PSYCHOLEGAL DEFENSES IN INTIMATE PARTNER MURDER

ABSTRACT

Intimate partner murder, or domestic homicide, is a serious and complex issue globally, which has garnered significant attention in psychology and law. The use of psycho-legal defenses in these cases is controversial, with advocates arguing for their importance in protecting abuse survivors, while critics claim they can excuse violent behavior. This research paper examines the use of psycho-legal defenses in intimate partner murder cases, including types of defenses, criteria for application, and their effectiveness in securing acquittals or reduced sentences. Ethical and moral considerations associated with these defences are explored, and recommendations for improving their application are provided

Stacey Venter

Forensic Criminology Institute

Title Page

"IN SITUATIONS OF CAPTIVITY THE PERPETRATOR BECOMES THE MOST POWERFUL PERSON IN THE LIFE OF THE VICTIM, AND THE PSYCHOLOGY OF THE VICTIM IS SHAPED BY THE ACTIONS AND BELIEFS OF THE PERPETRATOR."

— JUDITH LEWIS HERMAN

1. Introduction

Intimate partner murder, also known as domestic homicide, is a is a serious and complex problem in many countries around the world. It is a phenomenon that has received significant attention in the field of psychology and law. The use of psycho-legal defenses in these cases can be controversial, with some advocates arguing that they provide important protections for those who have been subjected to abuse, while others believe that they can be used to excuse violent behavior. Various psychological defenses are attempted in intimate partner homicide, both as an exculpatory reason prior to verdict, as well as in sentencing mitigation. Psychological legal defenses, such as insanity and diminished capacity, have been used in these types of cases to explain the actions of the perpetrator and potentially mitigate their criminal responsibility.

This research paper will examine the use of psycho-legal defenses in intimate partner murder cases, including the types of defenses that have been used, the criteria for their application, and the effectiveness of these defenses in securing acquittals or reduced sentences. The paper will also explore the ethical and moral considerations associated with the use of psycho-legal defenses in intimate partner murder cases and make recommendations for improving the application of these defenses.

2. Background on Intimate Partner Murder

a. Definition of Intimate Partner Murder

A study published in the Journal of Interpersonal Violence (2010) defined intimate partner murder as "the intentional killing of a current or former romantic partner by the

other partner." The authors of the study emphasized that intimate partner murder is a complex phenomenon that involves a range of psychological, social, and contextual factors.

b. Statistics of Intimate Partner Murder

Statistics on intimate partner murder paint a bleak picture of the extent and severity of this type of violence. Intimate partner homicide (IPH) is a global public health problem. One study conducted over 66 countries found that 13.5% of all homicides and 38.6% of female homicides were committed by an intimate partner (Valabdass, 2021). According to the World Health Organization, around 35% of women worldwide have experienced either physical and/or sexual violence by an intimate partner, and intimate partner violence is a leading cause of death and disability for women aged 15 to 44 years (WHO, 2021). In the United States, the National Domestic Violence Hotline reports that on average, nearly 20 people per minute are physically abused by an intimate partner, and 1 in 4 women and 1 in 9 men have experienced severe physical violence by an intimate partner (National Domestic Violence Hotline, 2021). The U.S. Department of Justice estimates that each year, approximately 1,300 women are killed by an intimate partner, accounting for over one-third of all female homicide victims (DOJ, 2021). In 2015, 1350 people in the US were killed by their current or former intimate partner (Kafka, 2021). These statistics highlight the need for continued research and action to address the problem of intimate partner murder.

c. Factors contributing to Intimate Partner Murder

Research has identified several key contributing factors, including prior incidents of domestic violence, substance abuse, unemployment, access to firearms, and a history of criminal behavior. In addition, psychological factors such as impulsivity, jealousy, and possessiveness can also play a role in these types of homicides (Daly & Wilson, 1988). Furthermore, societal factors such as gender norms, cultural attitudes toward domestic violence, and a lack of access to resources for victims can also contribute to the risk of intimate partner murder (Dobash & Dobash, 1979). To effectively address this issue, it is important to consider the interplay of these various factors and to implement comprehensive, multi-disciplinary approaches to preventing domestic violence and intimate partner murder.

3. Overview of Psycho-legal Defenses in Criminal Cases

The use of psychological legal defenses in cases of intimate partner murder has been a topic of much debate and controversy.

a. Definition of psycho-legal defenses

Psycho-legal defenses refer to arguments made in a criminal trial that rely on the defendant's mental state as a basis for their defense. In the context of intimate partner murder, psycho-legal defenses are used to argue that the defendant was suffering from a mental disorder that impaired their ability to understand the nature and quality of their actions or to control their behavior at the time of the offense.

b. Criteria for the application of psycho-legal defenses

The criteria for the application of psycho-legal defenses in intimate partner murder cases vary from jurisdiction to jurisdiction, but generally, the defense must prove that the accused suffered from a mental disorder at the time of the offense that significantly impaired their ability to understand the nature and quality of their actions, or to control their behavior. Some of the commonly recognized psycho-legal defenses in such cases include insanity, diminished capacity, and guilty but mentally ill.

In addition, the defendant's mental state must have been a direct and substantial factor in the commission of the crime. The prosecution, on the other hand, must prove beyond a reasonable doubt that the defendant was capable of understanding the wrongfulness of their actions and had the capacity to control their behavior. In conclusion, the application of psycho-legal defenses in intimate partner murder cases requires a thorough and comprehensive examination of the defendant's mental state at the time of the offense, taking into account relevant medical, psychological, and legal criteria.

c. Criminal capacity

Criminal capacity refers to the mental ability of the defendant to understand that their actions were wrong and to form the intent to commit the crime. If a person is unable to

form this intent due to a mental illness or disability, they may not have the necessary criminal capacity to be held responsible for their actions.

d. Criminal culpability

Criminal culpability refers to the level of responsibility or blame that a person bears for their criminal actions. A person may be found not culpable for their actions if they acted under duress or coercion, or if they were acting in self-defense.

4. Psycho-legal Defenses in Intimate Partner Murder Cases

According to a study published in the Journal of Forensic Sciences (2007), the most commonly used psycho-legal defenses in cases of intimate partner murder are insanity, diminished capacity, and guilty but mentally ill. Other frequently used defenses include battered woman syndrome and PTSD.

a. Insanity defense

The insanity defense, also known as the mental disorder defense, is a legal defense that may be raised in cases of intimate partner homicide. The defense argues that the accused did not have the capacity to understand that their actions were wrong, due to a mental illness or defect. The standard for evaluating the insanity defense varies by jurisdiction, but the most commonly used standard is the "M'Naghten rule," which provides that a person is not responsible for their criminal acts if they suffered from a disease of the mind that prevented them from knowing the nature and quality of their act or from knowing that it was wrong (McHenry, 1987)

However, the insanity defense has been controversial and has been criticized for its lack of scientific basis and for its potential to allow defendants to escape punishment for their crimes. It has also been argued that the defense is often used to stereotype people with mental illness as violent and dangerous (Goldstein, 1962). Despite these criticisms, the insanity defense remains a viable option in some jurisdictions and is an important tool for ensuring that people with mental illness are not punished for acts that they could not control.

b. Diminished capacity defense

The diminished capacity defense is a legal defense that asserts that a person charged with a crime was unable to form the specific intent required for that crime due to a mental illness or disability. In the context of intimate partner homicide, the diminished capacity defense could be raised if a defendant is charged with killing their intimate partner and argues that their mental illness or disability prevented them from forming the intent to kill. However, the use of this defense in cases of intimate partner homicide is controversial and its effectiveness can vary depending on the jurisdiction. In some states, the defense has been rejected altogether, while in others it may be considered as a mitigating factor in sentencing. It is important to note that the diminished capacity defense should be evaluated by a qualified mental health expert and that a mental illness or disability alone is not a guarantee of a successful diminished capacity defense.

c. Battered woman syndrome defense

One of the most commonly used psychological defenses is battered woman syndrome (BWS). BWS is a condition that can develop in women who have been subjected to long-term physical, sexual, and psychological abuse by an intimate partner. It is characterized by symptoms such as fear, helplessness, and trauma. In criminal trials, BWS can be used as a defense to explain the actions of the perpetrator, and to argue that they were acting in self-defense.

However, the use of BWS as a defense has been met with criticism. Some argue that it reinforces stereotypes of women as passive victims and blames them for the actions of their abuser. Others argue that it undermines the seriousness of the crime and the responsibility of the perpetrator. Moreover, many experts have pointed out that the diagnosis of BWS is not universally accepted by the scientific community and there is no clear criteria for its diagnosis.

a. Post-traumatic stress disorder defense

Another psychological defense that has been used in cases of intimate partner murder is post-traumatic stress disorder (PTSD). PTSD is a mental health condition that can develop after someone has experienced or witnessed a traumatic event, such as a severe physical assault or sexual violence. In court, PTSD can be used as a defense to argue that

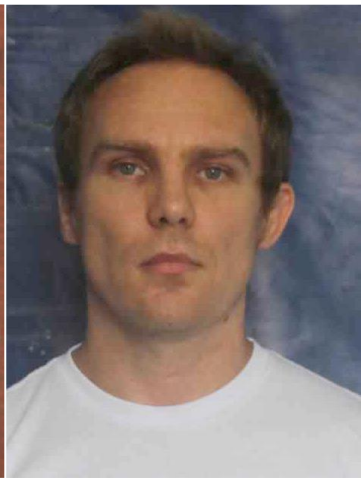
the perpetrator was suffering from the effects of trauma at the time of the crime, and that this may have influenced their actions.

However, similar to BWS, PTSD has also been met with criticism. Some argue that it can be used as a way to avoid responsibility for the crime, and that it fails to take into account the perpetrator's prior history of abuse. Additionally, like BWS, PTSD is not universally accepted as a defense in court, and the criterion for its diagnosis is not well defined.

5. Case Examples

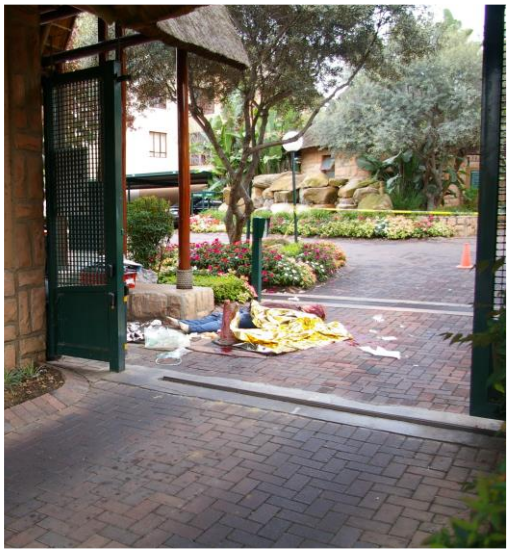
a. Gerhard Jansen van Vuuren

Gerhard Jansen van Vuuren was accused of murdering his girlfriend, Andrea Venter. There is a long history of domestic violence in their relationship, and she had attempted to leave him multiple times, even going so far as to obtain numerous restraining orders. He stalked her, harassed her, threatened her, and eventually murdered her.



At 06h20 on 2 May 2011 Gerhard Jansen van Vuuren is seen on security video chasing after Andrea Venter in her residential complex in Fourways with a knife in his hand. He catches up with her at the entrance to the complex, and in the presence of numerous witnesses, stabs her to death; she has 14 stab wounds and a cut to the throat. A security guard at the complex tries to intervene but Gerhard threatens him with the knife, and he backs away. The accused then cuts his own throat and lies down next to her body in an apparent suicide attempt. He survives.

During his trial, the accused attempted to use the defense of non-pathological criminal incapacity in that he suffered from “Intermittent Explosive Disorder”, at the time of the incident and as a result of the disorder was not in control of his actions and could therefore not control his actions.

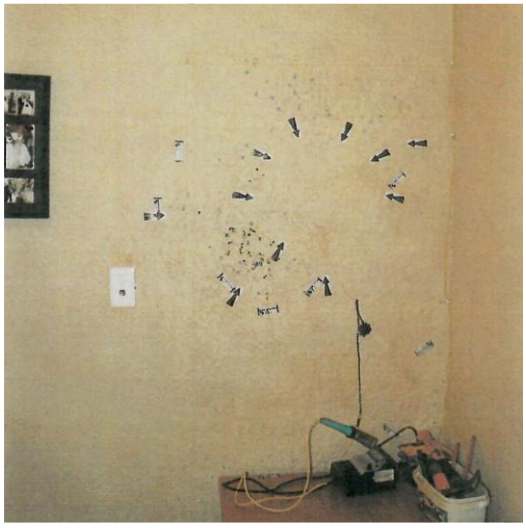



He was found guilty.

b. Mariska Du Plessis

Mariska du Plessis was married to her husband from 2009. They had one son.


The accused claimed that her husband had hit her child with a belt, and it caused her to be fearful for their safety. She made a call to the police and then went and retrieved a shotgun and shot her husband in the back of the head from about 45cm away. She hid the weapon and claimed that intruders had shot her husband.



The accused plead not guilty and attempted to put forth a Battered Woman Syndrome defense. The judge found this to be unlikely due to many factors relevant to their relationship that did not correlate to the symptoms synonymous with BWS.
She was found guilty.

c. Oscar Pistorius

Oscar Pistorius, aka the Blade Runner jumped to fame in the 2012 Olympic games. He fatally shot his girlfriend, Reeva Steenkamp on Valentine's day 2013. They had been dating for approximately 6 months when the tragedy ended the fairytale.

Oscar claimed that he thought there were intruders in the house and that is why he put 5 bullets through the locked bathroom door. He claimed he did not know that Reeva was inside. His defense team also attempted to put forward a defense of Generalized Anxiety Disorder. The judge declined to rule this as a mitigating factor. He was found guilty.

6. Analysis of the Effectiveness

a. Success rate of psycho-legal defenses

While research on the matter is limited, some studies suggest that psycho-legal defenses, such as the Battered Woman Syndrome, may be successful in mitigating criminal responsibility for individuals who have committed intimate partner homicide. For example, a study found that in cases where the Battered Woman Syndrome was presented as a defense, over 50% of the defendants were acquitted or received lesser charges. However, it is important to note that the success of psycho-legal defenses varies greatly depending on a number of factors, including the jurisdiction in which the case is tried, and the strength of the evidence presented. Additionally, there is ongoing debate among legal and psychological professionals about the validity of these defenses and their implications for criminal responsibility.

b. Ethical and moral considerations

The use of psycho-legal defenses in intimate partner homicide cases raises significant ethical and moral considerations. One of the primary concerns is the potential for abuse of such defenses, which can serve as a means for perpetrators to avoid responsibility for their actions. This undermines the principle of criminal accountability and can lead to a devaluation of the victim's life. Furthermore, the use of psycho-legal defenses can reinforce stereotypes about the capacity of individuals with mental health issues to control their behavior, which can perpetuate stigma and discrimination against individuals with mental illness. These considerations highlight the need for a nuanced and critical approach to the use of psycho-legal defenses in intimate partner homicide cases. To address these concerns, it is important to consider the broader social and cultural context in which these cases occur, as well as the principles of criminal justice and human rights.

7. Conclusion

In conclusion, psychological legal defenses for intimate partner murder are a complex and important area of study. The historical use of the insanity defense has evolved into more current legal definitions, such as the "guilty but mentally ill" defense and diminished

capacity. The role of mental health professionals in these cases is crucial, as they are often called upon to evaluate defendants and testify in court.

Several high-profile cases have highlighted the complexities involved in these types of murders, including the use of psychological defenses, the effectiveness of these defenses, and the ethical considerations for mental health professionals.

It is clear that further research is needed to fully understand the implications of psychological legal defenses in intimate partner murder cases. This research could contribute to a better understanding of the criminal justice system and its relationship with mental health professionals, as well as improving the use of psychological defenses in these cases. Overall, this paper highlights the importance of continued study and analysis in this area to ensure that justice is served for both defendants and victims in intimate partner murder cases.

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