

Defending Helen Archer – marital rape and the role of expert testimony in cases involving domestic abuse

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Jennifer Brown, Jeannie Mackie and Yvonne Shell offer psychological, legal and clinical commentary on the Helen Archer (Titchener) attempted murder trial as portrayed in Radio 4's [The Archers](#). The complexities of the case are discussed in light of the apparent initial unwillingness of the defendant to provide full details of the domestic abuse she suffered at the hands of her husband.

The script writers of *The Archers* are allowing the defence barrister to make [a bit of a mess](#) of the opening statements in the trial of Helen Archer. After months of coercive control by Rob, her husband, Helen appeared to have [snapped and knifed him](#). Self-defence or attempted murder?

In the opening of the trial, the lawyer made classic cross-examination mistakes; instead of building the case to trap Rob into early admissions, which he later will have to contradict, she allowed him space to portray himself as the maligned victim and Helen as the neurotic. Listeners know the tearful account of himself as a loving husband is a pack of lies – are the scriptwriters deliberately making the defence so rubbish that if Helen is convicted they will try and appeal on the basis of lawyer incompetence? Unless some last minute rabbit will dramatically be pulled out of the hat, Helen will go down.

A problem for the defence is that Helen has neither given much away about what actually happened on the night in question nor she provided in any great detail examples of Rob's controlling behaviours or indeed of the "rape" which may have occurred and resulted in her pregnancy. It is important to understand the sort of behaviour presented by the character of Helen.

Marital rape-psychological research

Not criminalised until 1991, marital rape remains a particularly hidden and under-reported problem. [Martin and colleagues](#) describe it as one of the controlling tactics in domestic abuse. Victims are likely to suffer increased fearfulness of their abuser, higher levels of self-blame and lowered levels of coping, well-being and self-efficacy.

[A survey of married women by Katie Pianter](#) suggested that one in seven of her sample had experienced a marital rape (and for most it was not just a one off). [Barbara Krahé and Jennifer Temkin note](#) that the credibility of victims of sexual violence present problems to juries more so in cases where there is contested or ambiguous evidence. In such cases jury members tend to be 'liberated' from trial information and respond more to general beliefs and assumptions, invoking 'common sense' responses such as, 'if it was so terrible why didn't she just leave?'

Admitting marital rape on the stand resulted in the prosecution challenging this as a last-ditch attempt to paint Rob as the aggressor. Why didn't she complain to the police at the time? Indeed, why didn't she mention this when arrested for the attempted murder? And why hasn't she told her brief? Counsel, surprised by such a revelation, could be criticised for not adducing this earlier. In any event, not being in the defence statement means Rob will surely be recalled to answer this allegation, which he will deny.

Psychological abuse-the role of the clinical expert

Expert reports [help to explain](#) to juries why women in Helen's position may suppress traumatic experiences and block painful memories after prolonged periods of abuse. [Expert testimony](#) is opinion evidence provided by a knowledgeable person on matters that may be beyond the ken of ordinary members of the public making up a jury. Experts may be called by either the defence or prosecution and their role is to assist the court in explaining certain

aspects of a case. They are required to be impartial, only comment in areas where they have demonstrable expertise, and must indicate the reasoning and authority of the opinion provided. It is of course up to the court to decide what weight or evidential value should be assigned to the expert's views.

In Helen's case, an expert could explain why men like Rob target women like Helen. His/her report might say e.g. that Helen's overt vulnerability is attractive to him as he seeks a person to dominate and control. Rob understands that Helen's self-confidence and self-belief are fragile and that she should be 'grateful' that he has taken her on (when no-one else would). She is charmed by his presentation of self-assurance and apparent competence. This charm is a [distinct pattern of behaviour](#) that Rob knowingly uses as a strategy to initially 'win her' before moving on to using emotional, physical and sexual violence to consolidate his control.

Subtler forms of emotional, coercive control are also seen in Rob's use of Helen's son in perpetuating his mastery over her. His irrational jealousy leads to Helen's increasing isolation and it becomes easier for her to avert conflict by avoiding outside contact. This leads to increased dependency on him and reduces any opportunity to hear others' opinion on her situation. The result is that Rob tightens his control even more.

The likely psychological impact of the type and degree of abuse portrayed by Rob on a person as emotionally susceptible as Helen would be devastating. Apart from the obvious possibility of [post-traumatic stress disorder](#), arising as a result of being the victim of multiple assaults, both physical and sexual, and threats to her emotional and psychological well-being, there is also the additional experience of acute shame at being in this situation. These combine to shake Helen's very belief in what is taking place and her understanding of it is constantly undermined.

The experience of shame is also an unwanted and difficult to control experience for anyone. [Gilbert and Andrews describe](#) "hiding behaviours"; an avoidance of help-seeking and socialising as the possibility of shame being exposed is so great anger and even aggression provides the mask. The tipping comes when the victim fears their partner will hurt someone else.

It is perhaps then no surprise that Helen presents as confused and unsure of herself and the situation. PTSD, combined with feelings of shame and fear, inhibit her ability to recall and articulate her narrative about her abuse because it is so distressing to offer to others that it is avoided and hidden.

Clinical assessments – a barrister's view

The decision for the barrister is whether psychological assessment advances her defendant's case, warts and all. One of the difficulties for counsel defending women in this situation is that clinical requirements are very different from legal ones: a psychologist or psychiatrist will seek a full and in-depth history including any previous aberrant behaviours and substance abuse issues in order to tackle all the real issues before and behind the subject's response to trauma. Some disclosures can be positively damaging to the rather more crude issues in a trial.

An admission, for example, that Helen had in the past avoided a drink-driving charge by getting her brother to "take the rap" would inform a medical professional as to the depths of her vulnerability and anxiety, and reliance on her family structure – but would be meat and drink to prosecution counsel. One key difficulty in such cases is whether a report of this nature is considered admissible. In the absence of medical evidence to support an established psychiatric defence – insanity, unfitness to plead, diminished responsibility, automatism etc. – counsel would have to persuade the court that the jury needed the assistance of an expert at all.

The test for admissibility of any expert report is that it lies outside the experience and knowledge of a jury: and of course that the conditions described were intimately associated with the offence. Judges need persuading that a jury cannot just use their common sense and knowledge of the world to assess a person. This argument is helped if there is an objective evidential basis for the conditions described by the defendant to the expert, for example a previously documented history of mental problems, medical interventions, or other reliable evidence. Recent self-report would not make the strongest case.

Somewhat ironically in Helen's case, the law does take account of a *victim's* mental state without psychiatrist input being necessary to establish it. Judges can – and should – direct a jury when they assess the evidence of a victim of rape to be aware, for example, that reactions to rape take many forms, that not reporting it till much later does not mean it is false, that some victims may not appear upset, others may find it too difficult to talk about. Yet Helen is not a victim *but the defendant* in this trial, and that automatic understanding will not apply to her evidence.

Without a report, counsel is left with the hope that a jury will understand a woman closing down after a relationship and the trauma of thinking her child would be hurt by her husband. [Krahé and Temkin](#) found no solid evidence that expert testimony affected conviction rates in rape cases. As this is not a murder trial, Helen's mental state cannot change the verdict down to manslaughter on the basis that her responsibility was diminished at the time, nor can she rely on a 'loss of control' defence applicable to murder cases where there was strong provocation either at the time of the killing or drawn out in a slow burn over a long period of time.

She can only rely now on the jury's believing her evidence of abuse and rape, and understanding that her experience of that, allied with Rob's manner at the time, made her honestly believe that Rob was about to harm her son or herself. A rabbit out the hat would be a boon at this stage – hopping in with some strong evidence to help her.

Please note: further articles on this topic have [contextualised the storyline](#) in terms of its policy and legal implications and [examined the psychology](#) of perpetrators of abuse and the scale of it in the UK.

About the Authors

Jennifer Brown is co-director of the Mannheim Centre at LSE and has written widely on women and sexual violence including an edited collection entitled [Handbook on Sexual Violence](#) with Sandra Walklate and [Rape: challenging contemporary thinking](#), co-edited with Miranda Horvath.

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