending too long with others in their household.¹³ For most, such emotional and psychological pressures will be transitory, as individuals, households and wider society undergo a process of adjustment. The latest ONS reports on wellbeing suggest that people are, indeed, adjusting to the new normal, a psychological process that has been likened to grieving (Berinato 2020). However, for some people, such pressure will remain. In fact, what for many is a unique experience, for others marks an extension of the pre-existing reality of daily life. As society moves towards a new normal, which places emerging technology and remote working at its centre, the collective experience of social isolation thus offers some insight into the prospects and challenges facing domestic abuse survivors and guidance on how the Domestic Abuse Bill should proceed.

In examining data on domestic abuse during COVID-19 lockdown, this paper draws attention to a significant increase in coercive control during this period. By considering this data alongside short-term government and media responses to COVID-related domestic abuse, this paper identifies an urgent need to develop safe and effective remote-access support mechanisms. Furthermore, this paper argues that, whilst refuge support provision remains indispensable, the lessons of COVID-19 lockdown reveal that remote-access support is a fundamental necessity in post-pandemic society. Developing tech for remote-access support is a prerequisite to bridging the inequality between urban and rural support access; to cultivating multi-agency cooperation; to improving whole family health and wellbeing outcomes; and, finally, it will be critical to managing the emergent crisis of tech-related domestic abuse.

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¹³ The data cited can be downloaded as a [spreadsheet](#) from the ONS. The figures cited here can be found in Tables 2b and 7 available as part of the ONS (2020) 'Personal Well-being and COVID-19' update.

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