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The Battered Women Syndrome: A Comparative Analysis of Psychological Evidence and Criminal Responsibility in the United States, United Kingdom, and India

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Abstract

Criminal law's traditional categories of intent, reasonableness, and culpability are increasingly strained by the psychological realities of domestic abuse. This paper examines that tension through a comparative analysis of the treatment of Battered Woman Syndrome (BWS) in the United States, the United Kingdom, and India. Using State v. Mott as a conceptual anchor, it highlights how the exclusion of psychological evidence to negate mens rea exposes a deeper conflict between doctrinal certainty and trauma-informed understanding. The study contrasts the United States' fragmented jurisprudence, the United Kingdom's decisive legislative reform through the Coroners and Justice Act 2009, and India's creative adaptation of BWS within its colonial penal framework, including culturally rooted constructs like "Nallathangal Syndrome." These divergent paths reveal an unresolved question: can criminal responsibility remain coherent without integrating contemporary trauma science? The paper concludes by advocating a shift toward "evidence of battering and its effects" and targeted judicial education.

Keywords - Battered Woman Syndrome (BWS), learned helplessness, Nallathangal Syndrome, Post-Traumatic Stress Disorder (PTSD), cycle of violence

I. INTRODUCTION

This paper provides a comparative analysis of the admissibility and legal effect of evidence of Battered Woman Syndrome (BWS) within the criminal justice systems of the United States, the United Kingdom, and India. It examines the complex interplay between modern psychological theory and traditional doctrines of criminal law, using the landmark case of *State of Arizona v. Shally Kay Mott*[118] as a central point of analysis. The paper establishes the psychological foundations of BWS, rooted in Dr. Lenore E. Walker's foundational research on the *"cycle of violence"* and *"learned helplessness."* It also aims to understand the evolution of the concept with a more nuanced trauma-based framework, often referred to as "battering and its effects."

The analysis of *State v. Mott*[119] reveals a rigid jurisdictional approach, where the Arizona Supreme Court constructed a doctrinal firewall against the use of psychological evidence to negate criminal intent *(mens rea),* holding that such evidence was an impermissible "diminished

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[118] State v. Mott, 187 Ariz. 536, 931 P.2d 1046 (1997).

[119] State v. Mott, 187 Ariz. 536, 931 P.2d 1046 (1997).

capacity" defence and channelling all mental health claims toward the narrow confines of the M'Naghten insanity test. This decision had far-reaching consequences, ultimately shaping United States constitutional law in *Clark v. Arizona*[120].

In contrast, this paper details the divergent legal pathways in other jurisdictions. The United States presents a fractured landscape, where cases like *State v. Kelly*[121] permit BWS evidence to explain the subjective reasonableness of a defendant's fear in self-defence claims, while cases like *State v. Norman*[122] demonstrate how the strict "imminence" requirement can still render the defence unavailable. The United Kingdom's journey, catalysed by the landmark case of *R v. Ahluwalia*[123], illustrates a transition from judicial adaptation to comprehensive legislative reform. The inadequacies of the common law provocation defence, particularly its "sudden and temporary" loss of control requirement, led directly to the enactment of *The Coroners and Justice Act 2009*[124], which created a modern "loss of control" defence more attuned to the realities of cumulative abuse. India's jurisprudence, while nascent, shows a pattern of judicial innovation, with courts in cases like *Manju Lakra v. State of Assam*[125] creatively interpreting colonial-era penal code provisions and developing culturally specific analogues like "Nallathangal Syndrome" to recognize the psychological impact of battering.

The paper further explores the fundamental challenges BWS poses to core principles of criminal responsibility, including the objective standards for mens rea and self-defence. It engages with critical feminist scholarship, which cautions against the risks of stereotyping and pathologising women through the BWS label, particularly its failure to account for intersectional factors of race and class. The paper concludes by synthesising these findings and offering a series of recommendations for legislative and judicial reform. These include reconsidering absolute bars on evidence negating *mens rea and* adopting legislative models that abolish the "suddenness" requirement in self-defence. This transition is towards the more accurate terminology of "battering and its effects," and implementing mandatory judicial education on the dynamics of coercive control. The analysis underscores a global legal struggle to reconcile entrenched legal doctrines with a sophisticated understanding of psychological trauma, advocating for a future where legal frameworks are flexible enough to deliver justice to all victims of domestic abuse.

II. BATTERED WOMAN SYNDROME

To comprehend the legal controversies surrounding the admissibility of evidence related to domestic abuse, it is imperative to first understand the psychological framework that underpins it. The concept of Battered Woman Syndrome (BWS) emerges as an answer to the question that "Why doesn't the Battered Woman just leave the batterer?"[126] The answer, as formulated by Dr. Lenore E. Walker and subsequently refined by decades of clinical research, lies in a complex interplay of cyclical abuse and profound psychological adaptation to trauma. This section will

[120] Clark v. Arizona, 548 U.S. 735 (2006).
[121] State v. Kelly, 97 N.J. 178, 478 A.2d 364 (1984).
[122] State v. Norman, 324 N.C. 253, 378 S.E.2d 8 (1989).
[123] R v. Ahluwalia, [1992] 4 All E.R. 889 (C.A.).
[124] Coroners and Justice Act 2009, c. 25 (UK).
[125] Manju Lakra v. State of Assam, (2013) 14 SCC 643.
[126] Lenore E. Walker, Psychological Impact of Battering on Women and Children, 132 Am. J. Psychiatry 1234, 1235 (1975).

detail the foundational theories of BWS and trace their evolution into the modern, trauma-informed understanding used in courtrooms today.

In the late 1970s, psychologist Dr. Lenore E. Walker research provided the first systematic psychological model for understanding the experiences of women in abusive relationships. Her work, which culminated in the formulation of Battered Woman Syndrome, rested on two interconnected theoretical pillars: the cycle theory of violence and the concept of learned helplessness.[127] By strategically framing these psychological effects as a "syndrome," proponents endowed them with the scientific credibility needed for legal admissibility as per Frye test.[128] This maneuver opened the door for such evidence in court, despite the concept later facing significant criticism.

Walker's research identified a distinct, repeating pattern in abusive relationships, which she termed the "cycle of violence." This cycle provides a critical framework for explaining the dynamics of the relationship and why a battered person's actions may not align with a juror's lay assumptions about rational behaviour. The theory posits that the violence is not constant but occurs in three predictable phases, which vary in duration and intensity over time.[129]

The first phase is the "tension-building" phase. This period is characterised by a gradual escalation of stress and conflict. The abuser may engage in minor acts of aggression, such as verbal abuse, name-calling, and psychological manipulation, while the victim often attempts to placate the batterer to prevent an explosion. The victim may feel as though she is "walking on eggshells," constantly trying to anticipate and manage the abuser's mood. This phase can last for weeks, months, or even years.[130]

The second phase is the "acute battering incident." This is the explosive and violent eruption where the tension built in the first phase is uncontrollably discharged. The abuse is at its most severe during this stage and can involve serious physical and sexual violence, often resulting in significant injury. This is the shortest but most dangerous phase of the cycle.[131]

The third phase is the "loving contrition" or "honeymoon" phase. Following the acute incident, the abuser often becomes remorseful, apologetic, and affectionate. He may promise to change, seek help, and swear that the violence will never happen again. This behaviour provides positive reinforcement for the victim, giving her hope that the relationship can be salvaged and that the abusive behaviour was an aberration rather than the norm. This phase is critical in explaining why a woman remains in the relationship; it creates a powerful traumatic bond and reinforces her decision to stay.[132]

According to Walker's theory, this cycle repeats itself, often with the "honeymoon" phase shortening or disappearing entirely over time, while the frequency and severity of the violence in the first two phases escalate.[133] Understanding this cyclical pattern is essential for legal contexts, as it helps explain the cumulative nature of the trauma and the victim's perception of ever-present danger, even during periods of relative calm.

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[127] Lenore E. Walker, The Battered Woman 55–62 (Harper & Row 1979).
[128] Lenore E. Walker, Battered Women Syndrome and Self-Defense, 6 Notre Dame J.L. Ethics & Pub. Pol'y 321, 324–26 (1992).
[129] Lenore E. Walker, The Battered Woman 55–62 (Harper & Row 1979).
[130] Lenore E. Walker, The Battered Woman 55–58 (Harper & Row 1979).
[131] Lenore E. Walker, The Battered Woman 58–60 (Harper & Row 1979).
[132] Lenore E. Walker, The Battered Woman 60–62 (Harper & Row 1979).
[133] Lenore E. Walker, The Battered Woman 61–65 (Harper & Row 1979).

While the cycle of violence explains the dynamics of the abusive relationship, it does not fully account for the psychological paralysis that often prevents a victim from leaving. To explain this, Walker applied the psychological theory of "learned helplessness," first developed by Martin Seligman. Seligman's original experiments in the 1960s involved laboratory dogs that were subjected to repeated, inescapable electric shocks.[134] He observed that after learning they had no control over the shocks, the dogs would not attempt to escape in subsequent situations, even when an escape route was made available. They had learned that their actions were futile and had passively accepted their fate.[135]

Walker posited that women in battering relationships experience a similar phenomenon. The uncontrollable and unpredictable nature of the cyclical violence teaches the victim that she cannot control the abuse, regardless of her actions.[136] Over time, this repeated trauma can erode her self-esteem and her belief in her own efficacy, leading to a state of psychological paralysis where she loses the ability to perceive or act upon opportunities for escape.[137] This state is characterized by hopelessness, depression, and a passive acceptance of her situation.[138] The concept of learned helplessness was instrumental in gaining legal acceptance for BWS, as it provided a scientifically grounded explanation for behaviour that jurors often found counterintuitive. Courts, such as in the landmark case of *State v. Kelly*[139], embraced this theory to explain "why, in the context of the battering syndrome, a battered woman might not leave her mate".

The theory of learned helplessness has a profound effect on legal doctrine because it directly challenges the objective "reasonable person" standard that is central to defences like self-defence. The law traditionally asks what an ordinary, reasonable person would have done in the defendant's situation. However, the theory of learned helplessness posits that a person subjected to prolonged, inescapable trauma is, in that specific context, psychologically different from an ordinary person. Their perception of danger, their assessment of available options, and their ability to act are fundamentally altered by the trauma they have endured. Therefore, to admit expert testimony on learned helplessness is to implicitly argue that the "reasonableness" of the defendant's actions cannot be judged by a purely objective standard. Instead, it compels the legal system to consider a more subjective standard, one that evaluates reasonableness from the unique, trauma-informed perspective of the defendant. This creates a diversion from the traditional legal doctrines to evolve and become more accommodating of psychological realities.

Since Walker's initial research, the psychological understanding of domestic violence has evolved significantly. While the core concepts of the cycle of violence and learned helplessness remain influential, the field has moved toward a more nuanced, trauma-based framework that situates BWS within broader diagnostic categories and acknowledges the limitations of the original models.

In contemporary clinical psychology, Battered Woman Syndrome is not considered a formal, standalone mental disorder listed in the Diagnostic and Statistical Manual of Mental Disorders

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[134] Martin E. Seligman & Steven F. Maier, Failure to Escape Traumatic Shock, 74 J. Experimental Psychol. 1, 2–4 (1967).
[135] Martin E. Seligman, Learned Helplessness, 23 Ann. Rev. Med. 407, 409–11 (1972).
[136] Lenore E. Walker, The Battered Woman 65–70 (Harper & Row 1979).
[137] Martin E. Seligman, Learned Helplessness, 23 Ann. Rev. Med. 407, 411–13 (1972).
[138] Martin E. Seligman, Learned Helplessness, 23 Ann. Rev. Med. 407, 412–13 (1972).
[139] State v. Kelly, 97 N.J. 178, 478 A.2d 364, 371–72 (1984).

(DSM). Instead, it is widely understood by experts to be a specific sub-category or manifestation of Post-Traumatic Stress Disorder (PTSD).[140] The constant state of fear, the experience of severe physical and psychological violence, and the feeling of powerlessness are all potent trauma-inducing factors.[141] The symptoms associated with BWS such as anxiety, depression, intrusive memories, emotional numbness, and a heightened sense of threat are consistent with the diagnostic criteria for PTSD.[142]

Framing BWS as a form of PTSD is legally significant. It reframes the victim's experience not as a unique or peculiar "syndrome" but as a recognised and well-documented trauma response, analogous to the psychological injuries suffered by combat veterans or survivors of torture. This provides a stronger scientific foundation for expert testimony and helps to destigmatise the victim's psychological state in the eyes of a jury.

While Walker's work was revolutionary, it has also been the subject of scholarly critique, leading to an evolution in the understanding of domestic abuse. One major criticism of the original "cycle of violence" model is that it was based on a small, unrepresentative sample of women and may not apply to all abusive relationships.[143] Many survivors report experiencing chronic, constant tension and fear without any discernible "honeymoon" phase, especially as the abuse continues over time.[144] This has led to the development of alternative conceptual models, such as the "Power and Control Wheel" developed by the Domestic Abuse Intervention Project.[145] This model focuses less on a predictable cycle and more on the various tactics such as intimidation, emotional abuse, isolation, and economic abuse that a batterer uses to maintain power and control over their victim.[146] Similarly, Dr. Evan Stark's theory of "coercive control" conceptualises domestic abuse not as a series of discrete violent incidents but as an ongoing strategy of "terrorism" that invades every aspect of a victim's life, depriving her of liberty and autonomy.[147]

Furthermore, the term "syndrome" itself has come under fire. Critics argue that it implies a medical malady or a psychological impairment, which can be stigmatising and may inadvertently pathologize what are often rational survival strategies.[148] It can also create a rigid stereotype of a battered woman as uniformly passive and helpless, which may not fit the reality of many women who actively resist their abusers or do not exhibit all the classic symptoms.[149] In recognition of these limitations, many experts, as well as government bodies like the U.S. Department of Justice, now advocate for the use of broader, more inclusive terminology. Instead of "Battered Woman Syndrome," they recommend referring to the expert testimony as "evidence concerning battering and its effects". This shift in language is intended to more accurately reflect

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[140] AM. PSYCHIATRIC ASS'N, DIAGNOSTIC AND STATISTICAL MANUAL OF MENTAL DISORDERS 271–72 (5TH ED. 2013).
[141] AM. PSYCHIATRIC ASS'N, DIAGNOSTIC AND STATISTICAL MANUAL OF MENTAL DISORDERS 271 (5TH ED. 2013).
[142] AM. PSYCHIATRIC ASS'N, DIAGNOSTIC AND STATISTICAL MANUAL OF DISORDERS 272–76 (5TH ED. 2013).
[143] R. Emerson Dobash & Russell Dobash, Women, Violence and Social Change 84–87 (Routledge 1992).
[144] Mary P. Koss et al., No Safe Haven: Male Violence Against Women at Home, at Work, and in the Community 44–47 (APA 1994).
[145] Domestic Abuse Intervention Project, The Power and Control Wheel (Duluth, Minn. 1984).
[146] Domestic Abuse Intervention Project, Understanding the Power and Control Wheel 1–3 (1984).
[147] Evan Stark, Coercive Control: How Men Entrap Women in Personal Life 198–205 (Oxford Univ. Press 2007).
[148] Martha R. Mahoney, Legal Images of Battered Women: Redefining the Issue of Separation, 90 Mich. L. Rev. 1, 5–7 (1991).
[149] Lisa A. Goodman & Deborah Epstein, Listening to Battered Women: A Survivor-Centered Approach to Advocacy, Mental Health, and Justice 18–22 (Am. Psychol. Ass'n 2008).

the diverse range of psychological and behavioural responses to abuse and to avoid forcing a defendant's experience into a one-size-fits-all diagnostic box.

III. CASE OF STATE v. SHALLY KAY MOTT

The 1997 decision of the Arizona Supreme Court in *State v. Mott*[150] stands as a crucial and restrictive landmark in the jurisprudence of Battered Woman Syndrome. Unlike courts that have gradually opened the door to psychological evidence to contextualise a defendant's actions, the *Mott* court decisively closed it, holding that BWS testimony could not be used to negate the essential element of criminal intent, or *mens rea*. The case serves as a powerful illustration of a legal system prioritising rigid doctrinal categories over nuanced psychological inquiry, a decision with profound implications for defendants with mental health conditions in Arizona and beyond.

a) Factual Matrix and Procedural History

On January 1, 1991, Shelly Kay Mott left her two young children in the care of her boyfriend, Vincent Near. Upon her return, she found Near fanning her two-year-old daughter, Sheena, who he claimed had fallen off the toilet and hit her head. A former paramedic who visited the home advised them to take the child to the hospital, but Near refused. The next morning, Mott found Sheena unresponsive and sought help from a friend, who called 911. At the hospital, Sheena was diagnosed with cardiopulmonary arrest resulting from extreme, non-accidental trauma, including a massive brain hemorrhage. She died nine days later.

Mott was subsequently convicted of two counts of child abuse and first-degree felony murder. The charges were based not on her having inflicted the injuries, but on her failure to protect Sheena from Near and her failure to seek timely medical care. At trial, her defence sought to introduce expert testimony from Dr. Cheryl Karp, a clinical psychologist. Dr. Karp had concluded that Mott was a battered woman who suffered from BWS. The purpose of this testimony was to argue that Mott's psychological state characterised by learned helplessness, a traumatic bond to her abuser, and an inability to accurately perceive danger, which rendered her incapable of forming the requisite *mens rea* for the crimes. Specifically, the defence contended that because of BWS, she did not "knowingly" or "intentionally" permit the abuse or fail to seek medical assistance.

The trial court precluded Dr. Karp's testimony, ruling that it was an attempt to establish a diminished capacity defence, which is not recognised in Arizona. Mott was sentenced to a total of 47 years in prison. She appealed, and the Arizona Court of Appeals reversed the conviction. Relying on prior state precedents, the appellate court held that the BWS evidence was admissible and essential for the jury to determine whether Mott possessed the necessary mental state, and that its preclusion violated her due process rights. The State of Arizona then appealed this reversal to the state's highest court.

b) The Majority Opinion

In a 4:1 decision, the Arizona Supreme Court vacated the Court of Appeals' opinion and reinstated Mott's conviction. The majority opinion, authored by Justice Philip Toci, framed the issue not as a question of the validity of BWS, but as a rejection of the legal theory of diminished

[150] State v. Mott, 187 Ariz. 536, 931 P.2d 1046, 1050–52 (1997).

capacity. The court's ruling was not merely a narrow decision on the facts of the case; it was a deliberate and forceful effort to construct a doctrinal firewall against the perceived encroachment of psychological evidence into the fundamental legal determination of *mens rea*. The court's choice to go beyond the immediate issue and explicitly overrule a prior case, *State v. Gonzales*[151], which had permitted such evidence, signals a conscious policy decision to prioritise legal certainty and a traditional view of culpability over psychological nuance.

The court held that Mott's attempt to use BWS testimony to show she was unable to form the requisite intent was, in substance, a diminished capacity defence.[152] The majority defined diminished capacity as the use of expert psychiatric evidence to negate *mens rea*, an affirmative defence that seeks to excuse or mitigate a defendant's moral culpability due to psychological impairment.[153] The court stated unequivocally that Arizona law does not recognise any mental disease or defect, short of legal insanity, as a defence to a crime.[154]

Justice Toci's reasoning articulated a starkly objective view of criminal intent. He argued that *mens rea* is generally satisfied by any showing of "purposeful activity, regardless of its psychological origin".[155] In the court's view, even individuals with severe psychiatric illnesses are capable of forming intentions, and the existence of such an intention is all that the law requires to establish the mental element of a crime.[156] Dr. Karp's testimony, which suggested that Mott's abusive history and limited intelligence made her incapable of forming specific intent, was deemed a "not a legally accepted theory of lack of mens rea".

In centre of the majority's reasoning was its deference to the state legislature. The court noted that the Arizona legislature had been presented with the opportunity to adopt the defence of diminished capacity when it revised the criminal code but had declined to do so.[157] The court asserted that it lacked the authority to judicially create a defence that the legislature had rejected.

Consequently, the court reaffirmed its strict and exclusive adherence to the M'Naghten test as the sole standard for legal insanity in Arizona.[158] Under this narrow test, a defendant is considered legally insane only if, at the time of the offence, they were suffering from a mental disease or defect of such severity that they did not know the nature and quality of their act or did not know that what they were doing was wrong.[159] The court declared that it had consistently rejected theories of diminished responsibility that would allow evidence of mental conditions inconsistent with the M'Naghten test.[160] By channelling all claims of psychological impairment through the narrow gate of the insanity defence, the court effectively barred the use of BWS evidence for any purpose other than proving legal insanity.

c) The Dissenting View

[151] State v. Gonzales, 140 Ariz. 349, 681 P.2d 1368, 1370–72 (Ct. App. 1984), overruled by State v. Mott, 187 Ariz. 536, 931 P.2d 1046 (1997).
[152] State v. Mott, 187 Ariz. 536, 931 P.2d 1046, 1050 (1997).
[153] Mott, 187 Ariz. at 1050.
[154] Mott, 187 Ariz. at 1050–51.
[155] Mott, 187 Ariz. at 1051.
[156] Mott, 187 Ariz. at 1051–52.
[157] Mott, 187 Ariz. at 1051.
[158] Mott, 187 Ariz. at 1051.
[159] Mott, 187 Ariz. at 1051-52.
[160] Mott, 187 Ariz. at 1051–52.

Justice Stanley Feldman authored a powerful dissent, reframing the core issue of the case. In his view, the majority had mischaracterised the defence's argument. The real issue was not the judicial creation of a new "diminished capacity" defence, but rather the fundamental due process right of a criminal defendant to present competent, relevant evidence to negate an essential element of the crime charged.

He reasoned that the Arizona legislature itself had defined the crime of child abuse to require a specific *mens rea* that the defendant acted "knowingly" or "intentionally."[161] Therefore, the defendant had a constitutional right to present evidence directly rebutting that element.[162] Dr. Karp's proposed testimony was not intended to excuse the crime, but to provide the jury with a psychological context to determine whether Mott actually possessed the requisite mental state. The testimony would have explained how the characteristics of BWS such as "learned helplessness," the formation of a "traumatic bond" that fosters a desire to protect the batterer, and a trauma-induced inability to accurately perceive danger to oneself or others could have directly impacted Mott's ability to "knowingly" allow her child to be harmed or to "intentionally" fail to seek help.

The dissent sharply criticised the majority's rigid and formalistic approach. By precluding the BWS testimony, the court denied the defendant the opportunity to have the jury consider evidence that was directly relevant to the different degrees of culpability defined by the legislature. The jury was left to decide whether Mott acted knowingly, intentionally, recklessly, or with criminal negligence without the benefit of expert testimony that could have illuminated her state of mind. Justice Feldman concluded that the majority's opinion left "no room to explore a defendant's state of mind short of M'Naghten insanity," effectively gutting the *mens rea* requirements of the criminal statutes and violating the defendant's right to present a meaningful defence.[163]

The restrictive stance solidified in *Mott*[164] had significant consequences that rippled far beyond this specific case, eventually influencing the development of United States constitutional law. The "Mott rule" that the principle that evidence of a mental disorder is admissible only to support an insanity defence and cannot be used to directly negate *mens rea*, was later challenged before the U.S. Supreme Court in *Clark v. Arizona*[165]. In *Clark*, a defendant with paranoid schizophrenia sought to introduce psychiatric evidence to show he lacked the specific intent to kill a police officer. The Supreme Court, in a decision that deferred significantly to state procedural rules, upheld Arizona's restrictive evidentiary channel. The Court found that a state does not violate due process by choosing to limit the consideration of such psychological evidence to the insanity defence alone.[166] Thus, the *Mott* decision, which was centred on the admissibility of Battered Woman Syndrome, became the state-level precedent that ultimately provided the foundation for a U.S. Supreme Court ruling that affirmed the power of states to severely restrict the use of all forms of mental health evidence on the question of criminal intent.

[161] Ariz. Rev. Stat. § 13-3623(A) (1997).
[162] State v. Mott, 187 Ariz. 536, 931 P.2d 1046, 1056–57 (1997) (Feldman, J., dissenting).
[163] Mott, 187 Ariz. at 1057 (Feldman, J., dissenting).
[164] Mott, 187 Ariz. at 1050–52.
[165] Clark v. Arizona, 548 U.S. 735, 747–48 (2006).
[166] Clark, 548 U.S. at 770–72.

IV. THE ADMISSIBILITY OF BWS ACROSS JURISDICTIONS OF USA, UK AND INDIA

Legal systems across the common law world have grappled with the fundamental tension between traditional legal categories and modern psychological understanding, often arriving at vastly different conclusions. This section provides a comparative analysis of the legal treatment of BWS in the United States, the United Kingdom, and India, revealing a spectrum of approaches ranging from fractured judicial adaptation to comprehensive legislative reform. This comparison highlights a crucial dynamic in legal evolution of a legal system's capacity to absorb new scientific knowledge is deeply intertwined with its institutional preference for either piecemeal judicial change or holistic legislative action.

a) The United States

The American legal system, with its federal structure and fifty separate state jurisdictions, has not produced a uniform approach to BWS. Instead, it offers a fractured landscape of conflicting precedents and varying standards of admissibility. While the *Mott*[167] decision exemplifies a restrictive approach, the dominant trend in the U.S. has been to admit BWS evidence, but primarily within the narrow confines of the self-defence doctrine, which carries its own significant limitations.

The New Jersey Supreme Court's 1984 decision in *State v. Kelly*[168] became the foundational case for the admissibility of BWS evidence in the United States. Gladys Kelly was charged with murdering her husband, whom she stabbed with a pair of scissors during a public altercation that followed years of severe abuse. At trial, she claimed self-defence, and her counsel sought to introduce expert testimony on BWS to explain her state of mind. The trial court excluded the testimony as irrelevant.[169]

The New Jersey Supreme Court reversed, holding that the expert testimony was not only admissible but essential for the jury to fairly evaluate her self-defence claim.[170] The court recognised that the average juror holds numerous misconceptions about battered women, particularly the belief that a woman who does not leave an abusive relationship must be masochistic or is otherwise not a true victim.[171] The BWS testimony was deemed crucial for two purposes; first, to explain why Kelly, despite the abuse, had not left her husband, thereby bolstering her credibility; and second, and more importantly, to help the jury understand why she "honestly and reasonably" believed that she was in imminent danger of death or serious bodily harm at the moment she used deadly force.[172] The *Kelly*[173] decision established the primary pathway for the use of BWS in American courts, not as a standalone defence or a tool to negate mens rea, but as vital contextual evidence to support the subjective and objective elements of a traditional self-defence claim.

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[167] State v. Mott, 187 Ariz. 536, 931 P.2d 1046 (1997).
[168] State v. Kelly, 97 N.J. 178, 478 A.2d 364 (1984).
[169] Kelly, 97 N.J. at 184, 478 A.2d at 367.
[170] Kelly, 97 N.J. at 205–06, 478 A.2d at 377–78.
[171] Kelly, 97 N.J. at 193–95, 478 A.2d at 372–73.
[172] Kelly, 97 N.J. at 206–10, 478 A.2d at 378–80.
[173] State v. Kelly, 97 N.J. 178, 478 A.2d 364 (1984).

While *Kelly*[174] opened the door for BWS evidence, the 1989 case of *State v. Norman*[175] from the North Carolina Supreme Court starkly illustrated the limitations of the self-defence framework. Judy Norman had endured decades of horrific abuse at the hands of her alcoholic husband, which a defence psychologist characterised as "torture, degradation, and reduction to an animal level of existence". The abuse included constant beatings, forced prostitution, and extreme humiliation, such as being made to eat pet food from a bowl. After a particularly brutal 36-hour period of abuse, and fearing for her life, Norman shot and killed her husband while he slept.[176]

Despite the overwhelming and uncontroverted evidence of extreme, prolonged abuse and Norman's genuine subjective fear, the court ruled that she was not entitled to a jury instruction on self-defence. The court adhered rigidly to the traditional common law requirement that for the use of deadly force to be justified, the threat of death or great bodily harm must be "imminent". Because her husband was asleep at the moment she killed him, he did not pose an immediate physical threat. The court stated that the law does not permit "homicidal self-help" and that a defendant cannot use deadly force to repel a "speculative future assault".[177] The dissenting justice argued that the jury should have been allowed to consider the evidence from the defendant's perspective, given the history of abuse and the expert testimony on BWS.[178] *Norman* thus created a legal paradox that BWS evidence is admissible to explain a defendant's subjective belief in the necessity of her actions, but the objective legal requirement of "imminence" may still bar the defence entirely, particularly in the common non-confrontational scenarios in which battered women kill their abusers.

The admissibility of BWS testimony is further complicated by the evidentiary standards governing scientific evidence. For many years, most courts followed the standard set in *Frye v. United States*[179], which required that a scientific theory be "generally accepted" within its relevant scientific community to be admissible.[180] BWS testimony was typically found to meet this standard due to the growing body of clinical research and literature.

In 1993, the U.S. Supreme Court in *Daubert v. Merrell Dow Pharmaceuticals, Inc.*[181] replaced the Frye test for federal courts and many states. The Daubert standard requires trial judges to act as "gatekeepers" of scientific evidence, assessing its reliability based on a non-exhaustive list of factors, including whether the theory can be tested (falsifiability), whether it has been subjected to peer review and publication, its known or potential error rate, and its degree of acceptance within the scientific community.[182] While scholarly analysis concludes that BWS evidence should satisfy the Daubert criteria due to the extensive research, peer-reviewed publications, and professional consensus supporting its core tenets, the standard imposes a more rigorous and complex inquiry on trial judges.[183] This adds another layer of judicial scrutiny and potential for exclusion, requiring defence attorneys to be prepared to mount a robust defence of the scientific validity of the evidence in a pre-trial hearing.

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[174] State v. Kelly, 97 N.J. 178, 478 A.2d 364 (1984).
[175] State v. Norman, 324 N.C. 253, 378 S.E.2d 8 (1989).
[176] Norman, 324 N.C. at 257–59, 378 S.E.2d at 10–12.
[177] Norman, 324 N.C. at 261–63, 378 S.E.2d at 12–14.
[178] Norman, 324 N.C. at 265–68, 378 S.E.2d at 15–16 (Mitchell, J., dissenting).
[179] Frye v. United States, 293 F. 1013 (D.C. Cir. 1923).
[180] Frye, 293 F. at 1014.
[181] Daubert v. Merrell Dow Pharms., Inc., 509 U.S. 579 (1993).
[182] Daubert, 509 U.S. at 593–94.
[183] Anne M. Coughlin, Excusing Women, 82 Calif. L. Rev. 1, 57–60 (1994).

The utility of BWS as an explanatory tool has not been limited to defendants. In a significant development, courts began to allow prosecutors to use BWS testimony to explain the behaviour of victims. The 1988 case of *State v. Ciskie*[184] from the Washington Supreme Court was a landmark in this regard. The defendant was charged with repeatedly raping his girlfriend over a 23-month period. The defence argued that the victim's failure to report the assaults or leave the relationship proved that the sexual contact was consensual.

The prosecution was permitted to introduce expert testimony on BWS to rebut this argument. The expert explained to the jury how the dynamics of an abusive relationship and the psychological effects of battering could account for a victim's seemingly counterintuitive behaviour, such as her delay in reporting the crimes.[185] The court ruled that the testimony was admissible under Washington's evidence rules because it helped the jury understand behaviour that would otherwise be beyond the average person's comprehension.[186] *Ciskie*[187] and similar cases that followed demonstrated that BWS had become a "double-edged sword". It could be used not only to excuse a defendant's actions but also to rehabilitate a complaining witness's credibility, making it a powerful tool for both sides in cases involving domestic violence.

b) United Kingdom

The legal evolution in the United Kingdom provides a compelling contrast to the fractured American experience. While U.S. courts have largely adapted existing doctrines on a case-by-case basis, the UK's journey shows a clear trajectory from judicial frustration with an outdated law to a comprehensive and deliberate legislative overhaul. This process was catalysed by a series of high-profile cases involving battered women that exposed the fundamental inadequacy of the common law defence of provocation.

The case of *Kiranjit Ahluwalia*[188] was a crucial moment in English criminal law. After suffering ten years of horrific physical, sexual, and psychological abuse, Ahluwalia killed her husband by pouring petrol on him and setting him on fire as he slept. At her trial for murder, she raised the defence of provocation. However, the trial judge directed the jury according to the long-established rule from *R v. Duffy*[189], which defined provocation as conduct that causes a "sudden and temporary loss of self-control".[190] Because Ahluwalia had waited until her husband was asleep, the jury concluded that her actions were not "sudden" and convicted her of murder.[191]

Her case attracted significant public attention and the support of advocacy groups like the Southall Black Sisters.[192] On appeal, her murder conviction was quashed. The Court of Appeal accepted fresh medical evidence that she was suffering from a depressive disorder and BWS, and it ordered a retrial where she could raise the defence of diminished responsibility.[193] At the retrial, her plea to manslaughter on the grounds of diminished responsibility was accepted, and she was released, having already served the equivalent sentence.[194] While the court in Ahluwalia did not

[184] State v. Ciskie, 110 Wash. 2d 263, 751 P.2d 1165 (1988).
[185] Ciskie, 110 Wash. 2d at 274–76, 751 P.2d at 1171–72.
[186] Ciskie, 110 Wash. 2d at 277–78, 751 P.2d at 1173.
[187] State v. Ciskie, 110 Wash. 2d 263, 751 P.2d 1165 (1988).
[188] R v. Ahluwalia, [1992] 4 All E.R. 889 (C.A.).
[189] R v. Duffy, [1949] 1 All E.R. 932 (C.C.A.).
[190] Duffy, [1949] 1 All E.R. at 932–33.
[191] Ahluwalia, [1992] 4 All E.R. at 892–93.
[192] Rahila Gupta, Enslaved: The New British Slavery 147–49 (Portobello Books 2007).
[193] Ahluwalia, [1992] 4 All E.R. at 896–97.
[194] Clare McGlynn, Feminist Activism and Criminal Law Reform: Violence Against Women 92 (Hart Publishing 2011).

formally abolish the "suddenness" requirement for provocation, the case dramatically highlighted its unsuitability for victims of long-term, cumulative abuse, whose final act of violence may be the result of a "slow-burn" reaction rather than an immediate explosion of temper.[195]

Following Ahluwalia, a series of cases continued to refine the application of provocation in the context of BWS. In *R v. Thornton*[196], the defendant, who had a personality disorder and suffered from BWS, stabbed her abusive husband. Similar to *Ahluwalia*[197], her initial conviction was quashed on appeal due to fresh medical evidence. The Court of Appeal reaffirmed the principle that BWS was a relevant characteristic that the jury must consider when applying the objective "reasonable person" test that is, whether a reasonable person with the defendant's characteristics would have lost self-control. The case underscored the critical importance of proper jury directions on the psychological effects of long-term abuse.

Similarly, in *R v. Humphreys*[198], the court held that the defendant's personal history and characteristics, including "abnormal immaturity and attention-seeking traits" resulting from a history of abuse, were relevant to assessing the gravity of the provocation she faced.[199] Together, these cases, building on the foundation of Ahluwalia, solidified the legal principle that while the "sudden and temporary" loss of control remained a formal requirement, the jury's evaluation of the defendant's reaction had to be contextualised through expert evidence on the psychological impact of battering.

The judicial grappling in cases like *Ahluwalia*[200] and *Thornton*[201] ultimately culminated in a decisive legislative solution. Recognising that the common law of provocation was outdated and ill-suited to cases of domestic violence, Parliament enacted the *Coroners and Justice Act 2009*[202]. Sections 54-56 of the Act abolished the common law defence of provocation and replaced it with a new, statutory partial defence to murder called "loss of control."

This reform was a direct and deliberate response to the problems faced by battered women under the old law and was strongly supported by domestic abuse advocacy groups. The Act introduced several crucial changes. In a direct repudiation of the rule in *Duffy*[203], section 54(2) of the *Act*[204] explicitly states that the loss of self-control need not be sudden. This was the single most important change for victims of cumulative abuse, formally recognising the concept of a "slow-burn" reaction. The Act replaced the common law concept of "provocation" with two specific qualifying triggers for the loss of control. The first, under section 55(3), is a fear of serious violence from the victim against the defendant or another person (the "fear trigger"). This was a major innovation, as the old law was based almost entirely on anger, not fear. The second, under section 55(4), is things said or done which "constituted circumstances of an extremely grave character" and "caused the defendant to have a justifiable sense of being seriously wronged" (the "anger trigger").

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[195] Ahluwalia, [1992] 4 All E.R. at 893–94.
[196] R v. Thornton (No. 2), [1996] 1 W.L.R. 1174 (C.A.)
[197] Thornton (No. 2), [1996] 1 W.L.R. at 1178–80.
[198] R v. Humphreys, [1995] 4 All E.R. 1008 (C.A.).
[199] Humphreys, [1995] 4 All E.R. at 1014–15.
[200] R v. Ahluwalia, [1992] 4 All E.R. 889 (C.A.).
[201] R v. Thornton (No. 2), [1996] 1 W.L.R. 1174 (C.A.).
[202] Coroners and Justice Act 2009, c. 25, §§ 54–56 (UK).
[203] R v. Duffy, [1949] 1 All E.R. 932 (C.C.A.).
[204] Coroners and Justice Act 2009, c. 25, § 54(2) (UK).

The Act retains an objective test but frames it as whether "a person of the defendant's sex and age, with a normal degree of tolerance and self-restraint and in the circumstances of the defendant, might have reacted in the same or in a similar way". This allows the jury to consider all the circumstances of the defendant's life, including the history of abuse, when assessing their reaction.

The *Coroners and Justice Act 2009*[205] represents a paradigm shift in the UK, moving from a judicially managed but doctrinally awkward system to a modern, statutory framework designed with the realities of domestic violence explicitly in mind.

c) India

India's engagement with Battered Woman Syndrome within its criminal law framework is a more recent and evolving story. The Indian judiciary has begun to recognise the psychological impact of domestic abuse by creatively interpreting and stretching the existing, colonial-era provisions of the Indian Penal Code, 1860 (IPC). This process reveals a fascinating dynamic of legal syncretism, where global legal concepts are adapted and grounded in local cultural narratives to gain legitimacy.

The 2013 decision of the Gauhati High Court in *Manju Lakra v. State of Assam*[206] is widely considered the first reported case in India to explicitly recognise and apply the principles of BWS. Manju Lakra, who had endured prolonged violence from her husband, retaliated one day when he was beating her with a piece of wood. She snatched the wood and struck him, causing his death. The trial court convicted her of murder under Section 302 of the IPC.

On appeal, the High Court took a remarkably proactive approach. Although Lakra's lawyer did not raise BWS as a defence, the court itself, *sua sponte*, introduced the concept into its reasoning. The court observed that while on the surface the husband appeared to be the victim, the accused might, in fact, be the "actual victim" of long-term abuse. Citing the UK case of *R v. Ahluwalia*[207] and noting the acceptance of BWS in other jurisdictions, the court sought to contextualise Lakra's actions within her history of abuse. It ultimately reduced her conviction from murder to the lesser offences of culpable homicide not amounting to murder, holding that her case fell within the first exception to Section 300 of the IPC the defence of "grave and sudden provocation."

The Lakra decision highlights the significant doctrinal challenges of fitting BWS within the rigid framework of the Indian Penal Code. The defences available were not designed with the psychology of a battered person in mind. The defence of provocation (exception 1 to s.300 of IPC) requires that the accused was "deprived of the power of self-control by grave and sudden provocation". This poses the same problem as the old English law, the act of a battered woman who kills after years of abuse is often not "sudden." In *Lakra*[208] court navigated this by creatively interpreting the final act of beating as the "sudden" trigger that caused a "volcano of resentment and rage," which had been building over a long period, to finally erupt.[209] This interpretation effectively stretches the traditional meaning of "sudden" to accommodate the concept of cumulative provocation. The right of private defence (u/s. 96-100 of IPC) is analogous to self-defence in the US and UK. Section 100 of the IPC allows for the use of deadly force when there

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[205] Coroners and Justice Act 2009, c. 25 (UK).
[206] Manju Lakra v. State of Assam, (2013) 14 SCC 643.
[207] R v. Ahluwalia, [1992] 4 All E.R. 889 (C.A.).
[208] Manju Lakra v. State of Assam, (2013) 14 SCC 643.
[209] Manju Lakra v. State of Assam, (2013) 14 SCC 643, 649–50.

is a reasonable apprehension of imminent death or "grievous hurt". This framework presents the same "imminence" barrier seen in *State v. Norman*[210], making it extremely difficult for a woman who kills her abuser in a non-confrontational situation (e.g., while he is asleep) to successfully claim the defence. The law is structured around an immediate threat, not the pervasive and ongoing terror that characterises an abusive relationship.

Since *Lakra*[211], other Indian courts have begun to acknowledge the psychological effects of battering. In *Amutha v. State*[212], the Madras High Court granted anticipatory bail to a battered woman who, in a state of despair, pushed her daughters into a well and jumped in herself (she survived). The court explicitly recognised BWS in its reasoning, again citing *Ahluwalia*[213].

A particularly noteworthy development in Indian jurisprudence is the emergence of a culturally specific analogue to BWS, the "Nallathangal Syndrome". This concept was first referenced by the Madras High Court in the 1989 case of *Suyambukkani v. State of Tamil Nadu.*[214]. It is derived from a tragic Tamil folk ballad about a woman named Nallathangal who, facing unbearable poverty and misery, commits suicide along with her seven children. Courts have used this narrative as a domestic, culturally resonant framework to understand the extreme despair and hopelessness that can lead a woman subjected to prolonged abuse to commit extreme acts, whether against herself or her abuser.

The development of "Nallathangal Syndrome" is a powerful example of legal syncretism. While acknowledging the global concept of BWS, the Indian judiciary is simultaneously grounding it in a local, cultural story.[215] By linking the abstract psychological theory to a familiar and emotionally powerful cultural narrative, the judiciary creates a domestic analogue that performs the same legal function as BWS, explaining a woman's desperate state of mind but does so in a way that is deeply embedded in the local cultural and historical landscape. This illustrates a broader trend in post-colonial jurisprudence with the selective adaptation and re-branding of global legal norms to enhance their domestic relevance and authority.

V. BWS AND CRIMINAL RESPONSIBILITY

The introduction of Battered Woman Syndrome into the courtroom has posed a fundamental challenge to the very foundations of criminal law. The psychological realities of long-term abuse the altered perceptions, the erosion of volition, the subjective experience of constant terror do not fit neatly into the law's traditional, objective categories of intent, reasonableness, and culpability. This section moves from the analysis of specific cases to a broader theoretical plane, examining how BWS forces a critical re-evaluation of *mens rea,* the standards for self-defence, and the very concept of criminal responsibility. It also incorporates powerful critiques from within feminist legal theory, which caution that the BWS framework, while beneficial in some cases, carries its own risks of stereotyping and pathologizing women.

The legal concept of *mens rea,* or the "guilty mind," is a cornerstone of criminal liability. It requires that for most serious crimes, the state must prove not only that the defendant committed

[210] Norman, 324 N.C. at 261–63, 378 S.E.2d at 12–14.
[211] Manju Lakra v. State of Assam, (2013) 14 SCC 643.
[212] Amutha v. State, 2022 SCC OnLine Mad 595 ¶¶ 18–22.
[213] R v. Ahluwalia, [1992] 4 All E.R. 889 (C.A.).
[214] Suyambukkani v. State of Tamil Nadu, 1989 Cri. L.J. 1036 (Mad.).
[215] Mrinal Satish, Criminal Law and the Indian Woman 142–45 (Cambridge Univ. Press 2019).

a prohibited act *(actus reus)* but also that they did so with a specific, culpable state of mind (e.g., intentionally, knowingly, recklessly). Traditionally, the inquiry into *mens rea* has been a relatively straightforward and objective one. As the majority in *State v. Mott*[216] argued, the law is typically satisfied by evidence of "purposeful activity," regardless of the complex psychological motivations or impairments that may lie behind it.

BWS evidence directly confronts this objective model. It introduces a more nuanced, subjective inquiry, suggesting that severe, prolonged trauma can fundamentally impair a person's cognitive and volitional capacities. The defence argument in Mott that a woman suffering from learned helplessness and a traumatic bond to her abuser may not be psychologically capable of "knowingly" or "intentionally" failing to protect her child forces the law to ask a difficult question. Is *mens rea* simply about the capacity to form a basic intention, or must it also account for a defendant's psychological ability to comprehend their circumstances and make meaningful choices? By rejecting this line of inquiry, in *Mott*[217] court chose to preserve a clear, bright-line legal standard at the expense of psychological reality. In contrast, legal systems that allow for a more flexible consideration of a defendant's mental state are implicitly acknowledging that trauma can be directly relevant to the degree of a defendant's culpability, blurring the sharp line between a "guilty mind" and one that is compromised by factors short of legal insanity.

The most intense doctrinal conflict sparked by BWS has occurred within the law of self-defence. The traditional law of self-defence contains a crucial duality, the defendant must have an actual (subjective) belief that they are in imminent danger of death or serious bodily harm, and that belief must be reasonable (objective). BWS testimony is the primary vehicle through which the defendant's subjective reality is brought into the courtroom. An expert can explain to a jury why a woman who has been subjected to a relentless cycle of violence might genuinely believe her life is in imminent danger, even if, to an outside observer, the threat does not appear immediate. The central conflict arises with the objective prong of the test. The law asks what a "reasonable person" would have perceived and done. But who is this reasonable person? Is it an abstract, ordinary individual who has never experienced trauma, or is it a reasonable person who has been subjected to the same history of abuse as the defendant? Cases like *State v. Kelly*[218] moved the law toward the latter interpretation, allowing the jury to consider the effects of battering when assessing the reasonableness of the defendant's belief. However, as *State v. Norman*[219] demonstrates, this subjective reasonableness is often defeated by the law's insistence on an objectively "imminent" threat. BWS challenges the law to redefine "imminence" from the perspective of a person who has been taught through repeated violence that a threat is ever-present and that the next attack could be lethal. It pushes the legal standard from a snapshot of a single confrontational moment to a panoramic view of a relationship defined by ongoing terror, arguing that for a battered person, the danger is always imminent.

While BWS has been instrumental in securing acquittals or reduced sentences for many women, the concept has also been the subject of incisive criticism, particularly from feminist legal scholars. These critiques argue that the BWS framework, while well-intentioned, can

[216] State v. Mott, 187 Ariz. 536, 931 P.2d 1046, 1051 (1997).
[217] Mott, 187 Ariz. at 1050–52.
[218] State v. Kelly, 97 N.J. 178, 478 A.2d 364, 206–10 (1984).
[219] State v. Norman, 324 N.C. 253, 378 S.E.2d 8, 261–63 (1989).

inadvertently reinforce harmful stereotypes, pathologize women's survival strategies, and fail to account for the diverse experiences of all victims of abuse.

A primary feminist critique is that the BWS defence risks creating and perpetuating a rigid stereotype of the "ideal" battered woman.[220] To be successful, the defence often requires portraying the defendant as passive, helpless, fearful, and psychologically damaged, a perfect victim who conforms to the clinical definition of "learned helplessness".[221] This can severely disadvantage defendants who do not fit this mold, women who fought back, who expressed anger rather than fear, who held a job, or who did not appear sufficiently submissive may be seen by a jury as not being "real" battered women, thereby undermining their defence.[222]

This leads to a second, related critique, the defence pathologizes what may be entirely rational survival strategies. The very term "syndrome," coupled with the theory of "learned helplessness," frames the woman's state of mind as a psychological defect or disorder.[223] This framing taps into a fundamental distinction in criminal law theory between justification and excuse. A justification, such as perfect self-defence, claims that the defendant's act was right or permissible under the circumstances. An excuse, such as insanity, admits the act was wrong but claims the actor was not fully responsible due to some personal defect or disability.[224] BWS sits uncomfortably between these two concepts. It is typically used to support a claim of self-defence (a justification), but its reliance on psychological impairment ("learned helplessness," PTSD) uses the language of excuse. Critics argue that this is deeply problematic. Instead of validating a woman's decision to kill her abuser as a rational and justifiable act of self-preservation in a context of terror, the BWS defence often succeeds by portraying her as a psychologically damaged individual who could not be expected to act like a "normal" person.[225] This focus on her supposed pathology distracts from the criminality of the abuser and the systemic failures that left her with no other viable options.[226]

Finally, and perhaps most critically, the BWS model has been criticised for its lack of an intersectional analysis. The theory was largely developed based on the experiences of white, middle-class women and may fail to capture the complex realities of women of colour and women from lower socioeconomic classes.[227] For example, the stereotype of the "angry Black woman" can directly conflict with the BWS narrative's emphasis on passivity and fear. A Black defendant expressing anger may be perceived by a jury not as a terrified victim reaching her breaking point, but as an inherently aggressive individual acting out of revenge, making it far more difficult for her to successfully claim the defence.[228] By failing to account for the intersecting oppressions of race, gender, and class, the BWS framework risks marginalising the

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[220] Martha R. Mahoney, Legal Images of Battered Women: Redefining the Issue of Separation, 90 Mich. L. Rev. 1, 64–67 (1991).
[221] Elizabeth M. Schneider, Battered Women and Feminist Lawmaking 123–27 (Yale Univ. Press 2000).
[222] Holly Maguigan, Battered Women and Self-Defense: Myths and Misconceptions in Current Reform Proposals, 140 U. Pa. L. Rev. 379, 397–400 (1991).
[223] Lisa A. Goodman & Deborah Epstein, Listening to Battered Women: A Survivor-Centered Approach to Advocacy, Mental Health, and Justice 32–36 (Am. Psychol. Ass'n 2008).
[224] Joshua Dressler, Understanding Criminal Law 251–55 (7th ed. 2015).
[225] Anne M. Coughlin, Excusing Women, 82 Calif. L. Rev. 1, 53–60 (1994).
[226] Elizabeth M. Schneider, Describing and Changing: Women's Self-Defense Work and the Problem of Expert Testimony on Battering, 9 Women's Rts. L. Rep. 195, 204–07 (1986).
[227] Angela P. Harris, Race and Essentialism in Feminist Legal Theory, 42 Stan. L. Rev. 581, 590–94 (1990).
[228] Kimberlé Crenshaw, Mapping the Margins: Intersectionality, Identity Politics, and Violence against Women of Color, 43 Stan. L. Rev. 1241, 1256–60 (1991).

very women who may be most vulnerable to both domestic violence and harsh treatment by the criminal justice system.

In response to these powerful critiques, and in line with the evolution of psychological science, there is a growing consensus among experts and legal advocates to move away from the "Battered Woman Syndrome" label. As noted by the U.S. Department of Justice and numerous scholars, the term "syndrome" is imprecise, potentially stigmatising, and suggests a single, uniform pattern of response to abuse that does not reflect the diversity of victims' experiences.[229]

The preferred terminology today is "evidence concerning battering and its effects." This broader, more neutral framework allows an expert to testify about the common patterns and psychological effects of domestic violence, such as the dynamics of coercive control, the development of trauma symptoms, and the reasons why victims may stay in or return to abusive relationships without having to force the specific defendant into a rigid diagnostic box.[230] This approach allows the jury to receive the necessary context to understand the case, while respecting the individuality of the defendant's experience and avoiding the pitfalls of stereotyping and pathologisation that have been so trenchantly critiqued.

VI. CONCLUSION AND RECOMMENDATIONS

The journey of Battered Woman Syndrome through the courtrooms of the United States, the United Kingdom, and India reveals a profound and ongoing struggle within the common law tradition to reconcile its centuries-old doctrines with the insights of modern psychology. This paper has traced the divergent paths these jurisdictions have taken, from the rigid doctrinairism of *State v. Mott*[231] to the legislative innovations of the Coroners and Justice Act 2009 and the creative judicial interpretations of the Indian Penal Code. The analysis demonstrates that while the legal recognition of the psychological trauma of domestic abuse is expanding, significant doctrinal and theoretical hurdles remain. Moving forward requires a commitment to legal reforms that are both scientifically informed and critically aware of the risks of stereotyping.

The comparative analysis yields a clear picture of three distinct models of legal evolution. The United States presents a fractured model of judicial adaptation. Landmark cases like *State v. Kelly*[232] opened the door for BWS evidence within the self-defence framework, but this progress is perpetually checked by the inflexible "imminence" requirement, as shown in *State v. Norman*[233]*,* and the hardline rejection of diminished capacity in jurisdictions like Arizona. The result is a patchwork of inconsistent and often contradictory state laws that offer uncertain protection to battered defendants.

The United Kingdom exemplifies a model of legislative overhaul precipitated by judicial critique. The judiciary, through cases like *R v. Ahluwalia*[234]*,* exposed the deep-seated gender bias and inadequacy of the common law of provocation. This judicial pressure led directly to

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[229] U.S. Dep't of Justice, Office on Violence Against Women, The Validity and Use of Evidence Concerning Battering and Its Effects in Criminal Trials 1–4 (1999).
[230] Deborah Epstein & Lisa A. Goodman, Discounting Women: Doubting Domestic Violence Survivors' Credibility and Dismissing Their Experiences, 167 U. Pa. L. Rev. 399, 430–35 (2019).
[231] State v. Mott, 187 Ariz. 536, 931 P.2d 1046 (1997).
[232] State v. Kelly, 97 N.J. 178, 478 A.2d 364 (1984).
[233] State v. Norman, 324 N.C. 253, 378 S.E.2d 8 (1989).
[234] R v. Ahluwalia, [1992] 4 All E.R. 889 (C.A.).

parliamentary action, culminating in the *Coroners and Justice Act 2009*[235]. This Act represents a holistic, top-down reform that modernised the law by abolishing the problematic "suddenness" requirement and explicitly recognising fear as a basis for the new "loss of control" defence.

India demonstrates a model of interpretive innovation. Faced with a rigid, colonial-era penal code, the Indian judiciary has begun to carve out space for the recognition of battering through a process of creative interpretation and cultural adaptation. Cases like *Manju Lakra*[236] stretch the existing definitions of provocation, while the development of concepts like "Nallathangal Syndrome" grounds the psychological principles of BWS in a local, culturally resonant narrative. This approach, while resourceful, remains nascent, lacks uniform application, and highlights the need for more systematic reform.

Based on the analysis of these divergent approaches and the critiques of the BWS framework, this paper offers the following recommendations for jurisdictions seeking to create a more just and effective legal response to domestic violence cases. Adopt Medically and Legally Precise Terminology, courts, legislatures, and legal practitioners should formally adopt the terminology of "evidence of battering and its effects" in place of "Battered Woman Syndrome." This shift, advocated by scientific experts, is crucial to avoid the risks of stereotyping, pathologizing defendants, and forcing diverse individual experiences into a single, potentially ill-fitting "syndrome." This more accurate language would allow for a broader and more nuanced presentation of the psychological evidence.

The effective application of these legal principles depends on the understanding of judges, prosecutors, and defence attorneys. All jurisdictions should implement mandatory and ongoing training for legal professionals on the complex dynamics of domestic violence, coercive control, and the psychological effects of trauma. An informed judiciary is better equipped to act as a proper gatekeeper for expert evidence and to provide juries with accurate and helpful instructions.

The legal conversation that began with Battered Woman Syndrome is now evolving toward a broader and more sophisticated understanding of domestic abuse, centred on the concept of coercive control. This framework recognises that domestic violence is often not a series of discrete physical assaults but a sustained campaign of intimidation, isolation, degradation, and control that systematically dismantles a victim's autonomy and liberty. The future of this area of law lies in developing legal doctrines that can fully account for this more comprehensive understanding of abuse. This will require moving beyond a narrow focus on specific incidents of violence and toward an appreciation of the entire context of the abusive relationship. The ultimate goal must be to create a criminal justice system that does not require a victim of abuse to fit a preconceived "syndrome" to be understood but instead possesses the doctrinal flexibility and institutional empathy to see her actions for what they often are like a desperate, and sometimes tragic, fight for survival.

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[235] Coroners and Justice Act 2009, c. 25 (UK).

[236] Manju Lakra v. State of Assam, (2013) 14 SCC 643.