

Analysis of the Applicability of Self-Defense in Domestic Violence Cases

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ABSTRACT

Domestic violence, as a widespread social issue, not only infringes upon the basic human rights of victims but also poses a serious threat to social stability and harmony. This work analyzes the applicability of self-defense in domestic violence cases, exploring its application within the legal framework and the challenges it faces. Through a literature review and case analysis, this study examines the particularities of domestic violence cases, the psychological and behavioral characteristics of victims, and how these factors influence the determination of self-defense. The theory of "Battered Woman Syndrome" is introduced to discuss its application in judicial practice and its limitations. This work reviews the changes in Chinese legal provisions regarding self-defense in domestic violence cases and calls for further legal reforms and social efforts to more effectively protect the rights of victims.

KEYWORDS

Domestic Violence; Self-Defense; Battered Woman Syndrome; Judicial Practice

1 Introduction

Domestic violence, as a deep-seated affliction within social structures, not only undermines individual dignity and rights but also poses a serious threat to societal harmony and stability. According to a report by the World Health Organization, approximately one-third of women worldwide experience domestic or sexual violence in their lifetime [1]. Behind this alarming statistic lies the pain and helplessness of countless victims, highlighting an urgent issue for legal systems and social governance.

Domestic violence takes various forms, including physical injury, sexual violence, psychological abuse, and economic control. These actions not only have profound effects on the physical and mental health of victims but also trigger a series of social consequences, such as children imitating violent behavior, family breakdown, and the waste of social resources. As a result, domestic violence has long transcended the private sphere and has become a social issue that necessitates legal intervention and regulation.

2 Characteristics of Domestic Violence Cases

2.1 Psychological and Behavioral Characteristics of Domestic Violence Victims

Victims of domestic violence often experience significant psychological and behavioral changes due to prolonged exposure to abusive environments. Psychologically, victims may endure profound

fear, anxiety, depression, and a sense of inferiority. Chronic psychological stress can lead to post-traumatic stress disorder (PTSD), causing victims to continue suffering mentally even after the violence has ceased. Additionally, victims may develop a psychological state known as "Battered Woman Syndrome", characterized by excessive dependence on the abuser, a loss of self-worth, and a rejection of external assistance. Behaviorally, victims may exhibit passivity and submissiveness, and in some cases, may actively comply with the abuser's demands to reduce the occurrence of violence, a phenomenon known as "learned helplessness". Ultimately, prolonged suppression and helplessness may lead victims to a breaking point, where they may resort to extreme self-defense actions, including confronting the abuser to escape the violent environment.

2.2 Specific Characteristics of Domestic Violence Cases and Their Impact on the Determination of Self-Defense

2.2.1 The determination of the timing for self-defense is a key issue

The legal framework for self-defense typically relies on the immediacy and urgency of unlawful aggression, requiring that defensive actions occur at the time of the unlawful act. This principle becomes particularly challenging in domestic violence cases due to the cyclical and ongoing nature of abuse. Victims of domestic violence often face a complex and unpredictable situation, including periods of tension accumulation, the outbreak of violence, and subsequent periods of reconciliation or calm.

This cyclical pattern of abuse not only causes long-term harm to the victim's psychological and physical health but also greatly complicates their ability to judge when to invoke self-defense. When violence erupts, victims may be unable to respond immediately due to fear, shock, or confusion, potentially missing the optimal moment for defense as traditionally defined. Conversely, during reconciliation or calm periods, victims might begin taking defensive actions in anticipation of future violence, even if no overt violence is occurring, which could be viewed as not meeting the time requirements for self-defense.

In the case of Zhang M.Ying and Yang M., who were married, Zhang M.Ying experienced repeated violence from Yang M. over a period of four years. One night, after drinking, Yang M. again subjected Zhang M.Ying to domestic violence and threatened her with a fruit knife to force her to drink poison. Zhang M. Ying refused, and Yang M. threatened to kill her before leaving the room. The next morning, Zhang M.Ying found Yang M. resting on the living room sofa. In a state of extreme panic and despair, Zhang M.Ying struck Yang M. several times on the back of the head with a wooden stick. She then voluntarily reported to the police. Yang M. died despite rescue efforts at the hospital [2].

In the first trial, the local Intermediate People's Court sentenced Zhang M.Ying to eight years in prison for intentional homicide. On appeal, the Higher Court recognized that Yang M. had significantly wronged Zhang M.Ying through long-term domestic violence. Due to the cumulative pressure and psychological trauma from the abuse, Zhang M. Ying's subjective malice was considered relatively minor. The Higher Court decided to uphold the original sentence, noting that the first-instance judgment had already accounted for these factors.

2.2.2 The difficulty of obtaining evidence in domestic violence cases also affects the determination of self-defense

The concealed nature of domestic violence makes it challenging for victims to provide necessary evidence to support their self-defense claims. As violence often occurs in private settings without witnesses, victims may lack direct evidence such as video recordings or witness testimony to prove

the legitimacy of their actions.

Self-defense requires that the individual take necessary defensive measures in the face of unlawful aggression. In domestic violence cases, due to the issue of immediate evidence, victims may be unable to gather sufficient evidence immediately after the incident, making it difficult for their self-defense claims to be supported by the court. Additionally, the diversity of evidence in domestic violence cases poses challenges for self-defense determinations. Medical records, police reports, and witness testimonies may be dispersed across various institutions and individuals, requiring significant time and resources to collect and integrate.

In some cultures, the family is seen as an inviolable unit, and internal issues should be resolved within the family rather than exposed to the outside world—"family shame should not be aired". This belief leads to social and familial pressure on victims to avoid disclosing evidence of domestic violence, fearing damage to family reputation and social status. Victims might even worry about being labeled as part of a "problematic family", leading them to remain silent and avoid gathering evidence of the violence they have suffered. Such social and cultural barriers add extra obstacles to evidence collection and case handling.

The ambiguity of the law and the influence of emotional factors further exacerbate the difficulty in determining self-defense. In some cases, the law does not provide clear guidance on self-defense evidence in domestic violence cases, which may result in judges lacking a unified standard for adjudication.

3 Sociological Theories on the Applicability of Self-Defense in Domestic Violence Cases

3.1 Meaning of Battered Woman Syndrome

Battered Woman Syndrome (BWS) is a specific psychological and emotional state that typically occurs in women who have suffered long-term domestic violence. First introduced by psychologist Lenore E. Walker in 1979, BWS refers to a range of psychological and behavioral characteristics exhibited by women who have experienced physical, sexual, or psychological abuse over an extended period. These characteristics include, but are not limited to, persistent fear, anxiety, depression, low self-esteem, dependency on the abuser, and potentially violent retaliatory actions under extreme stress. Lenore E. Walker detailed the three stages of Battered Woman Syndrome in her work, "The Battered Woman": the tension-building phase, the acute battering phase, and the honeymoon phase. This theoretical framework helps to understand the psychological state of battered women within the cycle of violence. Over time, this theory has been further developed to include more psychological and behavioral traits.

3.2 Significance of Battered Woman Syndrome in Judicial Practice

In the United States, Battered Woman Syndrome is considered a psychological theory introduced into judicial practice as expert testimony to challenge jurors' preconceived notions about gender roles and intimate relationships. It aims to provide a defense for women who, due to prolonged domestic violence, engage in extreme self-defense actions, such as killing their abuser. The introduction of Battered Woman Syndrome is essentially a supplement to traditional legal norms, attempting to correct stereotypes related to gender and intimate relationships rather than creating a new legal paradigm. Defense attorneys use Battered Woman Syndrome to emphasize the defendant's reasonable fear and self-protection under specific psychological conditions, aiming to demonstrate that their actions meet the legal requirements for self-defense. The introduction of

Battered Woman Syndrome challenges the traditional concepts of immediacy and necessity in self-defense, offering a deeper psychological perspective for evaluating the self-defense actions of battered women.

In China's judicial practice, Battered Woman Syndrome has not been widely recognized as a defense rationale. Judges often rely on the existing legal framework and evidence rules, considering Battered Woman Syndrome to lack direct legal basis and thus difficult to use as an independent defense. This stance reflects China's cautious approach to incorporating emerging psychological theories into judicial procedures. Chinese judges are more inclined to base their decisions on clear legal provisions and evidence standards rather than psychological theories that have not been fully validated within the legal system.

3.3 Limitations of Battered Woman Syndrome in Judicial Practice

Despite offering a new perspective for understanding and defending the actions of battered women, Battered Woman Syndrome faces several limitations in judicial practice.

Firstly, the scientific validity of Battered Woman Syndrome is debated in the academic community, and it is not universally recognized as a formal mental disorder by all psychological and psychiatric authorities. This has led to questions about the reliability of its use as evidence in court. Over-pathologizing battered women and overlooking the role of social and environmental factors can exacerbate the stigmatization of victims. Expert testimony should focus more on the social realities faced by women rather than their psychological responses, to avoid turning the social pathological analysis of domestic violence into a pathology of the victims themselves [3].

Battered Woman Syndrome tends to adopt a one-size-fits-all approach to describing battered women, failing to account for individual differences and agency, particularly those women who actively seek help and take action. In legal application, Battered Woman Syndrome has not been formally integrated into the legal framework in some jurisdictions, leading to challenges in judicial practice. Judges and juries may have differing views on the acceptance and interpretation of its evidence, resulting in inconsistencies in legal application.

Moreover, the application of Battered Woman Syndrome in judicial defense is limited to specific types of cases, such as non-confrontational husband-killing cases, and its applicability and effectiveness in other types of domestic violence cases may be restricted. Inconsistencies in evidence standards between different courts may lead to significant variations in verdicts for similar cases across different jurisdictions. Battered Woman Syndrome originated from a specific socio-cultural context, and its applicability in different cultural and social settings may be limited, requiring consideration of local social structures and cultural values.

Furthermore, over-reliance on Battered Woman Syndrome may shift the focus of the case from the abuser's behavior to the victim's psychological state, thereby neglecting the legal responsibility and social condemnation of the abuser's actions. Legal reforms and updates may lag behind, failing to reflect the latest research findings on Battered Woman Syndrome. Its introduction may require additional judicial resources, including expert witnesses and professional assessments, which can be challenging in resource-limited judicial systems.

In judicial practice, the application of Battered Woman Syndrome is also influenced by socio-cultural factors, with courts from different cultural backgrounds potentially showing significant differences in their acceptance and interpretation of Battered Woman Syndrome evidence. This necessitates that legal professionals consider cultural differences and localization needs when applying Battered Woman Syndrome. Additionally, the effectiveness of Battered Woman Syndrome as a defense strategy may be limited by legal professionals' insufficient understanding of psychological theories, impacting its effective use in court.

In summary, while Battered Woman Syndrome provides a defense avenue for battered women, its limitations must be acknowledged. Overcoming these limitations requires interdisciplinary research, legal reform, and continuous adjustments in judicial practice to ensure that the theory effectively protects the rights of battered women while promoting justice and social fairness. This necessitates collaboration among legal professionals, psychologists, and social workers to deepen the understanding and proper application of Battered Woman Syndrome, avoiding misuse and ensuring fair treatment and effective protection for battered women.

4 Legal Application of Self-Defense in Domestic Violence Cases in China

Before 2015, the Chinese judicial system had given some attention to the long-term physical and psychological trauma experienced by victims in domestic violence-related murder cases. This attention stemmed from a deep understanding of the physical and psychological suffering endured by domestic violence victims and sympathy for the extreme reactions that escalating family conflicts might provoke. However, even in this context, the judicial authorities continued to assess cases from the perspective of criminal composition, considering the actions of abused women as still illegal and failing to clearly differentiate them from general intentional injury or intentional murder cases on a legal level.

On March 2, 2015, the Supreme People's Court, the Supreme People's Procuratorate, the Ministry of Public Security, and the Ministry of Justice jointly issued the "Opinions on Handling Domestic Violence Crime Cases According to Law" (hereinafter referred to as the "Opinions"). The introduction of this policy marked a significant shift in the handling of domestic violence crime cases in Chinese judicial practice. The "Opinions" emphasized the need for timely and effective intervention by judicial authorities in domestic violence cases, protection of victims' safety and privacy, respect for victims' wishes, and special protection for vulnerable groups such as minors, the elderly, the disabled, pregnant women, nursing mothers, and seriously ill patients. The "Opinions" also encouraged public participation in providing clues to judicial authorities about domestic violence crimes and required judicial authorities to diligently identify and expose domestic violence crimes.

Regarding the conviction and sentencing of domestic violence crime cases, the "Opinions" proposed strict adherence to the provisions of the Criminal Law to determine whether domestic violence behaviors constitute a crime and what type of crime they constitute. It addressed issues such as the lack of clear standards for the crimes of abuse and abandonment, and refined the concept of "serious circumstances" required for such crimes under the Criminal Law. In handling domestic violence cases, a comprehensive consideration of multiple factors is required to ensure fairness and reasonableness. This includes appropriate punishment for the perpetrator while respecting the victim's wishes, considering the interests of other family members, and the possibility of family reconciliation. This balance aims to combine the seriousness of the law with humanitarian care. The provisions in the "Opinions" reflect the judicial authorities' recognition of the particularity and complexity of domestic violence cases and their efforts to balance the protection of victims' rights and the punishment of perpetrators within the legal framework.

The concept of self-defense has historical roots in Chinese law. For example, the "Han Law" includes the provision that "if someone enters another's house without reason, the owner may kill them," reflecting early attention to the protection of private property. With the development of society and the improvement of laws, the legal provisions on self-defense have undergone continuous development and refinement. From the ancient "kill without discussion" to the modern legal provisions on self-defense, this evolution reflects the gradual recognition and protection of individuals' right to self-defense by the law.

In judicial practice, the recognition of self-defense was once quite conservative, with some cases exhibiting a "results-oriented" approach, where any resulting injury or death was likely to be deemed excessive self-defense. However, with the release of the twelfth batch of guiding cases by the Supreme People's Procuratorate in December 2018, and a series of significant cases, the judicial authorities have shown a more proactive and open attitude towards recognizing self-defense. According to statistics from the Supreme People's Procuratorate's 12309 open website, from January 2017 to April 2020, national procuratorial organs determined that defendants did not meet arrest conditions in 352 cases involving self-defense and did not meet prosecution conditions in 392 cases. The statistics from the 12309 open website of the Supreme People's Procuratorate show that from January 2017 to April 2020, 352 cases involving self-defense were not arrested, and 392 cases were not prosecuted. Specifically, in 2017, 48 cases involving 48 people were not arrested, and 54 cases involving 55 people were not prosecuted. In 2018, 91 cases involving 91 people were not arrested, an increase of 89.6%, and 101 cases involving 101 people were not prosecuted, with cases and numbers increasing by 87% and 83.6%, respectively. In 2019, 187 cases involving 187 people were not arrested, an increase of 105.4%, and 210 cases involving 212 people were not prosecuted, with cases and numbers increasing by 107.9% and 110%, respectively, doubling in two years [4].

The increased public awareness of anti-domestic violence and the activation of the self-defense system have also encouraged judicial authorities to more confidently apply self-defense in domestic violence cases.

As a case of Qiu intentional injury, Qiu (female) and Zhang (male) were married at the time of the incident but were separated due to marital discord and long-term domestic violence. Their son, Zhang Yi, aged 9, had congenital ear deformities with hearing loss and underwent three surgeries to reconstruct his right ear using rib cartilage, and was discharged on June 5, 2019. On the night of July 2, 2019, Qiu and Zhang had multiple disputes over divorce issues. Early the next morning, Zhang went to Qiu and Zhang Yi's residence again, disturbing them and physically assaulting Qiu. He then pinned Zhang Yi to the bed, kneeling on his legs and punching Zhang Yi's buttocks, causing him to cry and struggle. To prevent harm to Zhang Yi's surgical ear, Qiu, who had unsuccessfully tried to stop him with her bare hands, grabbed a fruit knife from the bedside in a moment of desperation and stabbed Zhang in the back three times, causing injury. Qiu then immediately took Zhang to the hospital for treatment. Zhang's injuries were identified as severe. The procuratorate charged Qiu with intentional injury. The court ruled that Qiu's retaliatory actions constituted self-defense and did not exceed the necessary limits, and she was not criminally responsible. Qiu was legally acquitted [5].

The judgment in this case reflects the legal protection of the self-defense rights of domestic violence victims and emphasizes that, in cases of domestic violence, the victim's defensive actions should be understood and supported by the law. This case has also heightened social attention to domestic violence issues and the protection of victims' rights.

5 Conclusion

Domestic violence, as a severe social issue, poses significant harm not only to individuals and families but also to society at large. It infringes upon the basic human rights of victims and undermines the foundation of social stability. With the advancement of social civilization and the enhancement of legal awareness, our attitude toward domestic violence must shift from passive endurance to active prevention and intervention. In this process, the role of the law is crucial. It must not only provide necessary protection for victims but also empower them with the right to self-defense through proper legal recognition of justifiable defense. As analyzed in this paper, the

applicability of justifiable defense in domestic violence cases is complex, involving legal, psychological, and socio-cultural dimensions. Ongoing judicial practice and improvements reflect a positive attitude and clear stance from the legal system toward handling domestic violence cases. The gradual activation and refinement of the concept of justifiable defense in such cases offer victims increased security and confidence. In summary, combating domestic violence is a long-term and multifaceted social project that requires collaborative efforts across legal, social, and cultural spheres. We look forward to a future where domestic violence is effectively curtailed, and every home becomes a warm and harmonious haven, contributing positively to social stability and development.

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