

Battered Woman Syndrome

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Battered Woman Syndrome (BWS) is a psychological and sociological construct defined as a set of symptoms that develop as coping skills and/or survival mechanisms for repeated physical, sexual, and/or psychological abuse by an intimate partner (Walker, 2017). Symptom criteria include post-traumatic stress disorder (PTSD) indicators of fear, hypervigilance, avoidance, and intrusive memories of abuse, in addition to disrupted interpersonal relationships, body image distortion and/or physical health complaints, and sexual dysfunction. Although historically BWS was considered a female syndrome, it is now known that both men and women can experience severe victimization by intimate partner violence (IPV; i.e., contact sexual violence, physical violence, and/or stalking) (Smith et al., 2018). Specifically, according to the National Intimate Partner and Sexual Violence Survey which was conducted by the Centers for Disease Control and Prevention (CDC), one in five women and one in seven men will be victims of severe physical violence at the hands of an intimate partner within their lifetime (Breidling et al., 2014). Additionally, IPV occurs in non-heterosexual relationships at equal, or perhaps, even higher rates than in hetero-normative relationships (Rollè, Giardina, Caldarera, Gerino, & Brustia, 2018).). Furthermore, the power and control dynamics within violent relationships occur at multiple levels (individual, dyadic, community, societal) and intersecting identities are associated with various expressions of control and violence within relationships. Finally, IPV in adolescent dating relationships has been related to skill deficits as well as control dynamics

(Niolon et al., 2017), suggesting the need for a developmental and dynamic understanding of the experience of IPV victims (Capaldi & Langhinrichsen-Rohling, 2012).

Therefore, while BWS historically assumed the victim was always female (she/her/hers) and the perpetrator was always male (he/him/his) and the relationship in which the abuse was occurring was heterosexual, more recently, BWS has been referred to with gender-neutral terms, such as Battered Spouse Syndrome or Battered Person Syndrome. Given this, the current chapter will briefly: (i) review the theoretical underpinnings of BWS, (ii) highlight modern criticisms of BWS theory related to victim-blaming, and (iii) discuss Battered Person Syndrome's application as a criminal law defense.

BWS, first described by Lenore Walker in *The Battered Woman* (1979), sought to explain what continues to be one of the most pressing questions in the IPV field – why do women stay in abusive relationships? Prior to BWS theory, a popular myth was that battered women are “masochistic” or even that they chose to precipitate their partner's abuse in order to make an uncertain and dangerous situation more predictable. Instead, Walker (1979) asserted that very few battered women are masochistic. Instead, according to Walker, two important psychosocial components keep battered women in violent relationships: Learned Helplessness and the Cycle of Violence. First, Walker (1979) utilized Seligman's (1975) Theory of Learned Helplessness to explain why women remain in violent relationships. Seligman's landmark study demonstrated that laboratory animals repeatedly exposed to noncontingent shocks will eventually stop trying to escape; filled with hopelessness, the animal ultimately responds with passivity (i.e., learned helplessness), even when escape is readily recognizable by others who have not experienced the same situation (i.e., the noncontingent shocks have stopped or there is a readily available escape route). Correspondingly, according to Seligman's theory, abused women stay in violent

relationships because the perpetrator has destroyed their sense of self-efficacy, hopefulness, and ability to recognize and utilize escape routes.

Second, according to BWS, the cyclical nature of IPV tends to prevent women from leaving violent relationships. Walker's Cycle of Violence Theory articulates three distinct phases of abuse. Of note, BWS is rooted in the assertion that the perpetrator is male and in a position of power and the relationship is heterosexual, so the following phase descriptions assume the victim is female. In Phase 1, the tension-building phase, the perpetrator initially controls the victim through repeated criticism, excessive irritability, and an inability to be pleased. During this phase, the victim tends to deny her own anger, assume guilt for their misdeeds/perceived transgressions, and attempt to please the batterer. Cognitively, she may rationalize the abuse by telling herself that she has control (e.g., "If I am a better partner, he will not hurt me"). In spite of her dependent nature, desire to accommodate, and growing fear, his non-contingent and unpredictable irritation and tension mounts until he punishes her for a perceived transgression with excessive violence. The hallmark of Phase 2 is an unpredictable, explosive release of Phase 1 tensions precipitated by the abuser's internal or external triggers. However, the abuser often blames the victim for the violence (e.g., "You really know how to push my buttons"), contributing to her feelings of helplessness and responsibility. According to theory, after this acute battering incident, Phase 3 begins. The abuser is then ashamed of his behavior and engages in high levels of romantic repair and remorse-related behavior, displays increased vulnerability (e.g., "I cannot live without you"), and promises to change. Theoretically, the victim temporarily experiences renewed hope and feelings of love, pity, lack of power/agency, and guilt, all of which serve to keep her in the abusive relationship. However, if the abuser fails to seek help and/or take responsibility for his actions, tension builds, and the cycle of violence continues.

During the 1970's feminist political movement (i.e., "The Battered Women's Movement"), BWS theory was instrumental in calling attention to the repetitive nature of IPV, the common control tactics used by men, and the psychological and social reasons for a staying with an abusive partner. However, several concerns and critiques of BWS theory have been advanced. First, BWS assumes the presence of unidirectional control and violence and a gender-stereotypical view of IPV (i.e., male perpetrator, female victim). Evidence suggests, however, that IPV is often bidirectional in nature (Langhinrichsen-Rohling, Misra, Selwyn, & Rohling, 2012; Mennicke & Wilke, 2015), and incidence rates are equal or greater than those observed in heterosexual relationships (Rollè et al., 2018). Second, and more essential, terming BWS a "syndrome" pathologizes the victim and takes focus away from addressing contextual factors, such as inadequate financial or social resources, and structural inequalities that both contribute to IPV and to victims staying in dangerous relationships. Moreover, for legal reasons, if someone is pathologized or labeled with a syndrome, the argument of "reasonable" is negated. Third, although BWS sought to reduce IPV victim-blaming by highlighting factors that prevent a victim from leaving a violent relationship, critics suggest Walker's Cycle of Violence Theory increased victim-blaming by insinuating that IPV follows a cycle, and thus, is predictable and controllable. It also asserts that the perpetrator can be provoked by "external triggers", which again suggests that the victims can help prevent the violence. Relatedly, BWS is often blamed for keeping alive the question "Why do women stay?" which continues to rest responsibility for an ongoing abusive relationship on the victim, who may also be constrained by children, economics, optimism, and even, feelings of love, care, or concern for their partner (Langhinrichsen-Rohling, Schlee, Monson, Ehrensaft, & Heyman, 1998).

In the 1980s and 1990s, Battered Person Syndrome received increased attention due to its use as a criminal law defense. Several benchmark cases sought to make expert testimony on Battered Person Syndrome admissible in homicide cases (see *Hawthorne v. State of Florida*, 1985; *New Jersey v. Kelly*, 1984). Because some (albeit few) victims resort to lethal force to prevent imminent additional physical abuse, their homicide motive is often considered self-defense (Wilson & Daly, 1988), although Battered Person Syndrome has also been considered for application under insanity and provocation legal doctrines. In addition, *United States v. Brown* (1995) found that Battered Person Syndrome meets criteria for the Daubert standard (*Daubert v. Merrell Dow Pharmaceuticals*, 1993), allowing clinical psychologists and other mental health professionals to provide expert witness testimony on the impact of repeated and prolonged abuse on a defendant's psychological functioning. Only through expert testimony would the average jury member know that actions taken or force used by a "reasonable battered person" (i.e., a reasonable person in the abused individual's circumstances) may look different than those used by "reasonable person" (See Melton et al., 2018).

Battered Person Syndrome as a legal defense remains relevant to-date. In a study of published federal and state case law from 1994-2016, terms related to expert witness testimony on IPV and its effects were searched; the search returned 171 cases with a female defendant compared to 35 cases with a male defendant. The Battered Person Syndrome defense has been used successfully in a number of high-profile cases to acquit women in violent relationships of murdering their abuser (*Sheehan v. City of New York*, 2008). Men have had a much more difficult time asserting the Battered Persons Syndrome defense successfully (*Mobley v. State*, 1998), perhaps suggesting it is still considered a "woman's condition" and highlighting the persistence of the belief that IPV is unidirectional and male-perpetrated. Of note, expert witness

testimony on the impact of IPV has been used at least once in all states and federal jurisdictions (Pezzell, 2018). Moreover, the National Clearinghouse for the Defense of Battered Women, an Office on Violence Against Women-funded initiative, provides free assistance and resources for individuals who have been charged with, convicted of, and/or incarcerated for various crimes and have an IPV history relevant to their defense.

References

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- Walker, L.E. (2017). *The Battered Woman Syndrome* (4th ed.). Springer Publishing Company.

Further Reading:

- Terrance, C., Plumm, K., & Rhyner, K. (2012). Expert testimony in cases involving battered women who kill: Going beyond the Battered Woman Syndrome. *North Dakota Law Review*, 88, 921-955.