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Jealous men but evil women: the double standard in cases of domestic Homicide.

Helen Gavin

Abstract

In 1989, Sarah Thornton killed her abusive husband with a knife, after years of abuse and threats to her daughter. She was convicted of murder and sentenced to life imprisonment. Also in 1989, Kiranjit Ahluwalia soaked her husband's bedclothes with petrol and set them alight. He died from burns 10 days later, and she was subsequently convicted of murder and sentenced to life in prison.

In 1991, Joseph McGrail kicked his alcoholic common-law wife to death whilst she lay unconscious. He walked free from court, the judge telling him that "this lady would have tried the patience of a saint". In 1992, Les Humes told a court that he "saw a red mist" after his wife admitted loving someone else. He fatally stabbed her whilst their teenage children struggled with him. He was convicted of manslaughter due to provocation and was imprisoned for 7 years.

Double standards in judicial processes are notorious. Chivalric justice is the case in which women are given lighter sentences for similar offences to men. This does not apply in the case of domestic homicide, where women are seen as evil and calculating when killing a spouse, men are seen as provoked beyond reason. Women who kill husbands do so with weapons that they need to acquire, men do it with their hands or weapons that are immediately available. So it is seems the defence of *crime passionnel* is reserved for men; women, it is implied, premeditate the murder of abusive husbands, and are justifiably punished. This paper explores the double standard in uxoricide vs. mariticide, and why it appears that killing a wife is justified and killing a husband is evil

Key Words: Domestic homicide, double standard, provocation, domestic abuse.

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1. Introduction

Domestic homicide is the crime of killing a spouse or intimate partner, even if the partners are not living together. For the purposes of this paper, the term will be used to cover all circumstances in which one partner kills the other, be that the murder of a wife or female intimate partner (uxoricide), husband or male intimate partner (mariticide) or in which the partners are homosexual or transgender.

According to Stöckl et al[1], between 14% and 30 % of all homicides globally are perpetrated by an intimate partner. Overwhelmingly, the majority of cases of domestic homicide include a male perpetrator, and a female victim. The latest figures from police statistics show that most countries report 80% of domestic homicide is with this dynamic, although some countries, notably the USA with 50%, deviate from this. Gerbeth [2] suggests that domestic violence happens due to a sociocultural and historical acceptance of violence by men in the home, and that domestic homicide is an escalation of this violence with fatal results. It is also true, nevertheless, that women can and do kill in the home, and female fatal violence can be likewise directed towards children, male or female partners, or any third party who gets in the way. What is also clear is that the investigation and punishment of that violence can often be tainted by societal attitudes about what women should and should not do in domestic settings. To understand this, we need to examine male domestic violence and homicide to see why female domestic homicide is regarded so differently.

2. Uxoricide, Men Killing wives

Why do men kill their wives (or other female partner?). Wives and girlfriends can become inconvenient for lots of reasons. They become pregnant at the wrong time, or to the wrong man. They get in the way of a new life with a new partner. They demand money after divorce settlements. They commit infidelity, and decide to leave. Whatever the reason there is a fair likelihood that a woman will be killed by her husband than anyone else. According to Bourget & Gagné [3] there is a range of statistically significant risk factors surrounding domestic homicide committed by the male partner, which can lead to behavioural profiles of such offenders. Their profile presentation is a dazzling array of numbers, that I will not bore you with today, but they reveal a hazy picture of the domestic murderer. Such risk factors include age, the younger the partners are the more likely one is to be murdered by the other. Secondly, marital status appears to matter, as, ironically, uxoricide is more likely to happen between co-habiting partners than between married couples. Thirdly, a history of domestic violence is a clear risk factor for the murder of a wife or equivalent woman, with somewhere between 60-75% of all male perpetrators of domestic homicide having had at least one instance of physical abuse recorded against them. A further consideration is mental illness. In older offenders, there are high incidences of depression and anxiety disorders, but younger offenders present with other forms of mental illness, including schizophrenia.

Less dominant risk factors include nationality status, with a significant proportion of offenders (and their victims) being immigrant to the country in which the murder took place. However, the proportion of offenders of ethnic minority is

no larger than would be expected given the percentage of those ethnicities within the population.

Can we now begin to build a very basic profile of our domestic homicide perpetrator? Well, he is likely to be Caucasian, but only because the majority of nations for which statistics are drawn are predominantly white. He will be relatively young and have a history of domestic violence, either against the homicide victim or other members of the family. He may present with some form of psychopathology, but the likelihood of that being attempted as a defence is high too. Above all, he will be male, as these statistics refer to men killing their wives or equivalent female partner. Such a man kills in a rage, with his hands or a handy weapon, and as result of the possessiveness and proprietary nature of his view of her as his wife. The question now, is whether this is the same for the women who kill their husbands, and if so, why they are viewed so very differently in court.

3. Female Crimes, Excluding Murder

The cases of Sara Thornton and Kiranjit Ahluwalia, discussed in the abstract, contrast starkly with those of Joseph McGrail and Les Humes. They are also contrary to the double standard usually seen in court when we compare the experiences of male and female defendants. There appears to be an aversion to holding women accountable for their crimes, often termed chivalric justice[4]. Men and women receive different sentences for the same conviction, with lower sentences for females, as long as the crime did not offend against societal perceptions of gender stereotypes. Hence, women who shoplift can receive lower sentences than men, as, according to Gavin[5] shoplifting is seen as a female preserve, and is pathologised as such. Moreover, it is a female preserve that is also perceived as being linked to various forms of psychopathology, a handy label and defence for our female criminal. However, there is a complementary position in which female offenders who offend outside of normative gender roles are perceived as doubly deviant[6] the so-called "evil woman hypothesis". This idea posits that women who offend in the same way as men do, will receive harsher sentences because they offend not only in terms of their crimes but also in terms of their perceived contravention of expected gendered behaviour[7]. Embry and Lyons[8] found little support for such a hypothesis, even when crimes such as sexual offences against children were considered, but this label of "evil woman" is given to women who kill without the handy label of mental illness, and harsh sentences are given to women who kill those society views as their protectors.

4. Mariticide, Women Killing Husbands

Women who kill their husbands or male intimate partners, are seen as conversely weak and evil. To understand this, we need to know why women commit this crime, deemed monstrous and wicked. In their forthcoming book,

Gavin & Porter[9] outline the reasons why women kill. They are not so far from those cited for men, money, jealousy and love.

Women do kill their significant others for money, be it the insurance policy he didn't know he had signed, or other gains to be had from his death. There are two basic patterns amongst women who kill for money, the so-called black widow and the manipulator.

The black widow is a spider, the females of which sometimes eat the male after mating. The term is also applied to a woman who kills her husband for the inheritance she can receive. The second type of female greed killer is the manipulator who gets another person to kill the inconvenient husband. Historically, such women have not been the immediate suspect in a murder, but investigators are moving more to a position of including the wife, daughter, sister in the pool of suspects.

In October, 2004, on the outskirts of Phoenix, Arizona, human remains were found in a storage tub. In the bottom of the tub were some black bags and a single bullet casing. Forensic and DNA analysis showed the remains to be the partial torso of Jay Orbin, a 45-year-old art dealer reported missing by his wife a month previously. Jay was Marjorie's third husband, all of whom were rich. When he went missing, Marjorie seemed unconcerned about his welfare. Jay's clothes appeared to be missing from the home, along with several paintings, but there was a brand new piano in the living room. Marjorie admitted to liquidating Jay's accounts containing $100,000. Six weeks later Marjorie was arrested and charged with her husband's murder. In 2009 she was found guilty of his murder and sentenced to life in prison.

Black widows are more common than might be thought. In 1994, Julian Webb was killed by his wife Dena with poisoned curry. He was buried in a family plot in Hayling Island, Hampshire, UK, but his body was exhumed after Dena was cleared of trying to kill her third husband, Richard Thompson in 2000. She attacked Thompson with a baseball bat and knife because she feared for her life during a bondage sex session. However, she was sentenced to three years and nine months in prison for conning Thompson and two former lovers out of £12,000. Webb's exhumation & examination showed a fatal level of anti-depressant medication in his body.

The problem with women who kill for gain is that the money never seems to be enough, and they become serial killers if not detected early[10].

A second reason for killing a husband or partner is love, but not the type of love we might recognise in relationships that are not pathological in nature. Jean Harris was a respected teacher, headmistress of a girls' school, when she shot Dr. Herman Tarnower, a well-known cardiologist and author of the best-selling book *The Complete Scarsdale Medical Diet*. Harris met Tarnower in 1965 and they had a 14-year relationship. However, he was not contented with one woman, and paraded

his other lovers in front of her, whilst also prescribing medications that disturbed her delicate emotions. On March 10 1980, Harris was upset by events at the school, had had several arguments with Tarnower including the topic of a new woman in his life, and he had changed her medication. She drove to his house with a gun, later saying she had intended to commit suicide in front of him. When she got there, they had an argument in which Tarnower allegedly told her to leave him alone. She shot him four times at close range. She later claimed that he was trying to get the gun off her and it went off accidentally.

The case and trial attracted a great deal of attention, as Tarnower was famous and both of them inhabited what many saw as a privileged and elite world. Harris appeared unemotional throughout, and this is thought to have contributed to lack of sympathy from the jury; she was convicted of second degree murder. She had refused to offer a defence of extreme emotional disturbance, which might have led to a conviction for manslaughter.

Harris was consumed by her jealousy and feelings of abandonment. There is evidence to suggest that Tarnower behaved badly, but he was undoubtedly killed because his behaviour led to a fatal set of emotions in Jean Harris.

Women who kill because they develop a fatal jealousy either perceive their partners as desirable by others and/or they have feelings of inadequacy in their own value as a mate. Hence the motive for murder is the infidelity, real or imagined, of a partner. This pathological jealousy is one which leads a person to seek conflict in contrast to a normal jealousy[11]. Some jealousy is normal, and there are concrete reasons for it, but pathological jealousy results from imagination of infidelity. A desire to hurt the partner follows from a need to express intense feelings of anger and humiliation in a person predisposed to behave aggressively. This seems to describe Jean Harris, but in fact her jealousy was triggered by real events, as Tarnower did not hide the fact that he was seeing other women. Jean Harris killed her lover because she was either jealous of his new sexual interest and she was afraid of losing him to a much younger woman, or because she was suicidal, unhappy and killed him by accident as she tried to end her own life. Whatever she was, she was not afraid of Tarnower. There is a set of women across the world sitting in prison, because they feared their partners so much that they killed them.

There is no greater example of the disparity in the perpetration and consequences of male and female violence than in the killing of an abusive partner. Battered person syndrome refers to any person presenting with identified physical descriptors of adult physical abuse, classified under “Injury and Poisoning”[12]. The DSM-V [13]does not list diagnostic categories for reactions to physical abuse but may place them under separate diagnoses of PTSD or depression. The syndrome has a legal status beyond the condemnation of the person who batters the victim. It has been used as the basis of the so-called “battered woman defence”[14], used to explain how a woman has killed a partner through self-defence when the killing appears to be premeditated. In other words, anyone who has received constant and

severe domestic violence including physical and/or emotional abuse, and become unable to take independent action allowing escape from the abuse. Hence the abused person is unable to seek assistance, fight the abuser or leave. There is an accepted body of research supporting this issue. Legally, courts have recognised that there are circumstances in which domestic violence may lead to a situation in which the abused will kill.

The disparity between cases such as that of Sarah Thornton and Joseph McGrail are dramatic, but do serve to highlight the position that women who kill their husbands are seen as much more culpable than men who kill wives. The disparity between the two cases has led to the examination of the concept of provocation. Mrs McGrail never attacked her partner Joseph physically, yet he was determined to have been provoked into murder. In Sara Thornton's case, there was a large body of evidence that her husband had beaten her, and that she felt that she and her daughter were in danger, yet she was convicted of murder. These cases led to the formation of the UK campaign group Justice for Women who point out that men who kill their female partners often justify their actions by claiming that they lost control. In court, judges expressed sympathy for this defence, suggesting men who were nagged or cheated on by female partners were justified in killing them. However, there is little sympathy for women who kill after experiencing domestic violence. The dominant emotions in women who are battered are fear and despair, not a sudden, explosive loss of self-control. Hence the distinction between the acts appears to be an acceptance of male reactive aggression, and a condemnation of acts that seem to be instrumental. A woman is unlikely to be in the position of killing her often physically larger and stronger husband in a physical altercation, and she must therefore leave the situation to get a weapon; thus making the act appear premeditated. Historically, women who killed husbands in this way were seen as mentally unbalanced, and committed to an asylum, if indeed they escaped the death sentence. Sara Thornton lives in the UK, but in the US it is estimated that there are over 2000 women in prison because they have murdered an intimate partner in self-defence[15].

Battered person syndrome as a defence for killing is highly controversial. It evokes many emotions, some different dependent on the sex of the observer. For those who do not live in fear every day it is difficult to comprehend how such feelings can lead to killing another human being. We therefore assume the killing was instrumental and premeditated. And that equates to evil.

So, men who kill wives in explosive anger and unplanned actions are seen as almost justified, the *crime passionnel* or, more mundanely, temporary insanity defence that abounds in history, fiction and contemporary reality. The lack of weapons beyond hands, or feet perhaps, adds to the perception that the murder was committed due to extreme provocation. Women who experience such dangerous emotions are unlikely to be able to kill their husbands with the same weapons, and

must wait until a weapon is at hand, or the husband is asleep. This makes the crime appear premeditated, and not due to the emotional state of the woman and the relationship. This offends against much of society's acceptance of man as protector and woman as protected. In some cases, it is true, the crimes are clearly planned, and the killer gains much from the death of the spouse. But it is the people who kill their spouses because of provocation that demonstrate the most puzzling of double standards, and we are at a loss to understand why it appears that killing a wife is justified and killing a husband is evil.

The message that underlies much of this research, however, is that, if you were to be murdered, the most likely suspect is the person with whom you share a bed.

Notes

[1] Heidi Stöckl, Karen Devries, Alexandra Rotstein, Naeemah Abrahams, Jacquelyn Campbell, Charlotte Watts, and Claudia Garcia Moreno. The Global Prevalence of Intimate Partner Homicide: a Systematic Review. *The Lancet 382*, no. 9895 (2013): 859-865. is a review of research and statistical patterns revealing the extent of intimate partner homicide across the world.

[2] Vernon J. Geberth, Domestic Violence Homicides. *Law and Order 46*, (1998): 51-54 suggests that we accept domestic violence by men because of an acceptance of the man as the head of the household who is entitled to keep the rest of the household members under control and to punish them as necessary.

[3] Dominique Bourget, and Pierre Gagné, Women Who Kill their Mates. *Behavioral sciences and the law*, *30*(5), (2012): 598-614. present the ways in which intimate partner homicide can occur, and the risk factors that may determine its appearance.

[4] Theresa Porter and Helen Gavin Infanticide and Neonaticide: a Review of 40 Years of Research Literature on Incidence and Causes. *Trauma, Violence, and Abuse*, *11*(3), (2010): 99-112. In this paper on the killing of children, the authors include the idea of chivalry for women offenders affecting the sentencing for various crimes.

[5] Helen Gavin *Criminological and Forensic Psychology* (London: Sage publications, 2014) In the chapter on stealing, the view of shoplifting as a gendered crime is examined.

[6] David Mellor and Rebecca Deering Professional Response and Attitudes toward Female-perpetrated Child Sexual Abuse: a Study of Psychologists, Psychiatrists, Probationary Psychologists and Child Protection Workers. *Psychology, Crime and Law*, *16*(5), (2010): 415-438. In this paper, the authors suggest that female perpetrated sexual abuse is still being ignored due to a level of disbelief.

[7] Fernando S. Rodriguez, S. F., Theodore R. Curry, and Gang Lee, Gender Differences in Criminal Sentencing: Do Effects Vary across Violent, Property, and Drug Offenses? *Social Science Quarterly*, *87*(2), (2006): 318-339. Rodriguez et al

studied the way in which men and women were sentenced for the same offence, across a range of offences.

[8] Randa Embry and Phillip M. Lyons. Sex-Based Sentencing Discrepancies Between Male and Female Sex Offenders. *Feminist Criminology* 7, no. 2 (2012): 146-162 suggested that the perceived discrepancies in sentencing were not borne out in reality

[9] Helen Gavin and Theresa Porter *Female Aggression* (London: Wiley-Blackwell, 2014) examines the ways in which female aggression is carried out, perceived and dealt with across a range of behaviours.

[10] Trina Robbins *Tender Murderers: Women Who Kill*. (San Francisco: Conari Press (2003). points out that women, aside from the battered self-defence cases, kill for the same reasons as men, mostly, but remain undetected as we do not suspect them. The victims are just as death though.

[11] Gregory, L. White, and Paul, E. Mullen. *Jealousy: Theory, research, and clinical strategies*. (New York: Guilford Press, 1989). is a review of research on romantic jealousy and offers a framework by which it can be examined.

[12] World Health Organization. *The ICD-10 Classification of Mental and Behavioural Disorders: Clinical Descriptions and Diagnostic Guidelines* (Vol. 1). World Health Organization. (Geneva: WHO Press, 2010). is a global resource for the recognition, diagnosis and treatment of mental disorders. The latest revision, ICD-11, is due to be published in 2017.

[13] American Psychiatric Association (APA) *The Diagnostic and Statistical Manual of Mental Disorders V* (Arlington, VA: APA, 2013). The latest version of the Diagnostic and Statistical Manual of Mental Disorders is the standard reference manual for the assessment of psychiatric conditions.

[14] Law Commission *Partial Defences to Murder: Report on a Reference Under Section 3 (1)(e) of the Law Commissions Act 1965* (Vol. 6301) (London: Law Commission of Great Britain, 2004). The Law Commission of Great Britain reported on the use of the battered person syndrome as a partial defence against the charge of murder

[15] Jill Messing and John Heeren Gendered Justice: Domestic Homicide and the Death Penalty *Feminist Criminology 4:* (2009, online 2008) 170-188. In this paper, Messing and Heeren present evidence that women committing domestic homicide are disproportionately given life or capital sentences compared to men.

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