

Identifying a Differentiated Right to Self-Defense for Disabled Women Victims of Domestic Violence in Light of the Battered Woman Syndrome and Post-Traumatic Stress Disorder Concepts

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Background and Research Necessity

The examination of domestic violence against women with disabilities, as one of the neglected issues in the field of criminal law and criminology, reveals a situation where the combination of two harmful components—gender and disability—exposes this group of women to various serious risks and threats. Women with physical, mental, and sensory disabilities, due to the limitations imposed by their disabilities, are sometimes deprived of the necessary ability to defend themselves or to report instances of violence inflicted upon them. On the other hand, their multiple economic and social dependencies on offenders have made it exceedingly difficult for them to exit violent relationships. Research findings indicate that women with disabilities are exposed to physical, sexual, psychological, and economic violence within the family environment at a significantly higher rate than other women. Among these, one of the fundamental yet underappreciated challenges is how legal systems address the right to self-defense for this group of women. Although self-defense is recognized as a justifiable cause of crime in the laws of most countries, its general and universal rules are often of little efficacy for the specific situations of women with disabilities who have a history of prolonged and continuous domestic violence. This ineffectiveness is primarily because the conditions for establishing self-defense—such as the imminence or immediacy of the danger, proportionality between the defense and the assault, and the assessment of the rationality of the defender's reaction—are based on abstract criteria and modeled on an ordinary, average person, which typically corresponds to the physical and psychological characteristics of a healthy, normal man. However, this model does not align well with the objective reality and lived experiences of women with disabilities who are victims of violence.

Research Objective

The primary aim of this article is to identify and explain the possibility of women with disabilities who are victims of domestic violence benefiting from a differentiated self-defense, relying on two important psychological concepts: the Battered Woman Syndrome and Post-Traumatic Stress Disorder. In this regard, an

attempt has been made to provide an operational model suited to the legal context of Iran through a comparative study of the approaches of the American and English legal systems, thereby enabling more effective judicial and legal protection for women with disabilities who are victims of domestic violence.

Research Questions

The three fundamental questions that this research seeks to answer can be stated as follows:

- First, what impact do the psychological concepts of Battered Woman Syndrome and Post-Traumatic Stress Disorder have on the identification and establishment of a differentiated right to self-defense for women with disabilities who are victims of domestic violence, and how can they be useful in redefining the conditions for establishing self-defense?
- Second, based on what criteria and approaches have the American and English legal systems succeeded in recognizing and acknowledging a differentiated self-defense for women with disabilities who are victims of domestic violence, and how can the practical experiences of these two countries in this area be evaluated?
- Third, what is the position of the Iranian legal system regarding the recognition of a differentiated self-defense for women with disabilities who are victims of domestic violence, and what solutions can be offered to address the deficiencies and gaps in this area?

Research Hypotheses

The answers to the above questions are organized based on three main hypotheses:

- The first hypothesis is that the two aforementioned psychological concepts, because they explain the causes and factors behind the seemingly disproportionate and unexpected reactions of women with disabilities who have endured repeated violence, can provide a scientific and rational basis for recognizing a differentiated self-defense for them.
- The second hypothesis is based on the proposition that the American and English legal systems, by adopting a psychological and gender-oriented approach, have succeeded in transforming the traditional rules of self-defense and, by offering a new interpretation of its conditions, have paved the way for women with disabilities who are victims of domestic violence to benefit from a differentiated self-defense.

- The third hypothesis holds that the Iranian legal system, compared to the aforementioned systems, suffers from a serious gap in recognizing a differentiated self-defense for women with disabilities who are victims of domestic violence, and that this group of women in Iran can only resort to the general and universal rules of self-defense, which are not very compatible with their specific and unique conditions.

Research Methodology

The present research is fundamental in terms of its objective and, in terms of its approach, falls under descriptive-analytical research. The data collection method in this research is based on library and documentary study, with the primary data collection tool being systematic note-taking from authoritative scientific sources, including books, research articles, positive laws, judicial opinions, and expert reports in the fields of criminal law and psychology. First, by referring to psychological texts, the key concepts of Battered Woman Syndrome and Post-Traumatic Stress Disorder were identified and explained. Then, through a comparative study of the American and English legal systems, the laws, judicial procedures, and legal doctrines of these two countries regarding differentiated self-defense for women with disabilities who are victims of domestic violence were thoroughly examined and analyzed. In the final step, by comparing the findings from the two legal systems with the current situation in the Iranian legal system, existing gaps and deficiencies were identified and reform proposals were presented.

Research Findings

The overall results of the research indicate that the aforementioned psychological concepts have a good justifying capacity for the defensive reactions of women with disabilities who are victims of domestic violence. The Battered Woman Syndrome, which can be formulated in four stages of denial, guilt, awareness, and responsibility, shows how continuous and long-term violence can fundamentally alter a person's perceptual system of reality, decision-making ability, and mode of action. Furthermore, Post-Traumatic Stress Disorder, with symptoms such as recurrent and intrusive distressing memories, avoidance of reminders of traumatic events, persistent changes in cognition and mood, and marked reactivity to stress-inducing stimuli, explains why a woman who has experienced repeated violence for years may feel a deadly danger even in the absence of an objective and immediate threat and exhibit a seemingly disproportionate reaction.

The comparative study of American law showed that the states of California and Texas have taken effective steps in recognizing differentiated self-defense for women victims of violence by enacting specific laws and adopting innovative judicial practices. The courts of these two states, relying on three main criteria—namely, the moral criterion, which emphasizes not punishing someone who acted with a sincere belief; the legal and judicial criterion, which is based on the necessity of ensuring a fair trial; and the rational and philosophical criterion, which affirms the irrationality of punishing a reasonable mistake—have succeeded in redefining the traditional rules of self-defense. The Judicial Protection Act for Women with Battered Woman Syndrome in California, passed in 2012, and the Legal Defense Acceptance Act for Battered Women in Texas, passed in 2013, are among the prominent examples of legislative developments in this area, which explicitly allow women victims of violence to benefit from self-defense, even in cases where the degree of defense does not objectively correspond to the level of assault, provided there exists a reasonable belief in the danger.

In the English legal system, courts have adopted a somewhat similar approach. In numerous rulings, including the famous Samantha defense ruling issued in 2008 and the Birmingham City Court ruling in 2011, by accepting the defendants' honest and reasonable belief in the existence of danger, they have absolved them of criminal liability. English legal doctrine, supporting this judicial tendency, has emphasized the necessity of distinguishing between acts arising from malice and acts based on reasonable mistake, and considers the recognition of apparent justifiable causes as a step towards achieving a fair trial.

In contrast, an examination of the Iranian legal system revealed that no specific legislative or judicial protection has been envisaged in the country's positive laws for women with disabilities who are victims of domestic violence regarding the recognition of a differentiated self-defense. Article 156 of the Islamic Penal Code, which is devoted to stating the conditions for establishing self-defense, merely requires the verification of general conditions such as the imminence or immediacy of the danger, proportionality of the defense to the attack, and the rationality of the defense, without any attention to the specific situation of women with disabilities and their lived experiences in the context of continuous domestic violence. Iranian judicial practice in this area also lacks any distinct and protective approach, and courts, when faced with women with disabilities who are victims of violence, apply the same general and universal rules of self-defense, which in practice makes it very difficult for them to effectively benefit from this legal institution.

Conclusion

The present research has concluded that recognizing the right to differentiated self-defense for women with disabilities who are victims of domestic violence is not merely justifiable from the perspective of law and criminal justice but is also fully compatible with ethical and humanitarian standards. The psychological concepts of Battered Woman Syndrome and Post-Traumatic Stress Disorder provide a scientific basis for understanding why these women exhibit seemingly disproportionate and unexpected reactions and demonstrate that the assessment of the rationality of their behavior should be based on criteria appropriate to their specific circumstances and psychological state, rather than on the abstract and stereotypical model of an ordinary, average person who does not at all possess the biological and psychological characteristics of this group of women. The experience of the American and English legal systems in this area clearly demonstrates that by adopting a gender-oriented and trauma-informed approach, one can provide more effective protection for women with disabilities who are victims of domestic violence while preserving the fundamental principles of criminal law. This approach can be realized through three main strategies: first, accepting the imminence of danger and aggression based on repeated victimization experiences; second, recognizing Post-Traumatic Stress Disorder as a factor affecting the rationality of the perception of danger; and third, accepting the possibility of danger and aggression based on psychological defense, which considers the psychological life of a person as worthy of protection and safeguarding as their physical life.

Recommendations

Based on the findings of this research, the following recommendations are proposed to address the existing gaps in the Iranian legal system:

- In the legislative sphere, it is recommended that Article 156 of the Islamic Penal Code be amended with a protective approach, and that special attention be paid to the specific situation of women with disabilities who are victims of continuous domestic violence in the clauses related to the conditions for establishing self-defense. More precisely, it is suggested that an article be added stipulating that if a person with a history of physical or mental disability and experience of repeated domestic violence is diagnosed with Battered Woman Syndrome or Post-Traumatic Stress Disorder and defends themselves with an honest and reasonable belief in the existence of imminent danger, they shall be exempt from criminal liability, even if the defense exercised is not fully proportionate to the apparent assault, provided that the impact of the aforementioned psychological condition on their reactions is established.

- In the judicial sphere, it is essential to develop binding guidelines for courts to consider the psychological state of women with disabilities who are victims of domestic violence during the proceedings of cases related to self-defense. These guidelines could include requirements such as obliging the court to utilize psychological experts in such cases, considering the history of repeated violence, and assessing the defendant's belief based on criteria appropriate to their specific and unique circumstances.
- In the educational and research sphere, holding specialized courses for judges, attorneys, and court-appointed experts on the psychological concepts related to domestic violence against women with disabilities and its impact on victims' behavior is an important step towards realizing criminal justice in this area. Furthermore, conducting field and statistical research in Iran to identify the various dimensions of domestic violence against women with disabilities and to precisely assess their support needs in the criminal justice process is an undeniable necessity.
- In the cultural and social sphere, increasing public awareness regarding the rights of women with disabilities and the necessity of special protection for them against domestic violence through the media, non-governmental organizations, and educational centers, as well as establishing and strengthening counseling and support centers for women with disabilities who are victims of domestic violence to provide them with psychological, legal, and social services, can play a significant role in reducing the victimization of this group of women and facilitating their access to justice. Realizing the above set of recommendations, while filling the existing gap in the Iranian legal system, will be an effective step towards achieving gender justice and protecting the rights of persons with disabilities against domestic violence, and will steer the criminal justice system towards a more humane, realistic, and need-appropriate approach for vulnerable groups.

Keywords:

Legitimate defense, people with disabilities, Iranian rights, us Rights, domestic violence