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### VAWA @ 20: INTRODUCTION

*Nishan Bhaumik*

In 1994, Congress passed the most comprehensive response to what Congress had identified as a disturbing trend of violence against women. The Violence Against Women Act (VAWA) of 1994 was a result of decades of hard-fought, strategic advocacy highlighting the legal and public neglect of violence against women, both inside and outside of the private home.

In 2014, on the 20th anniversary of VAWA, CUNY School of Law reflects upon the progress of VAWA. Our VAWA@20 Symposium first examines VAWA's past political struggles and legal battles and then considers its future role in eliminating gender-based violence. *Footnote Forum* collaborated with the VAWA@20 Symposium to present a collection of cutting-edge analyses by scholars and practitioners on VAWA's role in eliminating gender-based violence.

\* \* \*

Until the 1960s, violence within the home was generally considered a private matter—it was not the role of society or law enforcement to interfere in the management of the home. In the 1960s, citizens began discreetly organizing in their local communities to provide battered women and their children shelter, often in private homes. These underground community networks provided safety and security to battered women where state action failed. Beginning in the 1970s, this battered women's movement and similar women's rights initiatives began to gain momentum in shifting the discussion—wife abuse was no longer a private family affair, it was a violent crime that affects entire communities.

By 1984, this societal shift led Congress to pass the Family Violence Prevention and Services Act (FVPSA), the first federal law to address domestic violence. Originally, FVPSA included both social service and law

enforcement training grants aimed at establishing preventative measures, emergency shelters, and appropriate law enforcement response. In the early 1990s, however, there was public and congressional concern that police and prosecutors continued to have a weak response to violence against women. It became necessary for Congress to consider stronger protections for women who were victims of violence.

The Violence Against Women Act of 1994: (1) enhanced investigations and prosecutions of sex offenses and (2) provided for a number of grant programs to address the issue of violence against women from a variety of angles, including law enforcement, public and private entities and service providers, and victims of crime. Notably, VAWA was originally passed by Congress as Title IV of the greater Violent Crime Control and Law Enforcement Act of 1994. The Violent Crime Control and Law Enforcement Act was enacted to strengthen law enforcement and encourage prosecution of violent crimes. Consequently, VAWA grants are overwhelmingly structured to engage law enforcement and encourage criminal prosecution.

Since the 1994 Violence Against Women Act, Congress reauthorized VAWA three times, twice through near unanimous bipartisan support, and most recently through significant Republican opposition. Despite considerable Republican opposition, VAWA was reauthorized in 2013 and remarkably expanded protections against gender-based violence. Notably, VAWA 2013 grants tribal court authority to prosecute non-Native offenders, strengthens non-citizen victim protection through self-petitions and U-visas, creates landmark federal non-discrimination protection for LGBT victims, mandates domestic violence policies and reporting in college campuses, and extends housing protections to victims in federal public housing programs. Although the 2013 reauthorization of VAWA enacted sweeping language to protect against gender-based violence, advocates critique its effectiveness and ability to combat gender-based violence.

The 2013 reauthorization of VAWA was a catalyst in renewing the movement to eliminate gender-based violence. Now, more than ever, a broad group of academics and practitioners are engaged in a deeper anti-violence analysis that crosses gender justice with racial justice, LGBTQ rights, and poverty law.

\* \* \*

As we reflect upon the 20 years of VAWA, we examine VAWA's development from its original 1994 call to criminalize domestic violence to its current role of preventing violence, prosecuting aggressors, and

supporting victims. Though remarkable progress has been made in the past 20 years, we now see that VAWA's original emphasis on criminality and reliance on local law enforcement unwittingly criminalizes entire communities already struggling in the margins—communities of color, LGBTQ individuals, Native women, and immigrant populations.

*Footnote Forum*, in collaboration with the VAWA@20 Symposium, curated essays from leading academics and practitioners to reflect on VAWA's successes and its shortcomings. A resounding theme throughout the essays criticizes VAWA's statutory emphasis on criminal prosecution. Advocates agree that the criminal justice model fails to meet the needs of the victim and patently fails to rehabilitate the offender.

VAWA's focus on prosecution imposes punitive measures not only directly against the aggressor, but also collaterally upon entire communities of color, LGBTQ communities, Native communities, and immigrant populations. Aggressive criminal justice methods of arrest, prosecution, detention, and surveillance disproportionately affect marginalized communities. In this way, VAWA's aggressive policing only furthers the cycle of violence that VAWA intended to eliminate.

Another collective theme of the Symposium appears in the discussion of restorative justice models. Although VAWA statutorily encourages prosecution, effective advocacy asks whether a "tough on crime" approach is actually antithetical to the needs of the victim. After 20 years, practitioners examine whether engaging in law enforcement, prosecution, and punitive actions serves any rehabilitative service to the offender, or conversely, any restorative justice to the victim. The essays call for adopting community-based models of anti-violence and using evidence-based prevention, intervention, and restorative services.

On the 20<sup>th</sup> anniversary of VAWA, we are reminded that the elimination of violence is not a single-issue matter. As we reflect upon the remarkable progress made to address gender based violence, we also note that aggressive criminal justice solutions only further the cycle of violence against marginalized communities. The essays in this collection challenge us to consider a stronger restorative justice and intersectional approach in the elimination of gender based violence. By focusing on holistic models of prevention, intervention, and restorative services, the next iteration of VAWA truly has the potential to be the most comprehensive tool in the elimination of gender based violence.

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