

The battered wife defense: the lavallee case

Sociology, Violence



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The Canadian case of R. v. Lavallee became extremely influential as it had recognized the Battered Woman Syndrome and allowed it to be admissible as expert evidence. Madam Justice Wilson wrote for the courts that evidently identified and held that the expert evidence is in fact needed in particular cases, such as this one. Lavallee (the appellant) and the victim were in a common law relationship for multiple years.

One night in 1986, during a party at their home, a fight ensued between the couple which once again became physical. Rust loaded and handed Lavallee a gun and threatened her by saying “ wait till everybody leaves, you’ll get it then” and “ either you kill me or I’ll get you”. After debating to killing herself, Lavallee shot Rust in the back of the head as he was leaving the room. The appellant and Rust had a relationship that was “ volatile and punctuated by frequent arguments and violence” with multiple witnesses and trips to the hospital to show for. According to psychologist Dr. Lenore Walker, it is common abusive occurrences like these in which leads to someone suffering from Battered Woman’s Syndrome (BWS). After experiencing the abusive cycle, overtime the abused victim finds themselves in a state of ‘ learned helplessness’ where he or she feels depressed, defeated, and passive to where they believe they are incapable of leaving the abusive situation.

The case of R. v. Lavallee brought about a multitude of philosophical debates and opinions to which I am in agreements with Judges Wilson, Chief Justice Dickson and Justices Lamer, L’Heureux-Dube, Gonathier and Cory, who upheld that the expert evidence provided by Dr. Shane should be in fact admissible and is relevant to the elements of self-defense. I also wholeheartedly believe that Ms. Lavallee’s plea of self-defense should be

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accepted and agree that the charges put fourth be acquitted. The decision to allow expert evidence to be admissible, to accept Lavallee's plea for self-defense and opposing opinions of the decisions will be discussed further and in relation to the feminist legal theory. The admissibility of expert evidence has been that of a controversial decision for the R v. Lavallee case.

Many argue that admitting the Battered Woman Syndrome as evidence is allowing the accused to take the easy way out and is often referred to as an 'abuse excuse'. Since a professional, or expert, is needed to determine this syndrome, it is important to understand what an expert testimony is and the principles in which one is properly admitted. An expert witness testimony becomes necessary when the knowledge "is outside the scope of the ordinary layman's experience or involves complex issues that challenge the layman's comprehension (and) to aid the trier of fact in understanding the evidence or evaluating the issues", such as understanding a psychological condition. Accepting the expert opinion of, in this case, a psychiatrist as expert evidence gives insight into the mindset of the accused. This is an extremely important component, especially when discussing one's intent.

Dr. Fred Shane, a psychiatrist with extensive professional experience in the treatment of battered wives, gave a psychiatric assessment of Lavallee. He discovered that the appellant "had been terrorized by Rust to the point of feeling trapped, vulnerable, worthless and unable to escape the relationship despite the violence". Dr. Walker explains that when someone, often times a victim of abuse, is convinced that he or she has no control in what happens to them, believing that he or she can ever influence it is difficult. Expert

evidence should most definitely be accepted and considered in this case. Dr. Shane's statement describes Lavallee's possible state of mind which would otherwise not be clear without an explanation from an expert. In this case, it is extremely difficult for the regular person that has never experienced such trauma to understand the Battered Woman's Syndrome. Dr. Shane debunks the myths that the reasoning behind staying is due to women not actually being beaten to the extent they claim or that they enjoy the beating. The expert evidence makes it clear that a woman's reluctance to leave is due to the horrible effects caused by said abuse. Contrary to some belief, the expert evidence " does not and cannot usurp the jury's function of deciding whether, in fact, the accused's perceptions and actions were reasonable".

Despite these irrational oppositional opinions, I agree with Madam Justice Wilson who stated that an expert could assist members of the jury to avoid using logic based on their own experience, which might lead to an incorrect conclusion. Allowing the omission of the Battered Woman Syndrome as expert evidence would simply be proving that the law, and the lawful decisions made, aid in women's subordination and would disregard the very reason for the feminist legal theory. If denied, this decision would have been detrimental to the women's movement and erase years fought. Dr. Shane's expert evidence should most definitely be accepted as evidence as the absence of such expert evidence would cause great misinterpretation of Lavallee's mindset during the altercation and therefore be ignoring the true reasoning for her actions. Simply put, not accepting the evidence would be not accepting or recognizing the complete case. Or, as put by Judge Wilson, " given the relational context in which the violence occurs, the mental state of

an accused at the vital moment she pulls the trigger cannot be understood except in terms of the cumulative effect of months or years of brutality”.

By admitting Dr. Shane’s assessment of Lavallee as expert evidence, it allows the jurors to understand the Lavallee’s mindset when the shooting happened which then shines a light on the legitimacy of her plea of self-defense. The relevancy of expert testimony to the elements of self-defense is broken up into two sections in the Criminal Code. Section 34(2) of the Criminal code explains that causing death or grievous bodily harm is justified if (a) “ he causes it under reasonable apprehension of death or grievous bodily harm from the violence with which the assault was originally made or with which the assailant pursues his purpose”, and (b) “ he believes on reasonable and probable grounds, that he cannot otherwise preserve himself from death or grievous bodily harm”.

Essentially, kill or be killed. But these aged definitions fail to recognize the reality of differences between genders. This can be described by the sexual difference model of the feminist legal theory. The difference model theory recognizes the gender difference and insists that these differences should not be ignored by the law but rather taken into account by it. By recognizing and considering the differences, the law can apply accurate solutions for scenarios where females are at a disadvantage. Recognized by the court, Justice Wilson explains Lavallee’s “ conspicuous lack of access to training in and the means of developing those skills necessary to effectively repel a male assailant without resorting to the use of deadly weapons”. Following his assessment, it is Dr. Shanes expert opinion that Lavallee shooting Rust was,

in fact, a “ final desperate act by a woman who sincerely believed that she would be killed that night”. He continues to explain that Lavallee “ felt in that tragic moment that her life was on the line, that unless she defended herself, unless she reacted in a violent way that she would die.

It is no doubt that Lavallee had reason to believe Rust would cause intense bodily harm, if not kill her. Rust explicitly threatened the appellant previously that night when he stated “ wait till everybody leaves, you’ll get it then” and “ either you kill me or I’ll get you”. Rust made it extremely clear of his intentions that night, and in combination with the years of abuse, it is not unreasonable for Lavallee to have believed anything otherwise. When imagining a situation where self-defense is needed, one typically pictures a gun being held to their head with no other alternative, but this is not always the case. As Judge Wilson and the other assenting judges describe, the symptoms experienced by someone suffering from Battered Woman’s Syndrome is that much experienced by a hostage situation. If the hostage was told she would be killed in three days’ time, would the self-defense principle only be valid if the hostage had killed the capturer on the third day when the “ knife is uplifted”. It is unreasonable that self-defense would only be valid in that type of scenario. Any reasonable person would attempt to save themselves prior to the situation reaching that point. It is for the combination of these many reasons that Lavallee should most definitely be allowed to plea self-defense and her charges be acquitted. The main disagreements surrounding this case regards to whether Lavallee truly acted in self-defense. Many believe Lavallee had multiple opportunities to leave prior to this night which would have ultimately prevented the incident at

hand. This belief is discredited by Dr. Shane's assessment and description of Lavallee's state of mind. Since Lavallee experienced the abuse cycle a multitude of times, she easily became victim to Battered Woman's Syndrome. Because of this, Lavallee suffered from 'learned helplessness' where she would have felt fearful and weak and that she is incapable of leaving the abusive relationship. Lavallee didn't stay with Rust because the beatings weren't 'that bad' or because she enjoyed the beatings but rather because over time and multiple years of abuse, Lavallee believed that there was no other option. When appealing to the Manitoba Court of Appeal, the Crown ordered for a new trial. The reasoning behind this is because the Court felt that "in the absence of the evidence from the psychiatrist the jury would not have accepted the argument that Ms. Lavallee had acted in self-defence".

Excluding this information from the jury would be denying the jury of the full story and would not be depicting an accurate picture of the case. As stated by Madam Justice Wilson, "without expert evidence on the psychological effect of battering on wives and common-law spouses, a jury cannot appreciate the mental state of Ms. Lavallee, and others like her". Despite understanding that a battered woman is at higher risk to serious danger, some still contend that to apply self-defense one must wait until "the knife is uplifted, the gun pointed or the fist clenched before her apprehension is deemed reasonable". To require the battered woman to wait until her life is in immediate danger, especially when they can predict the onset of abuse, is extremely detrimental to one's life. As Madam Justice Wilson explained, a battered woman in Lavallee's situation is in a similar position "to that of a

hostage (whose) ... captor tells her that he will kill her in three days' time." If, " given the history, circumstances and perceptions" of the battered accused, she believes that she cannot preserve herself from being killed by the batterer except by killing him first, then it is reasonable, as in the example cited, for the hostage to seize an opportunity presented on the first day rather than " wait until he makes the attempt on the third day.

The judges' decision to adjust the criteria surrounding self-defense to accommodate battered woman has been highly criticized. Making this adjustment to consider the unique ' situation' of one in an abusive scenario does not simply give any battered spouse the right to kill the batterer. The belief that broadening self-defense allows for a victim of abuse to commit preemptive murder is completely misguided and entirely misses the true and critical rationale for adjusting the law. In accordance with Justice Wilson, Chief Justice Dickson and Justices Lamer, L'Heureux-Dube, Gonthier and Cory, who upheld that the expert evidence provided by Dr. Shane should, in fact, be admissible and is relevant to the qualities of self-defense.

It is also to my belief that allowing the evidence brings much more than just the Battered Woman Syndrome to light, but that of the feminist legal theory as well. To ignore this would be to ignore the unequal treatment of genders as a whole. Despite the many criticisms, it is my wholehearted belief that Lavallee did act in a state of self-defense and acceptance of expert evidence is pivotal to confirm such a mindset. A " common" or " reasonable" person would easily be able to reason with Lavallee's actions from that night. The decision to accept the expert evidence as self-defense only allows for

positive repercussions as it creates general awareness among the public regarding such stereotypical assumptions that should be reconsidered when given expert evidence.