

**The Evolution of Intimate Partner Violence: Origins, Battered Woman Syndrome, and
Proposed Solutions**

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Abstract

Intimate Partner Violence (IPV) is defined as physical, psychological, or sexual abuse against a current or ex partner. To examine the effects of IPV on female victims and to answer the questions of why women stay in abusive relationships and why some women kill their abusive partners, Lenore Walker developed the theory of Battered Woman Syndrome (BWS). Despite its basis in psychological literature and research, BWS has been more successfully used in the legal field than in psychology. This is because the evolutionary origins and gender-ideologies inherent in marriage, religion, and law led to the social acceptance of IPV for much of history, and the lack of psychologist involvement in reform efforts. BWS greatly improved the legal representation of female IPV victims, especially those who kill their abusive husbands, through the inclusion of BWS expert testimony as evidence in such cases. However, for this improvement to continue, other frameworks of IPV testimony, such as the Social Agency Framework (SAF) and empathy induction instructions, should be examined and combined to address the limitations of each framework. Although public beliefs about IPV have improved, in order to reduce the high rates of IPV and its lethal consequences, legal interventions to IPV should be enhanced through the inclusion of risk-informed, early intervention techniques at the first reported incident of IPV, as well as through the use of therapeutic jurisprudence. In order to implement these large-scale solutions, it is important to first reflect on individual biases and misconceptions about IPV and its victims.

Keywords: Intimate Partner Violence (IPV), Battered Woman Syndrome (BWS), historical development, expert testimony, legal interventions

Chapter 1

The Evolutionary and Historical Development of Intimate Partner Violence and Battered Woman Syndrome

While the terminology used to label abusive relationships has changed, the issue has remained. First, it was called wife battering, then domestic violence, and most recently Intimate Partner Violence (IPV) (Walker, 2017). However, despite recent attention given to the occurrence of IPV in today's society, it continues to be a stigmatized, pervasive, and a dangerously common issue, with a high incidence of mortality. This is largely due to the longstanding evolutionary origins of IPV, and the reinforcement of biological adaptations through the development of language and the use of gendered ideologies to justify abuse against women (Smuts, 1995; Martin, 1981). Through the creation of the marriage contract, religious doctrines, and laws that perpetuate this abuse, IPV became a serious problem, based on deeply ingrained societal views, that garnered public reactions ranging from denial to acceptance of the abuse (Walker, 1979).

Despite the occurrence of various reforms and movements, the public has still pondered over the seemingly-perplexing question of why battered women stayed in their abusive relationships (Walker, 1979). Furthermore, the issue of abused women who kill their husbands remained unaddressed. To answer these questions and explain the effects of wife battering, Lenore Walker (1979) developed the psychological theory of Battered Woman Syndrome (BWS). BWS has since been successfully used in the legal field, most commonly in defenses of women who kill abusive husbands (Follingstad, 2003). However, despite its psychological basis, BWS has not had this same success in the field of psychology, and presently remains contested. This chapter will argue that this is due to the differences in the states of psychology and the legal field at the time in which IPV became recognized as a social problem. While legal professionals

were closely tied to legal and social reforms, there was an absence of involvement of psychologists in the research about and advocacy for battered women (Walker, 1979). Furthermore, due to the scope of the issue of IPV, proposed solutions focused on societal and institutional changes, rather than addressing the psychological needs of individual victims, which further explains the shift of BWS to a legal concept.

Evolutionary Origins of IPV

IPV has shared origins with generalized gender-based violence, which evolutionary psychologists believe stems from an evolved male desire for power over females (Smuts, 1995). This desire is a consequence of the conflict between the reproductive interests of the sexes. In mammalian species, the means by which individual members are most likely to achieve the ultimate evolutionary goal of successfully passing down their favorable phenotypic traits are different for each sex. For females, reproductive success requires that they invest time and energy into raising and caring for their offspring both before and after they are born. Since gestational periods are often lengthy and the quantity of offspring in each litter is small, females have fewer reproductive opportunities than males.

Conversely, males are best able to achieve reproductive success through mating with as many females as possible, as their primary role is fertilization (Smuts, 1995). Thus they do not share the female's time and energy investment requirement. One common way to overcome this compromise, as seen in humans, is through the pairing of two individuals of each species - in doing this, the male commits to certain time and energy constraints, providing the female with food, protection from other males (Brownmiller, 1975/2013), and help rearing the offspring, in exchange for the assurance that his genes will be passed along to the offspring (Smuts, 1995). However, over the course of evolution, this compromise has not been the only way to overcome

the conflict. Through sexual and physical coercion, threats, and force, males have been able to successfully achieve their own reproductive goals without compromise or consideration for the female's best interests.

In a study that examined the behavior of various species of primates, Smuts (1995) found that although the same strategies are used to maintain control over female members as in patriarchal societies, they are much more pronounced and exaggerated in human societies than in those of primates. Human societies have a greater power imbalance between males and females, with men disproportionately controlling resources and holding power. Consequently, with this increase in control over society comes an increase in the violent measures taken to control women. Smuts (1995) posits this exaggerated power imbalance to the evolution of language, which gave humans the unique ability to create and spread complex gender ideologies that portray men as superior and justify the inferior treatment of women, reduce rebellion, and reinforce conformity to evolutionarily established practices. This use of ideological justification can be seen in the institutions of marriage, religion, and law (Martin, 1981).

The Role of Marriage, Religion, and Law in Reinforcing the Acceptability of IPV

Although IPV has roots in pre-human evolution, the high prevalence of this type of violence in human societies is largely due to the historical attitudes towards women that have been created and reinforced through the institution of marriage and patriarchal religious doctrines (Martin, 1981). These attitudes have since been furthered by the complexities of law and the structure of hierarchical societies that consistently subordinate women to men.

The issue of wife beating is closely tied to the creation of the concept of marriage. Walker (1979) states that the marriage contract has long been considered a contract for violence. Since the first historical examples of marriage, it has been used as a means of power attainment that

has almost always favored men (McDougall & Pearsall, 2017). Brownmiller (1975/2013) explains the origins of monogamous marriage as domestication by productive mating - that is, in order to protect themselves from male-perpetrated violence, females bonded themselves to a single male. Consequently, the high costs of this alliance included a reduced social status and loss of autonomy.

Marriage originated as a form of property contract (McDougall & Pearsall, 2017). Fathers promised their daughters' hands in marriage in exchange for status, as a gift, or for various other power-seeking purposes. The earliest laws against rape and other forms of violence against women prosecuted these crimes as a form of theft against the husband (Brownmiller, 1975/2013). Although the concept of marriage has changed drastically, these original principles of male dominance are still inherent in the marriage contract (Martin, 1981). Under law, a married couple is still recognized as one individual with shared holdings. Martin found that certain assumptions of the marriage contract (i.e., that it be a lifetime commitment, monogamy should be enforced, procreation is essential, and a strict division of labor should exist) are present in modern ideas about marriage and indirectly reinforce long-standing beliefs about women's subordination to their husband.

Furthermore, religion has historically been essential to the formation of cultures and societies of various countries, states, and territories; it has also played a significant role in justifying the patriarchal attitudes and abuse towards women (Walker, 1979). Although Walker argues that it was the creation of the Bible that initiated harsh cultural attitudes towards women, these beliefs both predate and proceed Christianity: Confucianism, Greco-Roman religions, Hindu, Buddhism, and Islam each contain a degree of women inferiority (McDougall & Pearsall, 2017). While this practice explains how IPV has become a global issue, western cultures have

been most influenced by the attitudes towards women permitted by Christianity (Walker, 1979). Traditional beliefs about good Christian wives evoke images of women who are submissive to their husbands and care for their families and home (McDougall & Pearsall, 2017). If a man became angry or violent, it was believed that the wife was at fault for provoking the abuse. These stereotypical views were some of the first instances of victim blaming, and have become dangerously ingrained into modern society (Walker, 1979). They are largely responsible for the stigma that kept women silent and thus allowed IPV to plague the shadows of society.

The laws of premodern Europe, largely based on Christian and Catholic religious doctrines, reflected these views that a wife should be obedient and subordinate to her husband (McDougall & Pearsall, 2017). These laws granted to the husband a right to discipline his wife for any disobedience, the only limitation being that the punishment must conform to the vague constraint of being within reason. Not only did such laws justify abuse against women, they furthered inequality and women's loss of power (Martin, 1981). Whereas a husband could beat his wife over a suspicion that she had been unfaithful, women could not. In fact, if her husband had been unfaithful, it was believed that she had done something to push him towards adultery.

While the laws of many modern societies now criminalize wife beating, for centuries reforms pushed not for a prohibition of abuse, but rather for the qualification of its specificities (Martin, 1981). English common law, a doctrine that underlies the statutes of the U.S. justice system, explicitly allowed for wife beating when used for correctional purposes. It was not until the 1880s that a woman in England could separate from (but not divorce) her husband if her life was endangered by perpetual abuse. US laws were similarly slow to change: an 1824 court case gave a husband the right to whip his wife with a switch no bigger than his thumb (Martin, 1981). This holding remained in effect until it was overturned in 1894. Even as state courts began to

criminalize wife beating, lower courts worked to counteract such decisions by issuing holdings that complicated the ability for women to bring charges against their husbands, such as ones that required that the battery be so severe it endangered the victim's life or resulted in permanent injury. By the 1970's, in writing wife beating was a crime in most states, yet the legal obstacles of charging and prosecuting perpetrators rendered these laws practically useless (Martin, 1981).

Effects of Patriarchal Beliefs on the Study of Women's Issues in Psychology

The roots of patriarchal beliefs about the inferiority of women and the justifications of wife abuse run deep, and in the 19th and 20th centuries they penetrated almost every level of society (Walker, 1979). The field of psychology was not immune to their prejudicial consequences (Lazard et al., 2016). The male-dominated functionalist movement and the search for biological differences in intelligence between genders, two dominant psychological movements of this period, exemplify the ways in which psychology attempted to scientifically justify common societal myths and beliefs about the explanations for women's inferiority. The small collection of feminist psychologists' works that was published, and the emphasis they placed on the fact that societal factors were the primary contributors to gender inequalities rather than biological ones, was largely ignored by mainstream psychologists. This, along with the lack of opportunity for women in the field of psychology, created the appearance of psychology as a womanless field, and thus research into the effects of predominantly-woman issues such as IPV was rare. When psychologists like Lenore Walker did undertake such studies, their work received more attention from scholars in other disciplines and remained heavily criticized by a male-dominated psychological field that continued to search for innate differences between the sexes.

A New Perspective on IPV: Social Movements, Legal Reforms, and Walker

During the 1970s, there was a large movement for social change in how issues of violence against women were treated (Brownmiller, 1975/2013). Women's movements conducted and participated in speak-outs and protests, advocating for legal reform of the male-biased criminal codes and legislation that had allowed violence against women to occur unchecked for centuries. In 1971, domestic abuse advocate Erin Pizzey founded Chiswick Women's Aid as an advice center for women to come together to meet peers, escape loneliness, and discuss shared concerns (Martin, 1981). Shortly after the founding of this center, Pizzey noticed that a majority of the women that came in shared the same concern: they were victims of domestic abuse. In response to these observations, she published *Scream Quietly or the Neighbors will Hear*, a novel about her experience setting up the refuge and the stories of women who utilized its services. This novel was one of the first written about wife battering. It was highly influential in bringing attention to IPV, which had previously garnered reactions ranging from uncomfortable ignorance or denial of its occurrence at best and general acceptance of IPV as a societal norm at worst.

As the issue of wife battering received increasing recognition, more women began to come forward and share their experiences. In 1975, the National Organization for Women unanimously declared marital violence as a major issue (Martin, 1981). The following year, the International Tribunal on Crimes Against Women was held. Over five days, women from around the world testified about their victimization of crimes such as wife battering, rape, persecution, prostitution, and pornography, and after hearing their testimony officials analyzed the societal implications of these crimes. This tribunal resulted in the further recognition of wife battering as a social problem, resulting in the establishment of emergency shelters to provide resources to

abused women. The convergence of this growing social awareness to wife battering and Walker's professional experiences led to her theorization of BWS (Distinguished Contributions, 1988).

Lenore Walker and the Development of Battered Woman Syndrome

Lenore Walker began her professional career working with emotionally disturbed children in the New York City school system in 1962, an experience that inspired her to pursue a master's degree in psychology from City College of the City of New York (CUNY), and later an EdD in psychology from Rutgers University (Distinguished Contributions, 1988). Her academic research sparked her interest in improving skill competency and wellbeing in children through parental training. Later, while working with children at a mental health center, she noticed that many of the children showed signs of abuse that were mirrored in their mothers. Based on the principles underlying her previous research, Walker believed that the best way to help these children was to first help their mothers, and the increasing public attention to wife abuse gave her the opportunity to study the phenomenon of wife battering.

Although public perception of wife battering was improving, there remained two questions concerning this issue that challenged the growing validation of its victims: (1) why do women stay in abusive relationships?; and (2) what causes some of these women to snap and kill their abusive husbands? (Walker, 1979). To answer these questions and address other common stereotypes about abuse victims, Walker conducted a study in which she conducted open-ended interviews of a large sample of battered women (defined as someone who has been subjected to repeated forceful physical or psychological abuse by a male partner). She found that the stories of these women were surprisingly similar, and using these discovered similarities and previous psychological research, Walker developed the theory of BWS. The two primary components of

BWS were learned helplessness and the cycle of violence theory, which Walker used to explain wife battering and its effects.

Learned Helplessness

Walker (1979) applied Martin Seligman's theory of learned helplessness to her observations of the battered woman study. Seligman studied whether animals could be conditioned to believe they have no control over the outcomes of their situation (Walker, 1979). He administered electric shocks to a sample of dogs, providing no means of escaping the shock, and found that although they initially tried to prevent the pain, eventually they became compliant, passive, and submissive. After this conditioning occurred, the dogs would make no voluntary movements to avoid the shocks, even when given opportunities to escape them.

Walker applied this theory to the behaviors of battered women. Although many women made attempts to leave their relationship in its early stages, the lack of resources available to them and pervasive societal stigmatization of wife abuse prevented them from being able to successfully escape. The failure of these help-seeking attempts act as a form of social conditioning, which eventually leads to a generalized belief that nothing the victim does can change her situation. As a result, her survival efforts are redirected to allow her a form of emotional escape rather than a physical one. For this reason, many battered women experience depression, dissociation, and will often trigger an attack in an attempt to control the attack. To explain why some battered women kill their husbands, Walker (1979) theorized that these killings were a final, desperate attempt at escape from extreme, severe escalations of violence.

Cycle of Violence Theory

To further explain the complexities behind why battered women stay in abusive relationships, Walker (1979) proposed the cycle of violence theory, which posits that abusive

relationships primarily occur in three repeating phases: tension-building, acute battering incident, and calm respite. Throughout phase one, minor incidents, threats, and manipulation occur, and the victim will resort to denial about her feelings and emotion and the fact that the abuse will repeat. This tension escalates to a breaking point in phase two, during which most serious injuries and deaths occur, both to the victim and the abuser. During phase three, the abuser is extremely loving and kind to make up for the violence and convince his wife to stay.

Unfortunately, the manipulative nature of this final phase, in addition to the learned helplessness experienced by the battered woman, results in the abusers pleas succeeding. Many of the women in Walker's study explained that they genuinely believed their husbands' promises that the abuse would never happen again, despite past experiences evidencing that this belief is likely mistaken.

Implications of Battered Woman Syndrome

Through her proposal of BWS, Walker became the first psychologist to explain how societal beliefs about women and domestic abuse can affect battered women's behaviors and contribute to their hesitancy to leave their relationship (Walker, 1979). BWS also showed that the lethal outcomes common to IPV, both killings of victims and abusers, is a consequence of social conditioning and its resultant psychological effects. Since its creation, BWS has been essential to efforts towards policy changes and mindset shifts regarding IPV and its victims (Distinguished Contributions, 1988).

Applications of Battered Woman Syndrome: Successes and Controversies

BWS has had a significant impact on the way women victims of IPV are represented in court cases, most commonly those in which they retaliate against an abusive partner (Follingstad, 2003). Although courts were at first hesitant to admit expert testimony explaining the implications of BWS in such cases, once several jurisdictions did admit such evidence, the

reversal in sentiment about BWS was rapid. Within a few years, BWS became the primary defense strategy of such defendants, and is considered the most successful syndrome defense in the history of the courts in terms of its acceptance. Walker first testified to the effects of BWS in a Montana case in 1977 (Follingstad, 2003). The goal of her testimony was to use social science research to bring the defendant's killing of her abuser within the bounds of traditional self-defense doctrine, a strategy that has since become the primary method of constructing BWS defenses. Although neither BWS nor its legal uses are perfect, its introduction to the legal system has resulted in various improvements to the representation of women who are victims of abuse, as well as legal reforms. In 1992, President Bush signed the Battered Woman Testimony Act, authorizing the study of BWS testimony and its effectiveness - this act led to the creation of the Violence Against Women Act in 1994, the passing of statutes in multiple states allowing for the admissibility of BWS expert testimony, and the further recognition of IPV as a legal and societal problem, not a norm (Department of Justice, 1996).

While the legal successes of BWS are many, the same cannot be said for the uses of BWS in the field of psychology. The psychological controversies surrounding BWS are best exemplified by the struggles of psychologists to have BWS admitted as a diagnosable disorder in the DSM (Roth & Coles, 1995). While many psychologists now consider BWS an implicit subcategory of post-traumatic stress disorder (PTSD) (Walker, 2017), publishers of both the DSM-IV and DSM-5 have concluded that there is not sufficient evidence to prove that it fits the criteria to be considered a mental disorder (Roth & Coles, 1995; Walker, 2017). This controversy among psychologists remains unresolved - as of 2017, a team of psychologists led by Walker were working to create a valid diagnostic test for BWS (Walker, 2017). They also outlined potential diagnostic criteria unique to BWS, supporting the notion that a diagnosis of PTSD or

other DSM 5 diagnoses do not fully explain the symptomatology of IPV victims. However, most research into BWS and the effects of IPV is concentrated in the legal field, and it remains excluded from mainstream psychological study despite its psychological origins (Walker, 2017).

Conclusion

Although IPV has pre-human evolutionary origins, it is a uniquely human issue (Smuts, 1995). The reasons behind the differences in success of BWS in the legal and psychological fields is due to the fact that, at the time of the women's movements that drew attention to wife battering, psychology was considered a largely womanless field, and the works of many feminist psychologists that called attention to the societal contributors to gender inequality were passed over in favor of innate, biological explanations of differences between the sexes (Distinguished Contributions, 1988). Were it not for Walker's initial interest in indirectly helping abused children through aiding mothers, BWS, one of the lone theories attempting to explain wife battering and its effects, may have never come to fruition at all. Conversely, although the legal field was also heavily male dominated, there was a widespread recognition of the need for reform in how abused women were represented in the justice system, which facilitated the quick acceptance of BWS (Follingstad, 2003).

In addition to these differences, the pervasiveness and deep roots of IPV in society led advocates and scholars to call for large-scale institutional reforms and social changes. Although she did propose some recommendations for therapy protocols for battered women, Walker herself acknowledged that any solution to IPV must include societal changes that target the misconceptions of battered women and the patriarchy that still underlies society (Walker, 1979; Walker, 2017). This is a sentiment shared by professionals across disciplines (Gondolf & Fisher,

1988), and while this is undoubtedly true, it is one large factor in the explanation of why BWS has come to be recognized predominantly as a legal concept rather than a psychological one.

Chapter 2

Battered Woman Syndrome and Expert Testimony in Court

In 1994, Lorena Bobbit was tried for cutting off the genitals of her physically, emotionally, and sexually abusive husband as he slept, shortly after he had raped her (Sorrentino et al., 2019). She was eventually found Not Guilty By Reason of Insanity (NGRI). One important factor in Bobbit's defense was the expert testimony explaining BWS, a theory that describes the psychological effects that living within an abusive relationship produces, specifically when a man abuses his female partner. This theory also explains the factors that complicate a woman's freedom to escape the abuse she experiences (Walker, 2017). Bobbit's case exemplifies the lengths a woman may go to as a consequence of IPV, and the use of BWS in the construction of her defense is a legal trend that has continued in the years since her trial (Sorrentino et al., 2019).

IPV is defined as physical, sexual, or psychological violence that occurs in a relationship between current or former spouses or dating partners (CDC, 2021). In addition to the psychological and physical harm experienced by victims of IPV, these relationships often come to a lethal end. Data shows that 94% of all homicide victims are female, and from 1996-2013 almost 60% of these female victims were killed by a husband or intimate partner (Violence Policy Center, 2015). While it is much more common for abusive husbands to murder their wives, there are instances in which women fight back and kill or seriously injure their abusive partner (Walker, 2017). Each year, approximately 1,000 such cases exist (Paradis, 2017). There is debate about how much culpability lies on the woman, and the legal issue of what type of defenses should be available to her.

Despite an increasing public awareness of the issues surrounding IPV, there remains stigma and misconceptions about women who are victims of abuse (Walker, 2017). Many

individuals do not understand why someone would stay in an abusive relationship considering the extreme harm that can result. This is especially relevant in cases of women who kill or seriously injure their husbands (Walker, 2017). In reality, there are many social and psychological factors that complicate a victim's decision to leave. Experts are often called on to explain this reasoning to jurors. From a sociological perspective, women in abusive relationships often lack the financial, physical, or supportive resources required to leave, and data suggest that even when a woman is successful in escaping the relationship, the risk of being killed actually increases after escape (Paradis, 2017).

On the other hand, Walker's BWS explains such inability to leave from a psychological perspective. This theory now underlies most expert testimony that is used to construct self-defense and NGRI defenses for women who kill their husbands (Walker, 2017). While this type of testimony has been successfully used in many cases and has improved legal representation of IPV victims in general, there remains a debate about its drawbacks and limitations (Plumm & Terrace, 2009). In an attempt to rectify these imperfections, alternate forms of testimony have been proposed (Plumm & Terrace, 2009). This chapter will argue that although the use of BWS testimony has been a step forward in the legal representation of women who kill their abusive husbands, in order to best represent these individuals, the scope of expert testimony should be expanded to include aspects from other frameworks and theories, such as the Social Agency Framework (SAF) and empathy induction techniques in order to further continue this trend of improvement.

Battered Woman Syndrome

There are several components to BWS, which together account for why a woman may perceive escape from an abusive relationship as impossible and why, in some instances, she may

come to believe that killing her husband is the only possible means of escape (Walker, 2017).

These components are learned helplessness, the cycle theory of violence, and the psychological symptoms experienced by victims of IPV.

Learned Helplessness and the Cycle of Violence Theory

Learned helplessness suggests that the continual ineffectiveness of the actions one takes to try to escape harm will eventually lead one to believe they are unable to change their situation, and as a result they will stop trying to escape (Walker, 2017). Instead, they focus on developing and employing survival techniques that allow them to cope with and minimize the immediate pain of the situation. Walker applies this theory to the situations of female IPV victims. In the early stages of the relationship, the woman may try to reach out for help to stop the abuse. However, the unfortunate shortage of resources and the not-uncommon failure of societal and legal systems to adequately address IPV in its early stages, in combination with traditional beliefs that issues between intimate partners are of a personal or private nature, often lead to unsuccessful escape efforts. As the relationship continues and the abuse escalates, she is further discouraged from physical escape, and instead transitions into a form of emotional escape that allows her to dissociate from and live with the abuse. In some cases, killing her abuser may be one final act of desperation to end the abuse.

Learned helplessness in IPV victims is often reinforced through the cyclical nature of the violence that occurs in relationships in which IPV occurs (Walker, 2017). In her cycle of violence theory, Walker describes three general phases that take place: phase one, the tension-building phase; phase two, the acute battering incident; and phase three, the loving contrition phase. During phase one, tension builds between the victim and her abuser, and he may engage in psychological tactics such as name calling, manipulation, and hostility, as well as

minor physical abuse. Phase two is when most severe injuries or deaths occur. The tension of phase one comes to a head and is unleashed on the woman. After the incident, there is often a sharp reduction in this tension. As a result of this reduction, during phase three the abuser will show remorse, apologizing to the victim and showering her with gifts and promises to change. While it has been shown that this promised change does not actually occur, it is often an effective means of convincing the woman to stay in the relationship, especially in the early stages before learned helplessness has settled in. While these phases are common in battering relationships, they are not necessary components. Recent research suggests that the occurrence of phase three often decreases as the level of violence escalates, and the threshold of tension remains high after the acute battering incident (Walker, 2017). The disappearance of phase three is a sign that there is a high risk of a lethal incident, either at the hands of the abuser or the victim.

Symptoms of Battered Woman Syndrome

While BWS is not an official diagnosis in the DSM-5, there is overlap between the criteria for BWS and PTSD, and for this reason BWS is often considered an implied subcategory of PTSD (Walker, 2017). Walker proposes seven groups of diagnostic criteria, the first four of which it shares with PTSD, and the final three are unique to BWS. The typical reactions of an individual with BWS often differ from those with PTSD due to the complex, long-term nature of the experienced trauma. The traditional hyper-aroused fight or flight response is more often expressed as a sort of psychological escape, in which the victim learns to notice signs that the abuse is coming and use avoidance responses (e.g., dissociation, repression, denial of danger) to limit the emotional and psychological effects of a full-blown trauma response.

Expert Testimony

The development of BWS has been an essential component to the defenses of women who kill their husbands (Walker, 2017). Through the inclusion of expert testimony, the jurors of these cases are given an insight into the mindset that the defendant was in at the time of the crime and the situation she was in (Paradis, 2017). Expert testimony is typically used to support one of two types of legal defenses in these cases: self-defense and NGRI (Plumm & Terrace, 2009). To claim self-defense, as is most common in such cases, the defense must establish that, at the time of the killing, the defendant reasonably believed that there was an imminent threat of death or serious injury, and that the use of lethal force was necessary to prevent this harm (Holloway & Wiener, 2018). For a claim of NGRI, the defendant is found to be not legally responsible for the act if the presence of a mental disease or defect is established, and if the disease or defect impaired either the defendant's ability to appreciate the wrongfulness of the act or from controlling the impulse to complete the act (Sorrentino et al., 2019). Establishing either type of defense in BWS cases can be difficult, as there is still debate about these criteria in relation to IPV victims (Walker, 2017). An effective strategy is to use expert testimony to help jurors understand the history and impact of the complex trauma and abuse that the defendant has experienced (Paradis, 2017). Among cases involving IPV victims, the inclusion of psychiatric or forensic testimony tended to result in fewer guilty verdicts and more lenient sentencing (Paradis, 2017).

When a psychologist is brought in to testify on behalf of the IPV victim, they conduct a four-step evaluation process in order to determine whether the defendant meets the criteria for BWS and to assess the defendant's mental state at the time of the act (Paradis, 2017). First, they collect evidence that the abuse has occurred by examining police and hospital records. They also

conduct in-depth interviews with the defendant, family, friends, and any other possible witnesses in order to better understand the extent of the abuse and the power-control tactics used by the abuser (Paradis, 2017). In the second step, they conduct a psychosocial history and mental status exam to determine whether, as a result of the abuse, the defendant has developed BWS or any other psychiatric illness. Using these assessment tools, they conclude what they believe the defendant's mental state was at the time of the act. This conclusion differs depending on which defense is being presented. Finally, they will present these findings to the attorneys, court personnel, and ultimately, the jurors.

The use of expert testimony based on BWS has been essential in the improvement of the defense of IPV victims who kill their husbands, as it draws the juror's attention to the context under which the defendant was acting and dispels the myth that IPV victims are always free to leave the relationship (Paradis, 2017). However, it is not perfect. Critics of BWS testimony believe that the use of syndrome terminology reinforces the stereotype that IPV victims are fragile, weak, and helpless (Paradis, 2017). Furthermore, they claim that this form of testimony creates a set of criteria in the minds of the jurors that incorporates these typical stereotypes, which they judge the individual defendant against (Plumm & Terrace, 2009). Consequently, there is a risk that defendants who do not conform to this image will be judged outside of the context of their specific situation, increasing the likelihood of a guilty verdict because of the beliefs and biases of the jurors. To address these potential negatives of BWS expert testimony, researchers have proposed alternative types of testimony for these types of cases.

Social Agency Framework (SAF) testimony emphasizes the social barriers that prevent the IPV victim from being able to escape the abuse (e.g., the lack of effective community resources and the dangers that remain even if she leaves the relationship) rather than the

psychological aspects (Plumm & Terrace, 2009). While this form of testimony eliminates the risk of unnecessarily pathologizing victims of IPV and consequently undermining the reasonableness aspect of the defense, it is limited in that it only presents the societal context of the defendant's actions. This may be detrimental to the defense because research suggests that, under the theory of fundamental attribution error, observers (in this case jurors) tend to emphasize an individual's dispositional characteristics over outside circumstances when evaluating an individual's actions or behaviors (Plumm & Terrace, 2009).

Alternatively, Plumm and Terrace (2009) found that the inclusion of empathy instructions (explicit instructions given to the jury to imagine the situation as if they were in the defendant's position) increased the likelihood of a self-defense claim being successful. Their findings also showed that this was especially the case for male jurors who were otherwise less likely to empathize with and therefore acquit female IPV victims in these cases. Based on the results of this study on the effectiveness of BWS, SAF, and empathy instruction testimony, it seems that a hybrid form of testimony may be most effective in constructing a defense. By reformulating expert testimony to include information about both the internal (BWS) and external (SAF) factors that led a defendant to killing her partner, the chance of these individuals benefiting from testimony would greatly increase (Ono, 2016). This could address the limitations of each type of testimony, filling any gaps that may be problematic to the defense. The improvement of expert testimony used to explain the situations in which IPV victims live would be a positive step in the continued improvement of legal representation of IPV victims (Ono, 2016).

Conclusion

Since the development of BWS, it has been a key tool in supporting the defenses of women who seriously injure or kill their abusive husbands (Walker, 2017). The Lorena Bobbit

case is just one example of the effects IPV can have on the minds and actions of its victims.

Despite the progress society has made in protecting and assisting IPV victims, the fact that some women come to believe that the only viable means of escaping a severely abusive relationship is murdering their abuser is evidence of the continued gravity of IPV situations (Walker, 2017).

The inclusion of BWS expert testimony in the defenses of women who kill their abusive husbands has been an important step in ensuring that these women receive a fair trial, one in which their situation is fully understood by the jury (Plumm & Terrace, 2009). However, despite this progress, there are still limits to its effectiveness. A major limitation is that it can contribute to the stereotype of IPV victims as frail and weak (Holloway & Weiner, 2018). Alternative types of testimony have been proposed to address these limitations, two of which are SAF and empathy induction testimony, however these frameworks have limitations of their own (Plumm & Terrace, 2009). More research is needed to find an ideal type of testimony that addresses the limitations and criticisms of all types of IPV expert testimony used in these types of cases. However, in order to best represent victims of IPV in the justice system, it may be necessary to remove some of the labels on these forms of testimony in order to incorporate the best elements from multiple frameworks into one effective piece of evidence (Ono, 2016). Society has undoubtedly come a long way in shedding light on the experiences of IPV victims, but there is still much progress to be made.

Chapter 3

Legal Interventions to Intimate Partner Violence: Offender v. Victim-Centered Approaches

Despite the various legal reforms and social movements that have brought awareness to issues surrounding IPV, it is still undeniably prevalent in today's society. According to the CDC's National Intimate Partner and Sexual Violence Survey (NISVS), in the United States about one in four women and one in ten men have experienced IPV during their lifetime, many of whom report having experienced severe physical violence and injury (CDC, 2021). While these figures are alarming in and of themselves, it is believed that reported rates of IPV underestimate the true extent of this issue, as many victims experience difficulties accessing resources that would allow them to report incidents and escape their violent relationship (Paradis, 2017). IPV is a dangerous social issue with lethal consequences - homicide is often a direct result of this type of violence (Koppa & Messing, 2021). Research shows that of women homicide victims in 2010, 39.3% were killed by an intimate partner, and of male victims of female killers, 75% of the victims had previously committed IPV against their killer (Koppa & Messing, 2021).

These statistics demonstrate that despite efforts taken in the legal field to prevent IPV and its resulting consequences, the proposed solutions have been largely unsuccessful (Broidy et al., 2016). Both criminal and civil legal interventions that have been created with the intent of protecting victims have had less-than-desirable results since their enactment, a fact that is in large part due to the legal system's overemphasis on taking actions against the offender in an effort to prevent violence (Bell et al., 2011). The true solution to protecting victims and reducing the number of lethal outcomes IPV leads to lies in early intervention (Messing & Campbell, 2016) and therapeutic jurisprudence (Wright & Johnson, 2012). This chapter will outline and explain the ineffectiveness of current offender-focused legal interventions (i.e., mandatory arrest

statutes and the issuance of orders of protection) and argue that the victim-centered strategies of early intervention and therapeutic jurisprudence are two possible solutions to reduce the presently-high dangers of IPV.

Current Legal Interventions and their Effectiveness

As public awareness of the issues surrounding IPV has increased, various types of legal interventions have arisen as a way to prevent IPV and protect victims more effectively. However, these interventions have not been entirely successful. Data from a large jurisdiction shows that 91% of female IPV homicide victims had previously contacted law enforcement for an IPV-related incident, and on average they had been visited by law enforcement 5.6 times (Koppa & Messing, 2021). While police intervention is an important first step in reducing rates of IPV, it is clear it is not sufficient in and of itself to prevent dangerous consequences of IPV.

The two most common forms of formal IPV intervention are arrest and seeking an order of protection (OOP) (Broidy et al., 2016). However, the successfulness of these options in protecting IPV victims is questionable. Neither was found to reduce recidivism rates, as the percentage of offenders that come into contact with law enforcement for another domestic offense remains comparable to those who have not had legal actions taken against them (Broidy et al., 2016; Messing et al., 2016). In an effort to deter offenders from committing IPV and increase the arrest rates for IPV offenses, mandatory arrest laws have been implemented in 23 states (Koppa & Messing, 2021). These laws require an arrest to be made when probable cause of abuse is present, regardless of whether the victim wishes to press charges. Although these statutes seem practical in theory, their actual effectiveness is questionable. 50% of IPV cases in mandatory arrest states do not actually result in an arrest (Koppa & Messing, 2021), and in these states IPV-related homicide rates increased (Broidy et al., 2016). These statistics suggest that

rather than encouraging victims to report incidents, mandatory arrest statutes may actually deter them from reporting more than they deter offenders from committing IPV.

Another common intervention for IPV victims is the issuance of an OOP against the offender, a civil protection route that was created to ensure victim safety and increase participation in the justice system by enacting legal consequences if an offender contacts the victim (Wright & Johnson, 2012). OOPs were intended to provide a less-severe option to IPV victims to help combat the large rate of underreporting of IPV offenses. However, depending on jurisdiction, 23-70% of these orders are violated by the offender. While research shows that OOPs may be promising in the reduction of rates of moderate levels of re-abuse, they have no effects on rates of recidivism in cases of severe violence (Messing et al., 2016).

The limited effectiveness of these two interventions shows that such deterrence-based intervention methods are not enough to adequately prevent violence and protect victims (Bell et al., 2011). The structure of the legal system has created an overemphasis on punishing offenders and deterring them from reoffending in an effort to prevent future violence. However, in relation to IPV cases, this approach is neither successful in reducing recidivism nor does it provide the necessary protection for victims to recover and remain safe from future violence. The solution to preventing IPV requires a shift away from this offender-focused mindset to one that better acknowledges the needs of victims.

Moving Towards Victim-Centered Interventions

The path to preventing IPV and protecting victims requires that situations with a high lethality risk are identified before reaching their peak level of risk, and that these victims are educated about the severity of their situation, as well as on the options that are available to them. (Messing & Campbell, 2016). It is imperative that both IPV victims and law enforcement

officers that respond to incidents are able to identify risk factors, as missing or not adequately responding to these factors can be detrimental and have lethal consequences. To provide this education, researchers have developed the Danger Assessment (DA), a protocol that, through a series of questions and information-collecting procedures, allows the administrator to aid the victim in taking steps towards self care and protective actions in a risk-informed manner (Messing & Campbell, 2016). This assessment has traditionally been administered to victims by advocates and healthcare providers, as these professionals have typically been the first to interact with IPV victims who have sought help. However, in jurisdictions in which responding law enforcement officers are trained to give a modified version of the DA to IPV victims at the scene of the incident, the results have been promising (Messing & Campbell, 2016). On one hand, this protocol allows victims to be educated on how serious the situation they are in is and the options that are available to them to reduce this risk and increase their safety. On the other hand, this training allows law enforcement officers to gain experience and education into what risk factors are important to look for and what cases should be closely monitored to prevent escalation and possible deaths. Thus, the administering of the DA by law enforcement officers provides an opportunity to reduce future violence and homicides.

Furthermore, legal systems that adhere to the principles of therapeutic jurisprudence have the potential to further reduce IPV occurrence (Wright & Johnson, 2012). This theoretical framework attempts to promote ways in which the legal system can advance therapeutic goals and function in a similar manner as mental health interventions. In IPV cases specifically, proponents of this legal philosophy believe that by incorporating intervention techniques that provide victims with both legal and psychological assistance, it is possible for the legal system to both increase successful prosecution rates and promote the physical and psychological well being

of victims (Wright & Johnson, 2012). The use of advocacy programs and the modification of IPV-focused therapy programs to incorporate the needs of participants involved in the justice system are two examples of effective ways in which therapeutic jurisprudence can be implemented.

Conclusion

The legal system has long relied on a focus on offenders and deterrence-based approaches as a means of both reducing violence and protecting victims (Bell et al., 2011). However, in a matter as complex as IPV, this approach is often ineffective in both endeavors. Instead, the needs of IPV victims should be the primary concern of both the legal system and service providers. Early intervention that utilizes risk analysis information to best inform victims of the best safety plan for their situation is essential to reduce the rate of IPV cases that initially fall through the cracks and consequently come to lethal endings (Messing & Campbell, 2016). Furthermore, a therapeutic jurisprudence approach to IPV cases in the justice system is not only in the best interest of victims and mental health service providers, but benefits the success of legal personnel as well. The court system is a powerful tool that has the potential to end abuse and aid victims in their recovery from violence (Bell et al., 2011). Through collaboration, the use of risk-informed advocacy programs at the earliest stages of IPV, and respecting the needs of IPV victims, it is possible to better meet the goals of law enforcement, court personnel, mental health professionals, and most importantly, the victims. The true path to ending IPV is one that is victim-centered and incorporates help from a variety of services and fields.

Chapter 4 redacted to remove personal reflections and any identifying information.

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