
TRAUMA ON TRIAL: ANALYSING BATTERED WOMAN SYNDROME AS A LEGAL DEFENCE

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ABSTRACT

Battered Woman Syndrome (BWS) has emerged as a significant yet contentious legal defence, highlighting the psychological impact of sustained domestic abuse on survivors who retaliate against their aggressors.

This paper examines the intersection of BWS, criminal law, mental health, and human rights, further arguing for legal reforms that accommodate trauma-induced responses within justice systems. Traditional self-defence laws, which require an imminent threat, fail to account for the cumulative nature of abuse, often leading to unjust convictions. Recognizing BWS within standardized legal frameworks, expanding self-defence provisions to acknowledge prolonged trauma, and integrating expert panels in judicial proceedings are crucial steps toward ensuring fair assessments. Furthermore, trauma-informed judicial training, rehabilitative sentencing alternatives, and strengthened protective measures for domestic violence survivors are essential for fostering legal approaches rooted in human rights and equity. By addressing systemic failures and incorporating trauma-sensitive perspectives, legal systems can uphold justice while safeguarding the dignity of individuals subjected to prolonged violence.

The paper utilizes pre-existing research conducted and published within the domains of psychology and law, along with legal precedents, in order to analyse Battered Woman Syndrome as a legal defence.

Keywords: Battered Woman Syndrome, domestic violence, legal defence, criminal justice reform, human rights.

1. INTRODUCTION

"I couldn't escape, couldn't get a divorce. There was family pressure to have a kid. Everyone said if you have a child, maybe he'll change. He'll become a responsible man. He never changed. He just got worse."

These are the harrowing words of Kiranjit Ahluwalia, an Indian woman who made international headlines in 1989 for fatally burning her husband in the UK in what she later argued to be in retaliation to a decade of physical, emotional and sexual abuse. Her case, *R v Ahluwalia*¹, set the precedent to include the mental health of the victims of domestic abuse in the consideration of their culpability during criminal trials, in a bid to possibly reduce their charge from murder to manslaughter.

Battered Woman Syndrome (or BWS) has emerged as a crucial yet controversial legal defence in cases involving women who, after enduring prolonged domestic violence, retaliate against their abusers. This syndrome sheds light on the long-term psychological impact of sustained abuse and how it may influence a survivor's perception of danger and response mechanisms.

Yet, despite its relevance in understanding trauma-induced responses, the legal system often struggles to accommodate such defences within conventional frameworks of culpability and justice.

This essay explores the intersection of BWS with legal reasoning, mental health considerations, and human rights imperatives. The following article is primarily divided into five sections; The first section of the paper is an introductory one, followed by the second section which aims to discuss Battered Woman Syndrome as a legal defence. The third section of the essay features an in-depth analysis of Battered Women Syndrome through the lens of Psychology, while the fourth section aims to suggest some reforms to the existing framework. Lastly, the fifth and the final portion of the paper aims to provide a succinct conclusion to the discussion at hand.

2. BATTERED WOMAN SYNDROME IN THE COURTROOM

R v Ahluwalia is often cited as the landmark case that compelled courts to reconsider the impact of prolonged domestic violence on defendants, particularly women who kill their abusers. The

¹ *R v Ahluwalia* [1992] 4 All ER 889

judgment in Ahluwalia laid the foundation for subsequent rulings, including *R v Humphreys*² and *R v Thornton*³, which further developed the legal understanding of provocation and diminished responsibility in cases involving domestic abuse. This judicial re-evaluation was not confined to British courts but influenced legal discourse in other jurisdictions as well.

The case of *R v Duffy*⁴ had long established that provocation required a "*sudden and temporary loss of control*," a standard that often failed to account for the psychological effects of sustained abuse. Ahluwalia challenged this rigid interpretation, introducing the concept of a "*slow burn*" reaction, where victims of domestic violence may act after prolonged suffering rather than in immediate response to a triggering event.⁵ This shift was crucial in recognizing the cumulative impact of abuse on a defendant's mental state, often tying it to the principle of *Diminished responsibility* within criminal law.

Beyond the UK, similar cases have emerged that reflect the evolving legal treatment of battered women who kill their abusers. In the United States, *Weiland v. State (1999, Florida)*⁶ marked a significant development when the Florida Supreme Court formally recognized battered spouse syndrome as a legitimate defence for individuals who kill their abusers, further shaping legal discourse on domestic violence-related defences.

Despite its significance, BWS as a legal defence is not without criticism. Some scholars argue that it reinforces a victimization narrative, portraying women as psychologically impaired rather than autonomous individuals. Others believe it risks excusing violent behaviour under the guise of psychological distress.⁷ Moreover, concerns about misuse arise — how courts differentiate legitimate trauma-induced responses from fabricated defences remains an ongoing challenge. The intersection of BWS with gendered biases also complicates legal assessments, as societal perceptions of 'reasonable' female behaviour often influence judicial outcomes.

Particularly in India, Battered Woman Syndrome has been usually restricted to as a consequence of domestic violence as opposed to a possible legal defence in itself⁸;

² *R v Humphreys* [1995] 4 All ER 1008

³ *R v Thornton* [1996] 1 WLR 1174

⁴ *R v Duffy* [1949] 1 All ER 932

⁵ *Law for Criminologists: A Practical Guide*, Ursula Smartt 12 (2008).

⁶ *Weiland V. State* 732 US. 2d (1999)

⁷ Critique of the "Battered Woman Syndrome" Model, <https://www.aaets.org/traumatic-stress-library/critique-of-the-battered-woman-syndrome-model>.

⁸ Amruta Venkatachalam, *Bridging Legal Principles and Psychological Realities: Analysing the Battered Woman Syndrome in Indian Jurisprudence*, (2024).

Furthermore, India's high domestic violence rates and deeply ingrained patriarchal norms make the absence of Battered Woman Syndrome as a legal defence a serious oversight. Despite cases like *Malliga vs State by Inspector of Police*⁹ and *Smti Manju Lakra vs The State of Assam*¹⁰, where Courts recognize prolonged abuse in their sentencing of the perpetrators, the Indian Legal Systems largely fails to acknowledge the slow-burn effect where victims act in self-preservation beyond immediate threats. Unlike nations like Canada, the U.S., and the UK, India lacks a structured approach to BWS beyond general sections outlining private defence such as *Section 38 of the Bharatiya Nyaya Sanhita*, leading to arbitrary rulings that often criminalize survivors.¹¹

The continuous tensions surrounding BWS as a defence highlights the tension between acknowledging the psychological effects of abuse and ensuring that legal defences do not inadvertently perpetuate harmful stereotypes or enable unjustified violence. As courts continue to refine their approach, the challenge remains in striking a balance between justice for victims of domestic violence and maintaining the integrity of legal standards.

3. BATTERED WOMEN SYNDROME: A PSYCHOLOGICAL PERSPECTIVE

Battered Women Syndrome (BWS), a term coined by American Psychologist Dr. Lenore Walker¹², describes a pattern of psychological and behavioural symptoms experienced by women who are subjected to consistent and severe domestic, or domestic-adjacent abuse. These women often find themselves stuck in a vicious cycle of terror, manipulation, and violence, with little hopes of escape. It is crucial to recognise that they have to face not only physical violence, but abuse that may manifest in different forms such as emotional or sexual abuse.¹³ Abuse takes the form of strategic play that is beyond flesh and bones; it's about exerting control over the woman's body, manipulating and dominating her every move, isolating her from her loved ones (*often the ones who may be able to offer support*), thus breaking down her sense of self. Tactics like threats, psychological aggression and sexual abuse are regularly employed, often overlapping, making the situation even worse and overwhelming, backing the woman

⁹ *Malliga v. State By Inspector of Police*, (Madras HC 2002).

¹⁰ *Smti Manju Lakra v. The State of Assam* (Guwahati HC 2013).

¹¹ *The Bharatiya Nyaya Sanhita*, 2023, § 38

¹² *Social Work & Family Violence*, Joan McClennen, PhD, Amanda M. Keys, PhD, LCSW, Michele Day, PhD, MSW 184 (2016).

¹³ *Domestic Violence*, United States Department of Justice (May 16, 2019), <https://www.justice.gov/ovw/domestic-violence>.

into a corner of fear and helplessness. The relentless anxiety creates an environment where it's nearly impossible to relax or feel safe.¹⁴

The mind is always racing, and the emotional exhaustion from living in such a heightened state of fear can lead to *learned helplessness*¹⁵, a theory that describes how the woman is lulled into a state of paralysis by constant threat of violence hanging over her, and she relinquishes the possibility of ever escaping. Staying in the relationship, while attempting to fix things is perceived as her '*only option*', and is reinforced by her body by restricting available reactions to the abuse. Her responses start inclining towards ensuring her survival, and escaping the traumatic cycle of abuse takes a backseat. The continuous battering, which seems to have no end in sight, takes a severe toll on the woman's psyche, often mirroring the symptoms of *Post Traumatic Stress Disorder (PTSD)*¹⁶. A heartbreaking coping mechanism that follows is that the victims often start attributing the blame to themselves, wondering if by doing something different, they could have prevented the abuse. This shift in blame conveniently excuses the abuser's actions and is thus, enabled and encouraged by them. The mental dilemma of holding oneself responsible, and somewhat deserving of the abuse adds another layer of complexity and guilt to the victim's decision-making process. Whether imagined, implied, or through direct threats, most women know what consequences lie ahead should they try to leave: escalated violence, potential harm to their children, and in some tragic cases, even death; making it too risky a thing to even contemplate, let alone attempt. Abusers thrive on this fear, tightening their leash on the woman's autonomy. The paralyzing psychological and emotional weight of being in an abusive relationship can simply not be overstated and yet, is often underestimated by onlookers.

The continual distress regarding not only their own, but their children's lives, forces their bodies into survival mode: constant hypervigilance, being excessively cautious to try to avoid triggering another outburst or violent episode. Being constantly on edge leads to significant cognitive changes, altering the woman's ability to make decisions, observe and perceive things, as well as manage her emotions and feelings. Even the moments of peace strike as '*the silence before the storm*', because further acts violence and abuse are imminent. The constant need for

¹⁴ *Recognising domestic abuse*, Womens Aid <https://www.womensaid.org.uk/information-support/what-is-domestic-abuse/recognising-domestic-abuse/>.

¹⁵ Nayla G. Torres Ruiz, *Learned Helplessness and Domestic Violence*, University of Nebraska - Lincoln (2021).

¹⁶ *The Connection Between Domestic Violence and PTSD*, Beaufort Memorial (Nov. 4, 2021), <https://www.bmhsc.org/blog/the-connection-between-domestic-violence-and-ptsd>.

being on the lookout, and rethinking one's every move, so as to not trigger the abuser, leads to the rewiring of the brain to prioritize short-term safety over long-term planning. This makes it hard for the woman to think beyond the immediate moment, leaving no opportunity for escape. As trauma expert Judith Herman writes in her book *Trauma and Recovery*, "The survivor's body becomes the crime scene."¹⁷

The shame and fear of judgement, accompanied by the belief that the abuse is a result of their own shortcomings, also leads many women to hide the abuse from those closest to them. They may feel embarrassed about their situation or fear being judged and thought of as weak for not being able to leave. It is for this reason that many women go to great lengths to cover up any and all warning signs of abuse. Makeup is worn to conceal physical harm like bruises and swollen areas; excuses are made to excuse their partner's behaviour. This tedious exercise becomes too taxing to carry on with, and eventually, the woman simply begins isolating herself and turning down invitations so as to avoid any kind of scrutiny¹⁸.

The series of exploitation develops a fear of bodily harm on the woman, and by perceiving that the next time the attack occurs, she won't be able to defend herself, she finally defends through force, as she sees it as her only opportunity. For her, this act is not of violence or aggression, but of mere self-preservation.¹⁹

Even after the abuser is no longer present and able to harm the victim, relieving her of immediate danger, she is not rid of the pain, guilt and trauma that comes with abuse that prolonged. It becomes a part of her, repetitively plaguing her with intrusive memories: vivid and often uncontrollable flashbacks that seem to transport her back to the moment of trauma. These memories have ambiguous triggers that may consist of everyday smells, words or situations, making it difficult for her to move on, and focus on her new life. These unwanted flashbacks, a hallmark of PTSD, can be so piercing that her mind struggles to differentiate between the past and the present, keeping her trapped in a mental loop of fear and pain. Over time, the emotional impact of these memories can lead to avoidant behaviours, where the woman steers clear of anything that might trigger a flashback, thus binding her and preventing

¹⁷ Judith L Herman, *Trauma And Recovery* (1992).

¹⁸ ISOLATION TACTICS – How victims of Domestic Abuse fall into the trap, (Nov. 24, 2022), <https://www.ncdv.org.uk/isolation-tactics-how-victims-of-domestic-abuse-fall-into-the-trap/>.

¹⁹ Amanda Clough, *Battered Women: Loss of Control and Lost Opportunities*. *Journal of International and Comparative Law*, LJMU Research Online (2016).

her from starting anew and leaving behind the trauma and psychological hold of the abuse.²⁰

4. THE FUTURE AHEAD

To ensure justice aligns with the realities of the devastating impact of domestic violence on the mental health of those suffering it, legal systems must adopt reforms recognizing the psychological complexities of Battered Woman Syndrome. Standardized legal frameworks for trauma-based defences are essential to prevent inconsistent legal outcomes. Courts should establish clear guidelines incorporating expert psychiatric testimony, ensuring mental health evidence is appropriately weighed in legal assessments.

Self-defence laws must evolve to acknowledge the cumulative nature of prolonged abuse. Traditional self-defence requires an immediate threat, disregarding the lived reality of survivors who react based on psychological conditioning rather than singular violent incidents. Expanding legal provisions to accommodate "*slow-burn*" responses would ensure fair legal interpretations rooted in trauma-informed perspectives. Additionally, legal professionals, including judges, attorneys, and law enforcement, must undergo mandatory training on trauma responses. Understanding how prolonged abuse affects cognition, memory, and decision-making would encourage more empathetic assessments.²¹

Integrating expert panels in BWS cases is also essential. Forensic psychologists and domestic violence specialists should provide insights into the defendant's psychological state, ensuring courts base decisions on empirical data rather than stereotypes. Additionally, sentencing alternatives should move beyond conventional punitive measures. Rehabilitation, trauma-informed therapy, and restorative justice frameworks would recognize that survivors need support rather than criminal penalties, shifting the justice system toward dignity rather than retribution.²²

²⁰ *Domestic Violence: A Q & A With Trauma Researcher Maja Bergman*, Columbia University Department of Psychiatry (Oct. 24, 2023), <https://www.columbiapsychiatry.org/news/domestic-violence-q-trauma-researcher-maja-bergman>.

²¹ Sarah Katz & Deeya Halder, *The Pedagogy of Trauma-Informed Lawyering*, 22(2) *Clinical Law Review* 359 (2016), available at https://www.law.nyu.edu/sites/default/files/upload_documents/Katz%20-%20Halder%20Pedagogy%20of%20Trauma-Informed%20Lawyering.pdf (last visited 18 May 2025).

²² Ana M. Nascimento, Joana Andrade & Andreia de Castro Rodrigues, *The Psychological Impact of Restorative Justice Practices on Victims of Crimes—A Systematic Review*, 24(3) *Trauma, Violence & Abuse* 1929 (2023), available at <https://europepmc.org/article/PMC/PMC10240635> (last visited 18 May 2025).

Policy interventions at the governmental level must address systemic failures in protecting survivors. Strengthening protective measures, expanding shelter funding, and investing in early intervention initiatives would prevent survivors from reaching a point where BWS becomes their only defence. Adopting a human rights-based approach ensures that states fulfil their obligations to protect vulnerable individuals from abuse.

These reforms would create a legal framework balancing justice with psychological realities, ensuring survivors invoking BWS defences receive equitable treatment. By recognizing the intersection of law, mental health, and human rights, judicial systems can evolve to better support individuals trapped in cycles of abuse, ensuring that justice is not merely punitive but restorative.

5. CONCLUSION

The usage of Battered Woman Syndrome as a legal defence reflects the deep embroglio between trauma, the mental health of victims of domestic violence, legal reasoning, and human rights. As courts grapple with the complexities of psychological defences, the need for a nuanced legal interpretation, one that comprehensively acknowledges the circumstances of the perpetrator while also taking in account their actions towards the victim, becomes ever more urgent. Recognizing mental health dynamics in criminal law and human rights law is not merely an academic exercise but rather a necessity for delivering justice that is both fair and considerate.

Ultimately, systemic legal reforms and trauma-informed judicial approaches can facilitate the recognition of BWS without undermining individual agency, ensuring survivors are protected and further provided assistance to recuperate their mental and physical health, rather than criminalized for their responses to sustained violence.