

The Laidlaw Network:  
The Laidlaw Undergraduate Research and Leadership Scholarship

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Research Advisor:  
Professor Adriel Weaver

## **Introduction**

Even though I had the privilege of growing up in a caring and nurturing family, I was privy to close acquaintances who have experienced domestic violence or abuse. Having been in a close relationship with a victim of familial abuse, I was awakened to the tragedy of parental abuse that was actually developed due to spousal abuse. Intimate partner violence accounted for 25% of violent crimes reported to Canadian police, with 80% victims being women (Government of Canada, 2015). However, it is possible that self-defence can be used to acquit victims in trials for killing their abuser (*R. v. Lavallee*, 1990), or to have their sentencing reduced based on their abuse history (*R. v. Meecham*, 2019; *R. v. Craig*, 2011).

This leads me to the question at hand: If the legal system has the power to dispense criminal justice for victims, why are there still many instances of domestic abuse anywhere in the world? Considering the *People v. Martin-Levier* case (2019) in the United States and *HKSAR v Nancy Ann Kissel* (2010) in Hong Kong, it is clear that domestic violence is an international problem.

Through these 8 weeks, I hope to conduct a discourse analysis on domestic violence and law. I aim to provide comprehensive and accurate insights into how self-defence can be used to dispense criminal justice for domestic abuse victims, and how other courts understand self-defence within domestic abuse cases.

Being raised in a nurturing family has encouraged me to help those who did not share the same privileges as I have. With these people in mind, some of which are extremely close to my heart, I would gladly take this opportunity to research how self-defences are made out to protect victims of domestic abuse cases, and to expose how different legal systems may attempt to dispense criminal justice in these cases.

## **Research Question:**

How does the Canadian Criminal Justice System address self-defence concerns in Domestic Abuse cases? How do other international court systems view the use of self-defence in Domestic Abuse Cases when compared to Canada?

## **Methodology**

By reviewing literature surrounding the conviction and legal procedures surrounding domestic abuse cases, I seek to raise concerns of Canada's criminal justice, specifically in regards to victims of these domestic abuse cases. I will also utilise comparative literature on cases and psychology journals in drawing a comprehensive picture of our legal system's attitude towards domestic violence. The scope will be limited to abuse against intimate partners and

spousal abuse. Statistics from Statistic Canada and case-laws found on CanLii and LexisNexis will be used. Additionally, research into HKLII and BAILII will also be used.

The structure of the research timeline will mainly consist of a 3-stage analysis: the first stage will mainly be gathering sources and contextualising the research, the second focusing on Canadian law, and the third comparing Canadian law to International law.

There will be no adjusted methodology if COVID-19 restrictions have been lifted other than the possibility of conducting live interviews. No Travelling would be involved. It is possible that I may return to Hong Kong, my hometown, to research Hong Kong specific cases.

### **Research Timeline:**

Week 1 - Research previous cases where Defence of the Person was used to acquit domestic abuse victims

- A stronger focus on finding cases and gathering sources
- Focus on domestic cases in Canada first
- Narrow down and finalise jurisdictions outside of Canada to analyse
- Contextualise the research: what are some important characteristics of the Canada Judicial System

Week 2 - Examining precedents set by the case-laws + examine other defences that might be available

- Synthesise how judges create precedents through their rulings in these cases
- How do these precedents affect future judicial decisions?
- Example: what standard do the victims have to meet before qualifying for "abuse"? Is the standard low or high in Canada?
- If self-defence is not available to these victims, how many other defences are available to the victim?

Week 3 - Reading Week

- Re-read case laws and digest the development of the thesis

Week 4 - Finalise research regarding Canadian case-laws on domestic abuse + begin researching cases from Hong Kong

Week 5 - Research domestic abuse victim acquittal cases in Hong Kong + United Kingdom

Week 6 - Compare and contrast Canada's attitude to that of Hong Kong's and the United Kingdom's

Week 7-8 - Buffer Period and Paper Writing

## **Interdisciplinary / International focus of my research**

Understanding that the Laidlaw Scholars Program values international/interdisciplinary research, I have worked to incorporate various approaches and perspectives to inform this research project.

To enhance the evaluation of Canada's criminal justice system, I am looking to encompass comparisons from other parts of the globe who are struggling with the same issue as Canada. This includes but is not limited to: Russia, United States, United Kingdom and Hong Kong. This diverse choice of countries to examine are chosen due to prominent domestic violence cases with controversial outcomes. It's vital to take an international approach to an international problem, and so the examination of these cases will provide even deeper insight into a broader global problem.

To inform the research from a humanitarian perspective, an integral part of my analysis will involve discussion from a social sciences perspective. To be more specific, research on court attitudes can at times be correlated to a government's attitude towards combating domestic abuse. As such, social science statistics and insights into domestic abuse in a country may be extremely valuable to this research. Despite taking a mainly legal approach, the humanitarian aspect of domestic abuse requires the aid of social science and psychology. As such, these types of literature would be reviewed to support the research.

## **Research Advisor: Professor Adriel Weaver**

Professor Weaver is a professor within the Centre for Criminology and Sociolegal Studies department at the University of Toronto (St. George Campus). Her litigation career at Goldblatt Partners honed her ability in criminal, constitutional and administrative law, with a focus on public interest advocacy organizations. Whilst these qualifications make her the perfect choice as a research advisor for this project, her passion in law throughout teaching is something to be admired, one that contributed to my involvement in legal research. Unlike research roles that require a high amount of lab guidance, the nature of this research does not require such. Therefore, Professor Weaver's role will mostly be one that informs the direction of research, and not the practical research itself. Moreover, she will be consulted at each step, guiding me through the process carefully to avoid common pitfalls of legal research.

## **Outcomes**

What light does Canada shine upon domestic violence victims through the Criminal Justice system? How do other countries differ in their approach in handling domestic violence

victims' use of self-defence? These are the questions I hope to answer through my research. The goal is to encourage and inform defence lawyers to help these abuse victims, and how justice for abuse victims can be dispensed more efficiently and compassionately. I would also relish the opportunity to develop my own research skills in law and inform myself in legal research practices.

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