

As a male reading about Domestic Violence, it is tough. The vast majority of men for good or bad still subscribe to the chauvinistic adage, "never hit a woman." Because men are inherently the stronger, violence is an unfair way to settle an argument with a woman. When a woman is violated men generally want to come to the rescue. They want to punish the man. For this reason, so much of the stories found in the reading seem counter intuitive. That professional judges and clerks would favor a man to an obviously abused woman seems laughable. Yet still it must happen since scholarly women are writing about it.

When we hear of a problem our first instinct is to try to punish and remedy the wrong. Already, murder, rape, assault and battery all give rise to criminal and tort suits. The legal remedy of the VAWA is not necessary. What is necessary is a better use of the existing mechanisms. All fifty states have constructed some form of domestic restraining order. Already the major obstacles for use of tort against a spouse have been lifted. The VAWA seems to encroach upon the individual states duty to enforce criminal laws and seeks to allow for double jeopardy violations for already criminalized acts. Murder is murder, regardless of the victim. Battery is battery, regardless of the victim. The aggravating circumstance in domestic situations is usually the fact that the first reported battery is not the first battery, but the hundredth battery.

The problem is not with inadequacy of state laws ability to punish or reimburse. It's the unwillingness of states to promote use of the existing channels. States simply must enforce the laws. Whether it be by prosecuting without the consent of the wife, decriminalizing domestic violence in favor of treatment programs, greater police force awareness and preparation, or

increased sentences for abusers, changes can be made at the state level that will help more than an additional federal statute. While a unified standard of application can be created across the country, federal statute would be subject to the same problems of enforcement found within the current state systems. They would still be applied by mostly male judges and staffs. Police would be no better trained to handle domestic violence calls. Treatment would not be improved for the abusive spouse or the battered spouse. Non prosecution by victims would not go away.

I found it interesting that many of the articles place the blame of non conviction upon the state systems. Wermuth stands for the proposition that greater criminalization of the domestic abuse is important. But both Wermuth and the "Shelter and Beyond" article forget that the single largest obstacle to preventing domestic abuse is the woman's inability to press charges. All too often, my friends working for the state, eager to build complaints against abusive husbands are hampered by wives or girlfriends who are later uncooperative. Wermuth looks down upon the current concept of getting therapeutic help for husbands causing domestic violence.

In truth, this may be one of the more practical ways of getting some help for domestic violence situations. Pleading the crime out to some form of treatment does remove some responsibility from the husband for what is truly a crime. But when the husband receives a probationary sentence on the condition of getting treatment a remedy to the problem is begun. This is far preferable to the woman filing a police report and later recanting the event, saying she was "mugged" because she doesn't want her partner to go to jail. When a treatment plan is forced upon the husband, the wife does not have the guilt of putting someone she loves behind bars. Even if the woman is able to leave the relationship, often she is destitute. She may have children with the prior husband, and therefore have to maintain a relationship with him in order to insure his visitation. Plus, studies show that domestic violence is most dangerous when wives

attempt to leave their husbands. If the husbands spend time in treatment hopefully they will be able to be more able to deal with their ex spouse and any future relationships.

The real problem with treatment, is similar to the problem with drug treatment; current treatment methods are ineffective. In the article about Quincy which was held up as a good system for spouse abuse, the success rates were between 20% and 35%. Treatment is hopefully doing more than punishing, but it is rehabilitating and curing. We didn't stop treating the measles simply because we didn't know the best cure for it. We used the best treatments for the measles we had and we continued to search for better cures and preventative inoculations.

The "Shelter and Beyond" article made me even more skeptical about the solutions that scholars want to implement to reduce spouse abuse. The article actually suggested that protecting a husband's due process rights was of little importance. Due process rights that are not only guaranteed in the Constitution, but that have come to the benefit of minorities and women in the past few years. One word, hypocritical, comes to mind to describe this argument. In order to have a criminal prosecution, a defendant's due process rights will be guaranteed. Courts may ask embarrassing questions. Sometimes abusers may go away free. In the event the abuser goes free the state does have available through restraining orders and shelters mechanisms ways for women to avoid confrontations with husbands. Due process protection is no more repugnant in this situation that it would be with a serial killer or terrorist.

What these two articles do point out is when women do try to prosecute and seek protection from the state, it is often inadequate. Police are not trained to properly enforce restraining orders. Husbands are not given adequate punishment for violating restraining orders, and the sentence even when found guilty might best be termed a "slap on the wrist." Racism and stereotypes probably do inadequately protect minorities from abusive husbands. Minorities do

not always get equal protection under the law.

I would praise and emulate the Quincy program. The Quincy program prioritizes domestic violence and expedites those hearings. Husband's due process rights are protected. They have staff specially hired and trained to aid battered wives through the process. They also allow full prosecution of cases without the participation of the wife. Quincy also invites people reporting domestic violence cases to acquire restraining orders. The police force is required to take domestic violence seriously and is trained to better handle the situations. Quincy also sends people on probation to EMERGE a class for at least a year.

If looking to most effectively eliminate spouse abuse, we may want to look to the reasons that women tolerate the abuses and try to alleviate those reasons. Louise Bauschard & Mary Kimbrough say the reason that there are four reasons that women don't leave abusive husbands.

1. Fear of bodily harm
2. Economics
3. Willingness to accept the familiar, fear of the unknown
4. Promises to change by the spouse

These are probably not the only reasons however. Scarily, Mahoney suggests that many women may believe their marriage to be normal. Instead of describing their marriage as abusive they describe it as "bad" or "unhappy." Women don't know at what point to leave. Women also describe an obligation to family, especially children.

Possibly the system should work at alleviating these obstacles so women could be in a better position to leave abusive situations. These obstacles may be too immense to remove, but we can work towards the goal. If police were better able to protect people with restraining orders and quick first time convictions fear of bodily harm could be alleviated. Economics can be

alleviated by removing glass ceilings and preconceived notions of household responsibilities to children. Willingness to change, may be as simple as more women showing their initiative and proving that change can be a positive thing. Promises to change by a spouse could be alleviated by education that, like drug addicts, without help, abusers cannot change. Women need to realize when they are in more than just a "bad" marriage and do something to fix it. The system should do a better job of protecting children from abusers as well, possibly by not allowing visitation till a treatment program can be successfully fulfilled.

The goal to end domestic violence is more than a simple question of new criminal statutes, but rather an entire rethinking of the archetype of a "good" family. This requires people to realize that the notion of the docile wife is a thing of the past, that women are going to do their share of the decision making in a relationship, that finding appropriate mechanisms for dispute resolution within marriage is a must, and most of all that violence is never acceptable.