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BATTERED WOMEN SYNDROME AS A LEGAL DEFENSE

Battered Women Syndrome is a pattern of psychological and behavioral symptoms in women undergoing abusive relationships. The woman is not always a spouse, sometimes she's a girlfriend, a daughter, or just a stranger. Women undergoing this tend to kill their batterers out of fear or resentment. When these women are charged with murder or manslaughter, they admit to the act but claim it to be in self-defense. The defense of BWS has been used in several legal systems since the 1970s. Such a defense is either claimed under self-defense or insanity. However, it is very difficult to prove the psyche of the woman during the commission of the criminal act.

The term and concept of Battered Women Syndrome was first established by Dr. Lenore Walker in her book "The Battered Woman" in 1979. Through advanced psychological research, she established that not all women in abusive relationships develop this syndrome. She further stated that BWS was a result of repeated and prolonged abuse on the woman. Walker proposed that BWS has two main components: I) a cycle of violence, ii) learned helplessness. The cycle of violence is a three-stage cycle of violence:

Stage One: this is the tension building stage with minor abuses which might even be verbal and psychological. During this stage, the abuse victim might neglect the signs of repetition of abuse.

Stage Two: this is the stage of extreme abuse with a repetitive pattern. The kind of abuse is physical and brutal.

Stage Three: This is the tranquil stage, the abuser shows the victim remorse for his actions and assures her that he will not commit the same mistakes again. In this stage, the abuser sympathizes with the victim.

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The second component of Walker's analysis of BWS is learned helplessness. This is a product of the repeated abuse on the woman which explains the psychological paralysis which prevents some women from walking away from that relationship. They start to believe that staying with the batterer is their only option. Battered Women are generally bound by socio-economic factors such as financial dependency, societal norms on the importance of marriage, poor legal and social help to overcome such a situation; therefore, they are forced to give up and accept their fate and in some cases, the desperation and learned helplessness of the woman compels her to kill her abuser.

Claim of Self-Defense

Women who kill their abusers may claim the defense of self-defense. The law considers self-defense as an act of justification i.e. not morally culpable when someone kills. However, it is considered as an act of self-defense only when it meets the legal requirements of the claim. First, at the time of the act, the defendant must be under the impression that she was under imminent danger. Second, the defendant must have used a reasonable amount of force as a response to the danger. Third, s/he cannot have been the aggressor. Fourth, under certain circumstances, the defendant must have had no opportunity to retreat to safety. This claim cannot be taken unless the defendant used reasonable force to protect herself.

However, in many cases in which the women kill their abusers, these conventional standards are not met. For instance, in the majority cases, battered women do not kill their abusers during a confrontation but rather when the imminent danger may seem apparent to the outside observer. They usually end up killing their abuser during a lull in the violence or when the abusers are sleeping. They might use weapons like a knife or gun while the abuser is unarmed. In many legal systems, they do not require the victim to retreat when attacked, when battered women kill their abusers there is usually a history of violence with abusers. This marks up the question of why the women do not leave the relationship earlier. Proponents of BWS maintain that these emanate from the conventional expectations of self-defense law can be simplified by the psychological dynamics involved in intimate violent relationships.

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Another controversial utility of BWS worries its use to support the battered female defendant's competition that her employment of deadly pressure was once reasonable. In some states, courts might also accept the history of abuse and, in particular, the nature of that abuse, as important factors for understanding the reasonableness of the defendant's faith in the want to use deadly force. In different states, the applicable contrast for judging the defendant's moves is "a reasonable battered woman" as an alternative than the ordinary realistic person. These courts have responded to the difficulty of researchers who observe that in deciding what is "reasonable," usual criminal regulation makes use of the "ordinary man" as its reference point, in which the assault generally occurs for the duration of a single violent episode and the assailant is often a stranger to the victim. This point of reference fails to capture the battered woman's circumstance. The violence that the battered girl faces is continual and at the palms of an intimate accomplice as an alternative than a stranger. Furthermore, the woman is commonly no longer on equal physical grounds with the batterer, hence explaining why the force that the female makes use of towards her spouse generally involves the use of a deadly weapon.

The other most important obstacle to accomplishing a declare of self-defense is that the lay public, from which jurors are chosen, may also harbor misconceptions related to the motives and outcomes of intimate associate violence. Jurors can also consider that violence in the relationship fulfills the wishes of each of the companions or that the female defendant should have left her abuser if she virtually objected to the abuse. Beliefs such as these might also make it tough for jurors to recognize how a girl might have an understanding of forthcoming fear. Although the law in most states does now not require the defendant to try to escape from the state of affairs or to go away the relationship earlier, the woman's failure to do so may additionally nonetheless affect the juror's opinions of the reasonableness of her actions. Jurors' beliefs about intimate partner violence and the lack of fit between the woman's moves and the present legal guidelines of self-defense can make it hard for the defense to establish that the woman's conduct in killing her abuser used to be reasonable.

The argument of psychological self-defense

The doctrine does interfere or attempt to protect those women, who kill so protect themselves, not from an imminent physical attack on them, but serious psychological injury. The idea here is that

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these women, who do that, do so to guard themselves not from an attack which will eventually kill them, but from an injury which will strictly be defined in psychological terms. The women, in essence, are unable to escape the vicious circle of repeated torture inflicted on them. The threats may not be physically imminent, however, there is a threat of such a nature so to cause a psychological paralysis within the accused battered woman. The issue is perfectly highlighted in the case of Sara Thronton, who was eventually convicted of murder and her appeal was rejected. The case revolved around the woman, who was facing her abusive and violent husband, who told her that he would kill her while she slept. The convict ended up stabbing her husband. In such a case, the battered woman had been psychologically paralyzed. It could certainly be stated that the attack from the husband could occur at any time, if not immediately or that night itself. This state of the battered women could be described as a stage of learned helplessness or in blunt words, utter hopelessness. Now, is it reasonable enough that the battered woman is convicted as a criminal and be punished for something which she did purely within the limits of psychological paralysis? The attempt seeks this principle overall criminal offenses where there has been the use of a deadly force. The use of the battered woman example is deliberate as it perfectly fits within such a doctrine and its application. Criminal law stems from the roots and understanding that an accused is not to be convicted or be declared a culprit if the crime was dodged on his or her discretion. The deadly force is objective. What this suggests is that a reasonable person would do so acting under an instinct to safeguard themselves. This virtue is stemmed from the foundations of law, and 10 has further been adapted and generalized under the banner of the common law. The existence of such a doctrine implies that a battered woman, who is affected by internal and external conditions is to do what a reasonable person would if faced with similar circumstances. The doctrine of self-defense primarily deals with physical integrity and with other kinds of existence and the psychological integrity of an individual. The proposed psychological self-defense doctrine aims to safeguard this much-excluded aspect of human integrity. The doctrine is an extension of our understanding of the protection of human life under Article 21 of the Indian Constitution. Self-defense needs to satisfy the provisions of this article. "Life" in Article 21 is not merely the physical act of breathing. Article 21 has given protection to life as a substantive right, therefore the article if properly understood, does not prescribe any particular procedure.

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The fundamental right to life has to be understood more extensively and an application of Article 21 to the currently proposed doctrine, only adds to its relative existence and enactment under law. The fundamental right to life which is the most precious human right must, therefore, be interpreted in a broad and expansive spirit to invest it with significance and vitality which may endure for years to come and enhance the dignity of the individual and the worth of the human person. The Article broadens the extent of this right by protecting every limb and faculty through which life is enjoyed. The relative psychological existence of battered women can very well be construed under the application of this article. The extremely diminished psychological existence of a battered woman essentially violates and nullifies the right of enjoyment of this faculty that is integral to human existence. Indian courts have further interpreted this right to enable a person to be protected against torture. Any sort of torture or cruel, inhuman, or degrading treatment would be offensive to human dignity and constitute an inroad into this right to live and it would, on this view, be prohibited by article 21 unless it is by the procedure prescribed by law, but no law which authorizes and no procedure which leads to such torture or cruel, inhuman or degrading treatment can ever stand the test of reasonableness and non-arbitrariness: it would be unconstitutional and void as being violative of article 14 and 21. The current doctrine of self-defense further clarifies the argument that even in cases, where the accused does not wait for the aggressor to cause a grievous injury and acts in self-defense he or she is bound to be acquitted by law. The battered woman, who kills her aggressor when he is not in the course of causing hurt to her, is to be protected by the application of this doctrine that does not necessitate that the individual is attacked in the course of her self-defense. A battered woman is also protected by the law that states the inclusion of injuries received by the accused, circumstances whether the accused had time to have recourse to public authorities as factors that are to be examined and considered on the plea of self-defense.

The proposed defense is not defeated by a strict application of the rule stated above, even if the accused had time to approach public authorities as the accused mostly acts under self-defense in her house which necessitates the use of the castle doctrine. The castle doctrine enables a person to use reasonable force, even deadly force to protect himself or herself in cases of violation of the integrity of the individual or the property of the individual at large. The castle doctrine is the basis for the inclusion of self-defense as a doctrine within common and eventually Indian law that adapted it for its use. The castle doctrine simply enables the individual to use deadly force, when

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within the limits of one's house, even when one can reasonably approach public authorities. Even in cases where there is no defense evidence but from the prosecution evidence itself there is a probability of the accused had acted in self-defense or at least, there is the basis for reasonable suspicion in that direction, that is sufficient to entitle the accused of an acquittal.

The psychological injury can constructively be defined as an extreme and extended (in time) impairment of one's psychological functioning, that invariably diminishes or extinguishes the physical existence of an individual. As stated above, the proposed doctrine rests upon the principle that the existence of life is not to be merely perceived strictly in a manner that gives precedence to physical existence but also to encompass and protect the psychological existence of an individual. In the case of battered women, the psychological meaningfulness and the integrity of the individual is so damaged and diminished that the capacity to function autonomously is completely impaired. The case of *R. v. Ahluwalia* is a landmark, as far as the inclusion of the psychological effects of living in a battering relationship as pleading evidence.

BWS in India

BWS was recognized in 2013 in the case of *Manju Lakra v. State of Assam*¹ by Guwahati High Court for the first time. In this case, Manju, a wife killed her abusive husband after he came home in a drunken state and started beating her. The trial court held her guilty for murder but after appealing, the High Court referred to BWS and considered that in this case, it might seem that the victim is the husband when in reality, it is the wife. The Court referred to the case of *R v. Ahluwalia*² to highlight the admissibility of BWS in other jurisdictions like Australia, USA, and Canada to help to explain the actions of the accused against her husband. The Court considered the fact that the accused had been suppressing her rage for a longer time and anger had been continuously boiling inside her mind, wanting to burst open and that the intolerant behavior of her husband made her spill her anger so started retaliating. The Court considered that the provoked act performed by the accused was not only grave but can be perceived as sudden too. In light of the

¹ 2013 S.C.C. OnLine Gau 207.

² (1993) 96 Cr. App R 133.

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same, the Court reduced her sentence and held that her case would fall under the first exception of Section 300. In *Amutha v. State*³, the Madras High Court held that the provocative conduct of the husband led her wife to kill herself and her daughters by jumping into a well. When the wife unfortunately survived, she was granted anticipatory bail by the Court because the Court recognized the BWS. Then again, in a recent case of *State v. Hari Prashad*⁴, the Delhi High Court convicted the accused husband for his provocation which led the wife to commit suicide. Prof. Ved Kumari argues that battered women who kill in non-confrontational circumstances fail to fulfill the 'heat of the moment' requirement as a defense of provocation.

BWS AS A DEFENSE

- **Provocation:** Prof. Ved Kumari stated that battered women who kill in non-confrontational circumstances fail to fulfill the 'heat of the moment' requirement as a defense of provocation. Exception 1 of section 300 of IPC deals with Sudden and Grave Provocation, which can be amended by adding an explanation "For this exception if an accused is proved to have suffered repeated and prolonged physical as well as psychological abuse, this entire period of abuse may constitute a substantial provocation". Thus, it should be realized that if the law recognizes that a battered woman may commit suicide due to her surrounding circumstances, it should also realize that her surroundings may cause her to kill her batterer too due to her sustained provocation.

- **Private Defense:** Courts have accepted the pleas of self-defense only when the immediacy requirement has been satisfied. However, the courts need to realize that battered women react uniquely at every stage of their violence cycle and most of them end up killing their abusers in non-confrontational situations. The application of BWS needs to be added under section 100 of IPC which deals with situations where the right to private defense can extend to causing death, where the battered woman under certain circumstances has killed the batterer and would need to prove the reasonability behind her actions.

- **Insanity as an excuse for Battered Women:** BWS has been identified as a part of Post Traumatic Stress Disorder. PTSD is a psychological disorder that is developed after exposure to a

³ 2014 S.C.C OnLine Mad 7364.

⁴ CRL. A. 333/2000.

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terrifying event which resulted in grave threatening or physical harm to a person. PTSD is diagnosed in most of the Battered Women due to suffering from repeated physical and psychological violence caused by their abuser. These women may kill their abusers if they get anxious and feel apprehended by them. The court needs to find PTSD as a sufficient severe mental disorder that could lead to insanity and so the woman is not charged for murder under section 302 of IPC.

Conclusion

It can be seen that the law in today's world is patriarchic in nature and Battered Woman Syndrome is a feminist model. This model is however of great importance and should be incorporated in Indian justice as well. Many countries like the US, UK, Australia, etc. have made efforts in understanding this behavior and incorporating it into their legal systems. The Indian Penal Code, 1860 too needs to push aside the conventional, orthodox principles and view BWS as an essential and accommodate it under self-defense w.r.t the psychological basis of battered women for their safety.