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### A DISAPPEARING ACT: THE DWINDLING ANALYSIS OF THE ANTI-VIOLENCE MOVEMENT

*Kerry Toner*

I'm struggling to work in a world of domestic violence (DV)<sup>1</sup> services defined by the criminalization of DV. This is largely due to remedies created or strengthened by the Violence Against Women Act (VAWA), first passed by Congress in 1994. Want the violence to stop? Get an order of protection. Housing based on your status as a DV survivor? Produce police reports naming you as a crime victim. VAWA has been successful in its two central goals, at least on the surface: increased remedies within and improved access to the criminal legal system, and increased public awareness. However, its widespread impact has also been to reduce the extremely complex social phenomenon of DV to specific acts that can be easily absorbed into our existing legal structures. As sociologist Beth E. Richie has said, when we won the mainstream, we lost the movement.<sup>2</sup>

The criminalization of DV looks to neatly categorize specific acts, like punching or slapping, but DV is never a single act and our solutions cannot rely solely on the law. And, maybe our solutions cannot rely at all on the law, as Black feminist theory may suggest in its critique of a racist criminal legal system that perpetuates state-sponsored violence, largely against communities of color.<sup>3</sup> How can a legal system that is responsible for enacting violence be a solution to violence? This fundamental question must

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<sup>1</sup> Also known as Intimate Partner Violence (IPV), a term coined more recently to encompass the intimate violence in relationships not occurring within a home, e.g. among teens.

<sup>2</sup> BETH E. RICHIE. *ARRESTED JUSTICE: BLACK WOMEN, VIOLENCE, AND AMERICAS PRISON NATION* 65 (NYU Press) (2012).

<sup>3</sup> See, e.g., *id.*; Kimberle Crenshaw, *Mapping the Margins: Intersectionality, Identity Politics, and Violence Against Women of Color* (Oct. 15, 2014, 5:54 PM), [http://socialdifference.columbia.edu/files/socialdiff/projects/Article\\_\\_Mapping\\_the\\_Margins\\_by\\_Kimblere\\_Crenshaw.pdf](http://socialdifference.columbia.edu/files/socialdiff/projects/Article__Mapping_the_Margins_by_Kimblere_Crenshaw.pdf).

be explored for the future of DV work. Ultimately, we must decide if VAWA, in its current state, can ever be a truly useful tool for building the peaceful communities that anti-violence movements envision. This essay explores a narrower question: since VAWA funds the majority of DV services, can we improve what we have? How can we work for a broader understanding of DV and subsequently the alternative solutions that emerge, when our current programs are constrained by a narrow legal understanding?

DV is about domination. It is far more than the widely-recognized, specific tactics of abuse like hitting or forcing sex. Any degrading, manipulative, deliberate behavior that serves to deny one's autonomy and exercise control over their actions or beliefs is abusive. The critical work of anti-violence activists recognizes that the abuse of power inherent in DV stems from a complex, layered set of factors that influence individual choices to abuse and permit violence against women as a social phenomenon. Early anti-violence movements identified the desire to dominate as conditioned through most social systems, not only those pertaining to gender. Domination in intimate relationships is learned, and stems not only from patriarchy, but from white supremacy, religious hegemony, and capitalist systems. These systems of structural oppression are internalized by society at large, and are rooted in our personal relationships, family structures, community values and institutions. If intimate partner violence is a complex rendering of rewarding power over others in many contexts, we cannot adequately challenge DV without addressing the bigger picture.

VAWA's heavy reliance on the criminalization of DV trades a comprehensive understanding for legal definitions of criminal acts of violence. It forces complex experiences of control and coercion into an overly-simplistic definition of abuse, like assault or rape. Using a criminal legal framework as the primary mechanism of defining DV fails to capture the pattern of behavior and tactics that abusive people engage in to control their partners. Furthermore, public awareness gained by VAWA has contextualized DV for most people through a legal lens. We see the key actors as those with gate-keeping power like judges, prosecutors, and service providers, decentering voices of survivors and swapping individual experiences for cookie-cutter models of abuse. The negative consequences of this lens are many. Some survivors of DV are limited in their access to services and protections, and some are ineligible; gate-keepers to services have certain expectations of victims; people who perpetrate abusive acts beyond narrow legal constructions are made to believe their acts are legally and socially permissible (as are their victims); and the general public remains confused about what DV really is.

These consequences have been illustrated to me many times. Several years ago, I accompanied a woman to apply for a temporary order of protection. A survivor of viciously manipulative psychological abuse and physical intimidation, Kate's<sup>4</sup> application to the county Family Court was tricky. Her husband, a devout Christian, used scripture as a weapon, profoundly attacking the self worth and value of Kate and their children through their spirituality. His behavior was highly controlling and dangerous; unfortunately, its legal significance depended on the analysis of a judge who was well-known as a conservative Christian, adherent to particular patriarchal beliefs about gender roles in the family. Since Kate was unable to leave her home, being granted the temporary order and having her husband removed from the home was critical to her safety. Kate knew this could put her at greater risk of violence from her husband, but also believed that he would follow a court order and leave the home if ordered to do so. Kate prepared extensively to convey the risk she faced: her husband's pattern of control and manipulation, and his likely capacity for extreme physical violence. The judge explored these topics thoroughly and Kate made her case bravely and eloquently. Kate's testimony went so well that, despite our initial concerns, the judge's decision came as a shock. He denied her order of protection, stating "I don't see this as abuse."

This ruling represented much of what can go wrong in this system designed to serve DV survivors. Kate was the victim of a terrifying and cruelly abusive husband, she and her children were being actively harmed, and they lived in fear of his abuse escalating. Her need for outside intervention was clear, and she invoked proper legal mechanisms, but because her husband's pattern of abuse did not fit squarely within legally defined acts of DV, the court rejected her claims. Also, the judge's apparent lack of clarity on the distinction between DV and legally-defined DV offenses, plus his lack of sensitivity to the significance of his ruling, led him to make a global judgment about Kate's experience and legitimacy as a survivor, though he was not charged with that task by law. Kate was left feeling that her claims of abuse were inadequate and undeserving of help. And like an abusive partner, the judge minimized Kate's experiences, denied the abuse, and refused government intervention, an ironic outcome of a system designed to restore autonomy and safety to people who are being controlled by someone they love.

The harm caused by a lack of deep analysis of DV and its intersections with other forms of oppression is exacerbated by our denial of the broad impact of DV. One in four women experience partner abuse,<sup>5</sup> so most

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<sup>4</sup> This name has been changed for privacy reasons.

<sup>5</sup> The Public Policy Office of the National Coalition Against Domestic Violence, *Domestic Violence Facts* (Oct. 15, 2014 5:59 PM),

people have either been abused, witnessed abuse, or known someone being abused or abusive. As a result, we form opinions about what DV is and how it should be responded to, which can be impacted by our own unresolved trauma. The judge on Kate's case, for personal reasons, may not have seen her experience as abuse. His task of locating Kate's experience within New York State's DV offenses stymied the opportunity to hear Kate's narrative for what it was. Lawyers, counselors, advocates, shelter workers and government employees are often similarly untrained, forcing well-meaning people to use their own knowledge to sort complicated stories of abuse into narrow legal frameworks. Raising public awareness around DV is an important goal. However, that awareness raising must include an understanding of the intricacies and root causes of DV.

Like in any social justice movement, a basic principle is that our work be directed by the wisdom of DV survivors. The early battered women's movement grew out of survivors coming together to tell their stories, locating their experiences within structures of oppression, and developing principles of non-violence that accounted for complex issues of race, gender and class. These principles are employed by many DV programs, but not consistently. Instead of designing services around legal remedies, we need to center the voices of survivors, listen closely to their experiences, and assist in identifying the services that would meet their self-identified needs.

In my current work, I supervise a small direct services arm of a DV prevention program that uses a deep analysis of DV, its root causes and intersecting issues. Reflecting our understanding of violence, our direct services approach creates space for survivors to identify their needs, concerns and goals, without judgment; we offer information on their options. We communicate an understanding that their needs stem from their whole person, not only their experiences with abuse. We are careful never to urge survivors toward any particular remedy, instead having candid conversations about what to expect, system limitations, and potential positive and negative outcomes. We hear survivors' frustration and share our analysis of how services could improve. This act of infusing our work with a critical analysis of violence, and open hearts and minds, makes our work meaningful. We know this from those we serve.

Is it possible to mainstream a DV movement that reflects people's complete experiences, making room for those who have been boxed out by rigid definitions or an unwelcoming system, and moving closer toward a non-violent society? It feels daunting to bring a complex theory into already challenging direct service work. Doing so would require significant political and structural shifts to better align DV services with the lived realities of

survivors, but to do any less perpetuates the status quo. We can do better.

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