

New campaign spotlights ‘rough sex’ murder defence

Hannah Pearson met James Morton for the first time on 23 July 2016 – the day she died. He was her boyfriend's friend so she agreed to go to his house in Newark, Nottinghamshire for a few drinks. Her naked body was found in his bedroom a few hours later. Morton had strangled her in what he claimed was a sex act gone wrong; he hadn't realised she'd stopped breathing until it was too late. Morton was cleared of murder but sentenced to 12 years in prison for manslaughter. He was 24 years old and had a fixation with violent pornography. Hannah was still in school. She was 16.

Tens of women are dying in cases of domestic violence repackaged as kink. Hattie Brewis spoke to Fiona Mackenzie, founder of ‘We Can't Consent to This’ – a campaign to end the so-called ‘Fifty Shades of Grey’ murder defence. This comes following yesterday's decision by the Attorney General not to refer businessman John Broadhurst's three-year jail sentence to the Court of Appeal on the grounds of undue leniency.

When Fiona Mackenzie, 36, noticed “sex game gone wrong” repeatedly appearing in murder trial reports, she shared a message on the discussion forum Mumsnet to voice her concerns.

In the post, published on 24th December 2018, Ms Mackenzie asked users to help her piece together the scale of the problem by compiling a list of cases where this defence had been used in court.

The forum was quickly flooded with examples, sparking a new campaign – ‘We Can't Consent to This’. The list now comprises 39 cases, but the number continues to rise.

The most recent and high-profile case to be included was that of Natalie Connolly, whose boyfriend, multi-millionaire businessman John Broadhurst, was cleared of her murder and grievous bodily harm a week before the campaign's launch.

Ms Connolly, 26, was found two years earlier in a pool of blood at the bottom of a staircase at their home in Staffordshire. Broadhurst, 40, had left her there for hours before calling emergency services. When he eventually did, the court heard, he told the operator his partner was "dead as a doughnut".

Coroners' reports revealed Ms Connolly had 40 separate “horrific” injuries, including bleach burns to her face, a fractured eye socket and serious internal trauma. Broadhurst claimed the death was an accident following a day of excessive cocaine and alcohol consumption, and consensual “rough sex”.

He pleaded guilty to manslaughter on the basis of gross negligence and was sentenced by Birmingham Crown Court to three years and eight months in jail. Widespread indignation ensued and the case was referred to the Attorney General, Geoffrey Cox QC, on the grounds of undue leniency.

Labour MP and chair of the parliamentary human rights committee, Harriet Harman, was

among the protesters to contact Mr Cox asking him to examine Ms Connolly's case. He replied with a letter on 14th January stating that he would not be referring Broadhurst's sentence to the court of appeal as he was "satisfied the judge approached the sentencing in the correct way".

Ms Harman posted a copy of the letter on Twitter, along with a comment saying she was "bitterly disappointed" with the Attorney General's judgement.

Speaking about 'We Can't Consent to This', Ms Mackenzie said: "Natalie Connolly's killer's sentence has received rightful outrage, but many people say they've not heard of this kind of defence being used before. Our work shows that it's actually really common and has been used for years – we've found cases dating back to the 1970s."

Her team of researchers – seven volunteers from across the UK who call themselves 'Liberation for Women' – have relied on local newspaper reports, archives and court records to find relevant cases. Still, they believe there are significant gaps which need to be filled.

Ms Mackenzie said: "It's really hard to locate these cases and what is out there is so bitty. Before 2010 there is very little content online because a lot of newspapers didn't have fully developed websites. Yes, you can access written court records, but that's only if you know what you're looking for, and we don't. We don't know all the cases that are out there. I'm sure we're still missing a lot."

The campaign is now receiving more and more leads as victims relay their own experiences via the dedicated Twitter page and Mumsnet group.

Ms Mackenzie said: "We've heard from women who want to help because they have been injured by men in sex acts themselves. They are so angry at how common this violence is that they want to do something about it."

One Twitter user tweeted: "My ex set up this exact scenario, he'd tell people how much I liked being choked and we enjoyed really rough sex. That way if he finally raped and strangled me not just to unconsciousness, but to death, he had already laid the foundations of his defence."

Ms Mackenzie said: "We now know that tens of women are dying and hundreds more are being injured in what's really just domestic violence under the guise of kink."

The latest femicide census – a UK-wide database of information on killings of women by men – revealed that 139 women died in the UK in 2017 as a result of male violence, with many deaths involving strangulation. Three-quarters of victims were killed by a man they knew.

The report also showed the brutality with which many of these women were murdered, with almost half of cases (40 per cent) involving multiple killing methods, such as bludgeoning, stabbing and setting on fire. The violence inflicted was far greater than that necessary to end life.

"What's perhaps most frightening is that men are hearing of cases where perpetrators are getting lighter sentences by claiming the crime was a tragic result of out-of-control BDSM, and they're now starting to get ideas," said Ms Mackenzie.

“It’s such an appealing defence for potential murderers. Claiming the death was a result of a sex game gone wrong is worth a try because the cost to the killer is nil, while the cost to the woman and her family – who then have to listen to endless speculation about her sex life – is shattering.”

Speaking on *BBC Radio 4’s* ‘Woman’s Hour’ last month, Ms Harman reinforced Ms Mackenzie’s concerns, suggesting that lighter sentences, such as that given John Broadhurst, set a negative precedent for future cases where a “Fifty Shades of Grey” culture is invoked as a defence.

“We cannot have a situation where men kill women and then blame those women for their own death by saying she wanted to be hurt because she enjoyed S&M and sex and violence,” she said.

“No man will ever be accused of murder again if he can say ‘yes she’s injured but she wanted it, she was asking for it’”.

Ms Mackenzie eventually plans to use evidence gathered through ‘We Can’t Consent to This’ to push for amendments in the law which will prohibit the use of “sex games” as a viable murder defence.

“We plan to raise demands in law, in politics and in what women are willing to accept in relationships. We’ve seen similar campaigns effect legislative change in the past, so we feel confident that we can make a difference.”

In 2009, possession of certain types of extreme pornography was made illegal following a five-year-long campaign by Liz Longhurst, whose 31-year-old daughter Jane was murdered by Graham Coutts in 2003. He was jailed for a minimum of 26 years and now anyone caught with sexually violent images faces up to three years behind bars.

Jane Longhurst, a teacher and classical musician living in Brighton, was strangled to death by Coutts who then masturbated over her dead body.

Coutts, 35, the partner of Ms Longhurst’s pregnant best friend denied the murder charge, claiming she died accidentally during asphyxial, consensual sex.

Coutts was described in court as having an “obsession” with violent pornography, including “websites specialising in rape, necrophilia and female asphyxiation”. Previous partners came forward to testify that he had often strangled them during sex. When one former girlfriend was asked why she consented to such acts of violence, she replied: “I was in love with him. I wanted to make him happy.”

Ms Mackenzie said: “What’s frustrating is that so much has been done to get domestic violence shunned and prosecutable, but as soon as you introduce ‘consensual’ BDSM into the equation, the criminal justice system starts raising its eyebrows.”

“There’s a lack of understanding and, perhaps, sympathy among the judiciary in these cases, plus it’s so hard to get evidence beyond hearsay. The police and court have to take the suspect’s word for it that a consensual sex game was involved. The only other witness is of course dead.”

'We Can't Consent to This' has not searched exclusively for cases of men killing women. Ms Mackenzie says they have found a number where men have killed other men during allegedly consensual homosexual acts. She plans to add these examples to the database, too.

However, in terms of finding examples where a woman working alone has killed a man and claimed BDSM as a defence, the case studies dry up. They have not found a single one.

'Fifty Shades of Grey' has brought BDSM and kink into the mainstream, and many people celebrate this as an acceptance of sexual choice. However, campaigns like 'We Can't Consent to This' offer a stark reminder of the dangers of commercialising sexual violence.

Consensual sex play is one thing, but "sex games gone wrong" cannot be left to become a tool for judicial manipulation.

Campaigners agree: there can be no grey areas when it comes to murder.