

How the System Only Furthers the Battering of Women

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Abstract

This paper examines the Battered Women Syndrome and how it affects the legal system and the emotional repercussions faced by battered women. Around 8.7 million women are abused by partners every year in the United States. Topics explored in the paper include legal cases involving battered women, the relationship between legal rulings and emotional distress of battered women, and the role of the abuser on the legal ruling. This paper concludes by noting that the system is skewed to favor abusers and battered women should feel free to come forward and/or protect themselves without being worried that they will be labelled as a murderer or considered crazy.

Keywords: Battered Woman Syndrome, Legal system, self-defense, emotional stress

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Introduction.

According to recent research, about 8.7 million women are beaten in their homes every year. This number is astronomical and few women are able to break the cycle. Many women end up succumbing to the fatality of their wounds. Domestic abuse is an alarming problem in the United States and around the world. And when women speak out and fight back against their abusers, they are punished harshly. The Purple Berets community, founded on securing rights for women, estimates that 90% of women serving time for killing men were previously abused by their “victims”, the abusers.

The fact that women serve time for protecting themselves is disturbing and wrong. Women should be able to protect themselves from abuse and be able to receive support from their community and the law. The negative connotation associated with Battered Woman Syndrome has made it difficult for abused women to recover from legal and emotional stress after committing acts of self-defense.

History of Battered Woman Syndrome

The term Battered Woman Syndrome, or BWS, refers to a woman who exhibits complex physical and psychological injuries due to repeated abuse – especially physical – by her mate (Merriam-Webster). Though BWS is not technically recognized by the DSM-IV, it is often thought to be a specific type of Post-traumatic stress disorder, which is recognized. A woman can be considered battered if even if abuse is purely emotional, though it is harder to prove.

Psychologist Lenore Walker was the first to suggest the existence of Battered Woman Syndrome. She compares her findings to those from a study showing that dogs respond less and less over time to electric shock. BWS is a form of learned helplessness, resulting in women staying with their abusers (Walker 1991).

Rothenberg argues that there are several stages of the syndrome. The first being that as abuse progresses, tension builds within the abused woman. The woman tries to please her abuser to keep from getting abused further, but it does not work. In the second stage, the batterer exhibits strong aggression and assaults the woman. The third and final stage finds the abuser apologizing for their actions and showing acts of love and remorse. The third stage is what keeps the women from leaving, as she expects the situation to change (Rothenberg 2002).

Legal History of Battered Women

Battered Woman Syndrome has become admissible in the legal system as a form of self-defense against long term abuse by a partner. The argument is currently valid in 67% of states, or 39, since 2000. It was introduced into the case *Ibn-Tamas v. United States*, D.C. 1979, when a pregnant Mrs. Ibn-Tamas fatally shot her husband under the impression that if she did not, he would in turn kill her. In this case, the prosecution argued that she had suffered innumerable amounts of abuse at the hands of her husband, Dr. Ibn-Tamas. The defense sought to obtain the expert testimony of Dr. Lenore Walker, often known as the mother of the Battered Woman Syndrome. In the end, the court ruled in favor of Mrs. Ibn-Tamas without the testimony of Dr. Walker, but this set a precedent of the Battered Woman Syndrome being used as a specific type of self-defense in the legal system.

To be able to use an expert testimony about BWS, the party seeking the testimony must prove that the woman is in fact battered and that an expert testimony would aid the jury in explaining her behavior. The case *Dyas v. United States* determined a three-pronged method of determining whether the abuse is admissible: (1) The testimony's subject matter "must be so distinctly related to some science, profession, business or occupation as to be beyond the ken of the average layman." (2) Second "the witness [must] have sufficient skill, knowledge, or experience in that field or calling as to make it appear that his opinion or inference will probably aid the trier in his search for truth." (3) Finally, expert testimony is inadmissible if "the state of the pertinent art or scientific knowledge does not permit a reasonable opinion to be asserted even by an expert (Strucke; Hajjar).

Women Use the Legal System to Their Advantage

Since BWS was implemented into the justice system, women have been using it to prove self-defense against an abuser. It has also been expanded to include men and child abuse, on the occasion. Though the argument seems simple, it must be proven without a doubt that the attacker has been battered and faces imminent danger, even if not immediate danger (Shuller; Rzepa 2002).

Many women who try to plead self-defense as a battered woman do not get a ruling in their favor and end up spending a considerable amount of time in prison. Courts argue that women could call the police or take shelter elsewhere before going to such drastic measures, but an abuser cannot be stopped by a piece of paper or a temporary address change (Stubbs; Tolmie 2008).

Emotional Repercussions of Battered Woman Syndrome

The rulings on Battered Woman Syndrome have also wreaked emotional havoc on women subjected to the title. Initially, BWS was diagnosed as weakness in the psyche causing emotional trauma (Gondolf 1988). As can be imagined, this did not paint battered women in a positive light and caused some to feel inferior and suffer further emotional stress. When women have to commit acts of violence, it subjects them to a heavy amount of emotional distress as they come to terms with their actions (Rothenberg 2003). Though a woman might have won a case in court, she is far from being free of her emotional repercussions.

As Dot Goldberger, a member of the National Clearinghouse for the Defense of Battered Women said: “People sometimes don’t understand that in the vast majority of cases in which victims of battering use force against their abusive partners, they do so in a confrontational situation in which they have to act immediately to protect themselves or their children. They don’t just snap out of the blue.”

Conclusion.

In conclusion, the term battered women comes with a negative connotation and does not yield for a positive outcome for women. Many women are abused by their partners or husbands and while they can go to the court or the police for protection, that does not often stop abusers. Women sometimes take extreme measures to protect themselves by killing their abusers. They are suffering from Battered Woman Syndrome. Dr. Lenore Walker initially came up with this term and was asked to defend women on the counts of self-defense in trials where they killed their abusers. Many battered women are tried and convicted of second degree murder. If rulings do go in favor of the battered women, it is likely that she will suffer from extreme emotional distress for a considerable amount of time due to her actions. Women just cannot win in this

situation. The movement to protect women needs to be taken to a higher degree and the Battered Woman Syndrome should be acknowledged as a real type of PTSD. Battered women should not have to suffer any more than they already do at the hands of their abusers.

References

- Gondolf, Edward W., with Ellen R. Fisher. 1988. Battered women as survivors: An alternative to treating learned helplessness. Lexington, MA: Lexington Books
- Rothenberg, B. (2002). The Success of the Battered Woman Syndrome: An Analysis of How Cultural Arguments Succeed. *Sociological Forum*, 17(1), 81-103.
doi:10.1023/A:1014593523666
- Rothenberg, B. (2003). 'We Don't Have Time For Social Change': Cultural Compromise and the Battered Woman Syndrome. *Gender & Society*, 17(5), 771-787.
doi:10.1177/0891243203255633
- Schuller, R. A., & Rzepa, S. (2002). Expert testimony pertaining to battered woman syndrome: Its impact on jurors' decisions. *Law And Human Behavior*, 26(6), 655-673.
doi:10.1023/A:1020933618221
- Stubbs, J., & Tolmie, J. (2008). Battered women charged with homicide: Advancing the interests of indigenous women. *Australian And New Zealand Journal Of Criminology*, 41(1, Spec Iss), 138-161. doi:10.1375/acri.41.1.138

Walker, L. E. (1991). Post-traumatic stress disorder in women: Diagnosis and treatment of battered woman syndrome. *Psychotherapy: Theory, Research, Practice, Training*, 28(1), 21-29. doi:10.1037/0033-3204.28.1.21