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THE BATTERED WOMAN AND HOMELESSNESS

*Gretchen P. Mullins**

Escape was constantly in Francine's thoughts In every plan money was a central problem Francine [Hughes] would imagine her arrival in San Francisco What would she do when she got there? Go directly to Social Services and ask for help. Yes, but what if there were a waiting period before they would give her money? . . . Francine would imagine herself standing on the street with four hungry, frightened children and no one to turn to for help.¹

INTRODUCTION

Fifty percent of the homeless women and children in this country are fleeing domestic violence.² Francine Hughes' reflections typify the reality many battered women and their children face. Too often, abused women and their children must weigh living with the violence in their homes against the insecurity of living on the streets. Ironically, they are more likely to be assaulted in their homes than on the streets.³

While some women have safely left their battering partners,

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¹ FAITH MCNULTY, *THE BURNING BED: THE TRUE STORY OF AN ABUSED WIFE* 139-40 (1980).

² See, e.g., Joan Zorza, *Woman Battering: A Major Cause of Homelessness*, 25 CLEARINGHOUSE REV. 420, 421 (1991). Although the term "domestic violence" incorporates a broad definition, this Essay uses the term to encompass only abuse inflicted upon women by their male partners.

³ See Joy Hannel, Note, *Missouri Takes a Step Forward: The Status of "Battered Spouse Syndrome" in Missouri*, 56 MO. L. REV. 465, 476 (1991).

society and the law insist on unfairly holding battered women responsible for controlling the violence that they endure. The oft-repeated question, "Why didn't she just leave?" demonstrates this misplaced responsibility. Such an attitude toward battered women allows society to blame the woman for the injury that she suffers, and to trivialize or wholly deny the abuse.⁴ Consequently, the battered woman is stigmatized while the government can evade its duty to take action. Without government assistance, battered women and their children often have little or no choice but to endure their violent relationships.

This Essay focuses on the responsibility of the judiciary and the legislature to prevent battered women from becoming homeless when they attempt to escape their abusive partners. In addition, this Essay seeks to deemphasize the pathology of the battered woman by analyzing the role of the judiciary and the legislature in designing alternative housing strategies for victims of domestic violence. Indeed, if battered women are ever to escape their violent relationships, the government must create and uphold emergency and long-term solutions for battered women's housing and survival needs.

Part I of this Essay examines the battered woman's experience and describes the restraints placed upon her from a legal, sociological, psychological and economic perspective. Part II analyzes the government's role in preventing homelessness caused by domestic violence. This part also reviews the judiciary's use of civil protective orders to evict batterers from their common dwellings, and explores the legislature's provision of appropriate emergency shelter and the development of innovative, long-term housing strategies for battered women and their children.

⁴ Martha R. Mahoney, *Legal Images of Battered Women: Redefining the Issue of Separation*, 90 MICH. L. REV. 1, 13 (1991).

I. THE BATTERED WOMAN'S EXPERIENCE

A. *Legal Background*

Early American colonists, drawing from English common law, incorporated ancient European attitudes about the role of women into their new society.⁵ The English doctrine of coverture held that a husband and wife were considered one person under the law; that person was the husband.⁶ Under this doctrine, the husband was liable for the detrimental acts of his wife.⁷ Thus, in order to protect himself against possible liability, the husband was entitled to discipline his wife.⁸ Although the American judiciary, like its English ancestor, no longer permits a husband to beat his wife, a history of bias against women continues in our legal community. Legal reform in the United States continues to focus more on preserving the family structure than on protecting the victims of domestic violence.⁹

An effective American movement against domestic violence, begun twenty years ago, has initiated legal reform concerning battered women.¹⁰ Likewise, there is a movement in our judicial system to consider expert testimony on the "Battered Woman Syndrome" in cases where a woman is charged with killing her

⁵ See, e.g., DEL MARTIN, *BATTERED WIVES* 31 (1981).

⁶ See, e.g., Naomi Hilton Archer, *Battered Women and the Legal System: Past, Present and Future*, 13 *LAW & PSYCHOL. REV.* 145, 146 (1989).

⁷ *Id.*

⁸ *Id.*

⁹ Andrea Brenneke, *Civil Rights for Battered Women: Axiomatic & Ignored*, 11 *LAW & INEQ. J.* 1 (1992).

¹⁰ SUSAN SCHECHTER, *WOMEN AND MALE VIOLENCE: THE VISIONS AND STRUGGLES OF THE BATTERED WOMEN'S MOVEMENT* 11 (1982) ("Since 1975, the ongoing struggle of the battered women's movement has been to name the hidden and private violence in women's lives, declare it public, and provide safe havens and support."); Brenneke, *supra* note 9, at 11.

partner and is trying to prove the elements of self-defense.¹¹ This encourages the criminal justice system to learn more about the effects of long-term abuse on a woman. But the judiciary and the legislature need to implement further necessary changes in order to sensitize the legal community to the needs of battered women who want to escape their battering relationships—before they are forced to resort to self-help.

B. Sociological Ramifications

The judiciary and the legislature are reluctant to interfere with domestic violence cases by providing protection for battered women because the popular social view persists that domestic violence is a private matter and the government should not regulate family life.¹² Because the legal community has a history of regarding women as “second-class citizens” and as male “property,” women are constantly at risk of being abused by men with whom they have relationships.¹³ These attitudes toward women have been challenged, however, because feminists in the last twenty years have publicized the prevalence of woman battering and emphasized the politics of gender issues.¹⁴

Statistics reflect that domestic violence is extremely widespread in American society and demonstrate that woman battering “must now be recognized as a pressing social and legal problem in the

¹¹ See, e.g., Hannel, *supra* note 3, at 473-74; see also *Ibn-Tamas v. United States*, 407 A.2d 626 (D.C. 1979) (first case to permit expert testimony about “Battered Woman Syndrome.”).

¹² See, e.g., Gary R. Brown, *Battered Women and the Temporary Restraining Order*, 10 WOMEN’S RTS. L. REP. 261, 262 (1988). A recent Senate report recognized that these stereotypes held in connection with domestic violence present obstacles in creating strategies to address domestic violence. See SENATE COMM. ON THE JUDICIARY, THE VIOLENCE AGAINST WOMEN ACT OF 1991, S. REP. NO. 283, 102d Cong., 1st Sess. 34 (1991) (Until these attitudes in cultural thinking “seem as foreign for the victims of rape and domestic violence as they do for the victims of barroom brawls, our criminal justice system will pose barriers for women it does not pose for others in our society.”).

¹³ See Hannel, *supra* note 3, at 469.

¹⁴ See Mahoney, *supra* note 4, at 27.

United States.”¹⁵ Every eighteen seconds, a woman is beaten in the United States¹⁶ and between 2,000 and 4,000 women die every year because of this abuse.¹⁷ The Surgeon General has determined that battering constitutes one of the leading causes of injury to women in the United States.¹⁸ Thirty-one percent of women who are murdered each year in this country are killed by their male partners.¹⁹ The effects of domestic violence on the resources of law enforcement agencies are also burdensome. As many as forty percent of all calls to which police must respond involve domestic disturbances.²⁰

Despite its severity and pervasiveness, American laws tend to trivialize the issue of domestic violence. Thirty percent of domestic violence incidents involve weapons²¹ and the injuries that battered women receive are “at least as serious as injuries suffered in 90% of violent felony crimes”²² Yet, under state laws, these incidents are “almost always classified as misdemeanors.”²³ By continuing to ignore this problem, we are failing to protect a substantial number of our citizenry who need help.

C. Psychological Impact

The popular expectation that battered women can easily terminate their abusive relationships reflects society’s misconceptions about the psychological effects of domestic violence. The psychological impact of an abusive relationship greatly impedes a

¹⁵ Harvard Law Review Association, *Developments in the Law: Legal Responses to Domestic Violence*, 106 HARV. L. REV. 1498, 1501 (1993).

¹⁶ *Id.* at 1501; Sylvia A. Law, *Every 18 Seconds a Woman is Beaten; What Judges Can Do in the Face of this Carnage*, JUDGES J., Winter, 1991, at 12, 14 (1991).

¹⁷ Law, *supra* note 16, at 14.

¹⁸ Zorza, *supra* note 2, at 423; Harvard Law Review Association, *supra* note 15, at 1501.

¹⁹ Zorza, *supra* note 2, at 423; Harvard Law Review Association, *supra* note 15, at 1501 (reporting 30%).

²⁰ Harvard Law Review Association, *supra* note 15, at 1501.

²¹ Zorza, *supra* note 2, at 423.

²² Zorza, *supra* note 2, at 423.

²³ Zorza, *supra* note 2, at 423.

woman's ability to escape her situation. Being a battered woman involves more than just enduring physical abuse; it includes psychological battering and a process of systematic depersonalization.

Battering is about power and control, which is characterized by violence and coercion.²⁴ The batterer achieves power and control over his female partner by using the economic, social and legal barriers that constrain a woman from leaving an abusive relationship.²⁵ Violence in a battering relationship will normally escalate in both frequency and severity over time, becoming greatest when the battered woman attempts to leave the relationship.²⁶ Thus, leaving her spouse often means risking serious injury or even death for the battered woman.

Dr. Lenore Walker, a renowned psychologist, defines the battered woman in terms of common behavioral patterns that develop in abusive relationships. Dr. Walker's theory, the "Battered Woman Syndrome," is widely accepted as the authoritative explanation of behavior among battered women.²⁷ From her study of battered women, Dr. Walker developed the "Cycle Theory of Violence,"²⁸ which explains how women become victims of abuse, and the "Psychosocial Theory of Learned Helplessness,"²⁹ which explains why they remain in their abusive relationships. The Cycle Theory of Violence involves three distinct phases in the couple's battering relationship.³⁰ First, there is the tension-building phase, in which there are minor battering incidents and the woman will go

²⁴ Mahoney, *supra* note 4, at 93.

²⁵ See Brenneke, *supra* note 9, at 3.

²⁶ See, e.g., Zorza, *supra* note 2, at 423; Brenneke, *supra* note 9, at 6; Mahoney, *supra* note 4, at 5-6. When battered women seek a divorce, obtain a restraining order, or leave the batterer, they are exposed to increased danger because the batterer's dominance has been challenged. This phenomenon has been termed "separation violence." Brenneke, *supra* note 9, at 6. One study found that over one-half of the men who killed their spouses did so after the partners separated. Mahoney, *supra* note 4, at 64-65.

²⁷ See, e.g., Hannel, *supra* note 3, at 472.

²⁸ LENORE E. WALKER, THE BATTERED WOMAN 55-70 (1979).

²⁹ *Id.* at 42-54.

³⁰ *Id.* at 56-70.

to great lengths to calm her partner.³¹ The second phase is the acute battering incident, when the male uncontrollably abuses his female partner.³² The third phase is the loving phase, where the batterer is remorseful and apologetic for his behavior.³³ It is this final stage which causes women to remain in their abusive relationships.³⁴

Dr. Walker further explains that when a woman is systematically subjected to this process of victimization, she undergoes learned helplessness, the point of "psychological paralysis."³⁵ Under this theory, the battered woman becomes passive and no longer attempts to leave the relationship.³⁶ As the violence becomes a way of life, she learns that she is helpless in controlling it and, therefore, becomes hopeless that anything will alter her circumstances.³⁷ This explains why many battered women respond to the abuse by coping, rather than escaping.³⁸

In addition to the psychological effects of a battering relationship, economic deprivation can prevent a battered woman from leaving her abusive relationship.³⁹ By controlling the economics of the relationship, the batterer further achieves power and control over his female partner.⁴⁰ Frequently, the batterer's use of economic

³¹ *Id.* at 56-59.

³² *Id.* at 59-65.

³³ *Id.* at 65-70.

³⁴ *See id.* at 67.

³⁵ *See id.* at 43.

³⁶ *See id.* at 47; *see also* Abigail Trafford, *Why Battered Women Kill; Self-Defense, Not Revenge, is Often the Motive*, WASH. POST, Feb. 26, 1991, at Z6 ("These women seem like they lived in Beirut," says psychiatric social worker Dan Byrne, deputy director of the House of Ruth, a Washington shelter for homeless women, many of whom have been abused. "They develop a learned helplessness and have no self-worth.").

³⁷ *See* WALKER, *supra* note 28, at 47.

³⁸ *See* WALKER, *supra* note 28, at 47.

³⁹ *See, e.g.,* MARTIN, *supra* note 5, at 83 ("Very often the battered wife's sense of futility is related to the state of her pocketbook.").

⁴⁰ *See* WALKER, *supra* note 28, at 130; *see also* Brenneke, *supra* note 9, at 12-13 ("Economic inequality serves to limit women's options and allows men to use tools of economic control. The sex segregation of poverty threatens women and serves violent men by keeping women dependent on them and the institution of marriage or the state for support.").

coercion results in the denial of the woman's basic necessities of life, such as food and shelter.⁴¹ The woman's fear of economic deprivation perpetuates the psychological battering.⁴² Thus, due to the nature of a battering relationship, many women are forced to flee their homes with no alternative shelter or economic support.

II. PREVENTING HOMELESSNESS CAUSED BY WOMAN BATTERING

Battering is a significant cause of homelessness for women and children. In the last decade, almost one-half of all homeless women were refugees of domestic violence.⁴³ While much of the literature on the causes of homelessness in this country never mentions woman battering,⁴⁴ statistics suggest a different result. For example, 42% of homeless families in Philadelphia listed domestic violence as the cause of their homelessness in 1990.⁴⁵ Domestic violence is the primary reason that the majority of homeless families in Oregon were on the street in 1988.⁴⁶ It is the reason why women and children comprised 40% of New York's homeless shelters in 1987.⁴⁷

There is a "chronic" shortage of affordable housing for poor people in this country.⁴⁸ As a result, domestic violence shelters reported a greater than 100% increase in women taking refuge in their quarters between 1983 and 1987.⁴⁹ In fact, women have been increasingly turned away from emergency shelters due to

⁴¹ See WALKER, *supra* note 28, at 130.

⁴² WALKER, *supra* note 28, at 130.

⁴³ SUSAN FALUDI, *BACKLASH: THE UNDECLARED WAR AGAINST AMERICAN WOMEN* xiv (1991).

⁴⁴ See, e.g., Zorza, *supra* note 2, at 421 (In December 1990, "[t]he United States Conference of Mayors listed lack of affordable housing, mental illness, unemployment, poverty or the lack of income, and inadequate benefit levels in public assistance programs as the causes of homelessness in American cities.") (citation omitted).

⁴⁵ Zorza, *supra* note 2, at 421 (citation omitted).

⁴⁶ Zorza, *supra* note 2, at 421.

⁴⁷ Zorza, *supra* note 2, at 421.

⁴⁸ Eila Savela, *Homelessness and the Affordable Housing Shortage: What is to be Done?*, 9 LAW & INEQ. J. 279, 313 (1991).

⁴⁹ FALUDI, *supra* note 43, at xvii.

overcrowding.⁵⁰ Federal funding for shelters has diminished and one-third of the one million battered women who seek such emergency shelter each year can find none.⁵¹ The result is that battered women and their children are more likely to return to their batterers because of the scarcity of emergency shelter and low-income housing to which they can escape.⁵² After being sheltered in New York City, 31% of battered women returned to their batterers "primarily because they could not locate longer-term housing."⁵³ In the cases where battered women find the strength to extricate themselves from their abusive relationships, the judiciary and the legislature should allocate the necessary resources to ensure that battered women and their children have a safe place to go.

A. Judicial Response

Protecting women from their abusive partners is difficult because of the inherent limitations of the judicial system.⁵⁴ One judicial tool used to prevent further abuse is the civil order of protection. A civil order of protection is a "legally binding court order that prohibits an individual who has committed an act of domestic violence from further abusing the victim."⁵⁵ Civil protective orders are issued in response to a written petition from

⁵⁰ See FALUDI, *supra* note 43, at xiv.

⁵¹ FALUDI, *supra* note 43, at xiv.

⁵² Maria Arias, *Lack of Housing for Domestic-Violence Victims*, N.Y.L.J., July 26, 1988, at 3 ("In 1983, 3 percent of the battered women in shelters returned to the batterers; in 1986 that figure was 31 percent.").

⁵³ Zorza, *supra* note 2, at 422 (citation omitted).

⁵⁴ See, e.g., Savela, *supra* note 48, at 294. The limitations of the judicial system to address the rights of the homeless include "the shortage of legal service [attorneys], the barrier of justiciability, the time required to litigate an issue, and the difficulties faced in implementing and enforcing a remedy normally required in these cases." Savela, *supra* note 48, at 294 (citation omitted).

⁵⁵ PETER FINN & SARAH COLSON, NAT'L INST. JUST., ISSUES & PRAC. CRIM. JUST., CIVIL PROTECTION ORDERS: LEGISLATION, CURRENT COURT PRACTICE AND ENFORCEMENT v (1990).

the victim.⁵⁶ Currently, orders of protection are available in forty-nine states and the District of Columbia.⁵⁷ In those states and the District of Columbia, courts are permitted to evict a batterer from his residence with *ex parte* and permanent protective orders.⁵⁸

An effective way to protect battered women from further abuse is to evict the batterer from the common dwelling.⁵⁹ In contrast to crimes committed by strangers, the batterer in a family-based crime will often have easier access to the victim because they live together. By remaining in the home, the batterer has the opportunity to further abuse the woman and the children, and to coerce the woman to drop the court proceedings.⁶⁰ Although either party could vacate the common dwelling, evicting the batterer increases the likelihood that criminal prosecution of the violence would proceed and the battered woman and her children would not be forced out onto the streets.⁶¹

In emergency situations, where notifying the batterer of the eviction proceedings poses the threat of retaliatory violence, temporary orders of protection may be obtained in *ex parte* proceedings.⁶² Under the typical civil protective order statute, the order granted in an *ex parte* proceeding is effective for only a few days.⁶³ During this time, the batterer must be served notice to appear at a court hearing, where both parties will have an opportunity to present evidence.⁶⁴ After the hearing, the judge may make

⁵⁶ *Id.*

⁵⁷ *See, e.g.*, CONN. GEN. STAT. ANN. § 46b-15 (West Supp. 1991); D.C. CODE ANN. § 16-1005 (1991). Delaware is the only state that does not have a statute providing for orders of protection. Zorza, *supra* note 2, at 422 n.17. In Pennsylvania, if a man is found to have battered his spouse, a civil court judge may issue a separation order, a protective order, separate maintenance payments, temporary child custody and visitation orders, all at the same time. WALKER, *supra* note 28, at 216.

⁵⁸ Zorza, *supra* note 2, at 422.

⁵⁹ Arias, *supra* note 52, at 5.

⁶⁰ Zorza, *supra* note 2, at 427.

⁶¹ *See* FINN & COLSON, *supra* note 55, at 41.

⁶² FINN & COLSON, *supra* note 55, at 2.

⁶³ FINN & COLSON, *supra* note 55, at 3.

⁶⁴ FINN & COLSON, *supra* note 55, at 2.

the temporary order permanent for up to one year or more.⁶⁵

While many judges regard ex parte orders of protection as the single most effective remedy for cases of woman battering, such orders may require a difficult decision for a judge—whether to evict the batterer before he has the opportunity to be heard.⁶⁶ Many judges believe that evicting the batterer in an ex parte hearing violates his due process rights.⁶⁷ However, appellate courts that have ruled on the issue have held that the procedural safeguards contained in these state statutes are adequate to protect the batterer's due process rights.⁶⁸

Even though a civil protective order is often an effective tool in combatting domestic violence, some judges may refuse to evict a batterer in an ex parte proceeding because they adhere to the old maxim that "a man's home is his castle."⁶⁹ These judges argue that if they evict the man, then they are creating homelessness.⁷⁰ Thus, the battered woman is further victimized because although

⁶⁵ See FINN & COLSON, *supra* note 55, at 2.

⁶⁶ FINN & COLSON, *supra* note 55, at 33.

⁶⁷ See, e.g., Zorza, *supra* note 2, at 422.

⁶⁸ See, e.g., Blazel v. Bradley, 698 F. Supp. 756, 768 (W.D. Wis. 1988) (finding statute that allowed ex parte temporary restraining order constitutional); Sanders v. Shephard, 541 N.E.2d 1150 (Ill. App. Ct. 1989) (no procedural due process defect when ex parte order issued upon supportive affidavits demonstrating exigent circumstances); Baker v. Baker, 494 N.W.2d 282 (Minn. 1992) (ex parte procedures of Domestic Abuse Act comply with procedural due process requirements); State *ex rel.* Williams v. Marsh, 626 S.W.2d 223 (Mo. 1982) (upholding constitutionality of Missouri Adult Abuse Act, which enabled courts to issue ex parte orders of protection); Grant v. Wright, 536 A.2d 319, 323 (N.J. Super. Ct. App. Div.), *certification denied*, 546 A.2d 493 (N.J. 1988) (legislature was careful to balance rights of defendants and victims); Marquette v. Marquette, 686 P.2d 990, 996 (Okla. Ct. App. 1984) (noting the need to protect victims from domestic violence and the emotional distress placed upon children who witness the violence); Schramek v. Bohren, 429 N.W.2d 501, 505-06 (Wis. Ct. App. 1988) (finding a reasonable basis for the legislature's creation of special procedures in situations of domestic violence); see also FINN & COLSON, *supra* note 55, at 3.

⁶⁹ FINN & COLSON, *supra* note 55, at 33; Arias, *supra* note 52, at 5.

⁷⁰ Arias, *supra* note 52, at 5; see also M. P. McQueen, *Battered Women Not Getting Justice in City*, NEWSDAY, Apr. 11, 1992, at 10 ("Judges are reluctant to order wife beaters out of households because of the city's acute housing shortage . . .").

the batterer is the one who committed the crime, she is the one who is forced to flee the home to escape the violence.⁷¹ Judges who regard protective orders as an "important tool for protecting victims of domestic violence report that they first had to change their view of domestic abuse."⁷² They state that while they now believe that woman battering is as serious a crime as other assaults and batteries, they previously treated it as a "relationship problem' amenable to marriage counseling."⁷³

The issuance of eviction notices within civil protective orders can be an extremely effective strategy in combatting homelessness for battered women and their children, but they must be comprehensive, unambiguous and enforced.⁷⁴ The provision of specific conditions makes the offender aware of precisely what is prohibited.⁷⁵ Eighty percent of batterers are said to obey restraining orders because they fear arrest and trouble with the law.⁷⁶ Furthermore, when the mandates of the order are clearly and specifically described, law enforcement agencies will be able to enforce them more effectively, and judges can better determine if the batterer has violated the order.⁷⁷

B. *Emergency Shelters*

Although the issuance of eviction notices in civil protective orders can be extremely effective in preventing battered women from becoming homeless, the option of staying in the common dwelling is not always the safest one for battered women.⁷⁸ Thus, "[s]afe houses, refuges and shelters have become the cornerstone of treatment for battered women who do not wish to return home."⁷⁹

Shelters are important for battered women for several reasons.

⁷¹ Arias, *supra* note 52, at 5.

⁷² FINN & COLSON, *supra* note 55, at 4.

⁷³ FINN & COLSON, *supra* note 55, at 4.

⁷⁴ See FINN & COLSON, *supra* note 55, at 33.

⁷⁵ FINN & COLSON, *supra* note 55, at 33.

⁷⁶ WALKER, *supra* note 28, at 211.

⁷⁷ FINN & COLSON, *supra* note 55, at 33.

⁷⁸ See Arias, *supra* note 52, at 5.

⁷⁹ WALKER, *supra* note 28, at 192.

First, they provide women with immediate safety for themselves and their children.⁸⁰ Second, they often represent the only real means of escape for battered women.⁸¹ Third, women are able to regain control over their lives with the support of the shelter's staff and counseling programs.⁸²

The lack of emergency shelter for battered women is astonishing when compared to the demand for shelter services. For example, in 1984, 59% of battered women and children seeking shelter in New York City were turned away due to lack of space.⁸³ The situation is even worse for minority or immigrant women who may not speak any English, may not be legally in the country and who are completely isolated from family and friends.⁸⁴ To meet the demand for more emergency shelters in this country, money is required to build and operate them. The average shelter's operating budget is \$225,973, with annual budgets ranging from \$40,000 per year to \$700,000 per year.⁸⁵ Shelters require funding for rent, upkeep, daily staffing and services.⁸⁶ Battered women's shelters are very dependent upon government money to survive financially.⁸⁷ According to a nationwide survey of battered women shelters, 31% of those shelters responding to the survey

⁸⁰ Merle H. Weiner, *From Dollars to Sense: A Critique of Government Funding for the Battered Women's Shelter Movement*, 9 LAW & INEQ. J. 185, 187 (1991).

⁸¹ *Id.*

⁸² *Id.* at 188-89.

⁸³ Arias, *supra* note 52, at 3.

⁸⁴ See Arias, *supra* note 52, at 5. For example, there is only one shelter for battered Asian women on the whole east coast and one bilingual-bicultural battered women's program for Latinos in New York City. Arias, *supra* note 52, at 5.

⁸⁵ Weiner, *supra* note 80, at 192.

⁸⁶ Weiner, *supra* note 80, at 192.

⁸⁷ Cf. Weiner, *supra* note 80, at 186-219. Weiner believes that government funding for battered women's shelters should not be encouraged because accepting it causes dependency, loss of autonomy, hierarchy, professionalization, homophobia and bureaucracy. See generally Weiner, *supra* note 80, at 213-44. He finds that shelters will only be able to change society, which is a goal of the battered women's movement, if they forego their dependence upon the government for money and strive to become self-sufficient. See Weiner, *supra* note 80, at 262-64.

depended entirely upon government funds, while 69% relied upon government money for over one-half of their operating budgets.⁸⁸ Unfortunately, the financial crisis in the federal government has particularly affected the funding of battered women shelters and programs.⁸⁹ A national survey reported that of those shelters that once received federal funds, 95% had experienced cutbacks in, or total elimination of, those funds.⁹⁰

An encouraging response to the lack of federal funds to support the creation and maintenance of battered women's shelters is the enactment of several state statutes which establish state-funded shelters. For example, a Connecticut statute mandates that the Department of Human Resources "establish a program for shelter services for victims of household abuse and may contract with any nonprofit organization to provide such services in the locality served by such nonprofit organization."⁹¹ In Illinois, the funding of the shelters and service programs are to be paid from both the Domestic Violence Shelter and Service Fund and the General Revenue Fund.⁹² Additionally, the Illinois Department of Public Aid must require shelters to match funds in an amount which the Department determines is appropriate.⁹³

These shelters are the first step toward adequately protecting women from violence. Once these women are safe they can then, with proper assistance, take the necessary steps to regain control over their lives. The need for emergency housing and support services for battered women often remains the only real protection that society has to offer. The failure of the government to fund such an important "piece of the puzzle" stems from its attitude about woman battering. As long as battered women's needs are treated as a "special interest," women will continue to be battered in their homes.

⁸⁸ See Weiner, *supra* note 80, at 205.

⁸⁹ See generally Weiner, *supra* note 80.

⁹⁰ Weiner, *supra* note 80, at 219.

⁹¹ CONN. GEN. STAT. ANN. § 17-580 (West Supp. 1991).

⁹² ILL. REV. STAT. ch. 20, § 2210/3 (1991).

⁹³ *Id.*

C. Long-Term Housing Strategies

Because shelters are limited to short-term relief in emergency situations, long-term solutions to the problem of housing must also be developed. The cramped housing market has “transformed” temporary emergency shelters, which are typically not designed to be homes, into permanent housing by default.⁹⁴ The decrease in the federal commitment to housing assistance programs “undermine[s] the ability of low-income individuals to afford housing”⁹⁵ In 1980, 65.6% of Americans owned homes due to long-term, low-rate, government-sponsored mortgages.⁹⁶ By 1987, only one-fourth of eligible low-income families received housing assistance.⁹⁷ The difficulty for battered women and their children in locating adequate long-term housing is complicated even further when their unique concerns about safety and affordability are factored into any plan.⁹⁸

Recently, several organizations have developed innovative strategies to provide long-term housing to low-income women and their children by rehabilitating government-owned buildings. In Philadelphia, for example, women in the low-income neighborhood of Kensington organized to address the housing crisis that they and their neighbors faced.⁹⁹ More than one-quarter of the families in Kensington are headed by low-income women.¹⁰⁰ In the fall of

⁹⁴ See Savela, *supra* note 48, at 283. Although Mayor Rudolph Giuliani has funded three additional emergency shelters for victims of domestic violence in New York City, he has, at the same time, reduced the City’s budget for services to the homeless by \$17.5 million. Karen Freifeld, *Beep: Budget Plan’s Disaster; Ferrer Angered over Slashing of Youth Services, Safe Streets*, NEWSDAY, May 11, 1994, at B7.

⁹⁵ Savela, *supra* note 48, at 286.

⁹⁶ Savela, *supra* note 48, at 299.

⁹⁷ Savela, *supra* note 48, at 286 (citation omitted). “At least 90,000 people sleep without shelter each night, and perhaps as many as three million Americans are homeless.” Savela, *supra* note 48, at 282 (footnotes omitted).

⁹⁸ See Arias, *supra* note 52, at 3.

⁹⁹ Janette E. Stokley, *Women Housing Women: The Women’s Community Revitalization Project*, 22 CLEARINGHOUSE REV. 937 (1989).

¹⁰⁰ *Id.* at 938.

1986, the Advisory Committee¹⁰¹ of the Lutheran Settlement House Women's Program chose to develop eight units of rental housing designed specifically for families headed by single women, with first priority going to homeless women with children.¹⁰² Acquiring the funding for such a project was not easy: a private foundation helped create a \$100,000 loan pool to be used for site acquisition; the Women's Community Revitalization Project ("WCRP")¹⁰³ successfully reached a community reinvestment agreement with a local bank in order to receive money for construction and permanent housing; the city provided a second mortgage in order to create subsidies so that the rents could remain affordable; and WCRP solicited private donations from local churches and foundations in an average amount of \$8,000 per rental unit.¹⁰⁴ For WCRP, the development of these rental units was an important first step in organizing women, particularly victims of domestic violence, in addressing the housing scarcity in their community.¹⁰⁵

Victim Services Agency ("VSA"), a program for battered women in New York City, joined two nonprofit organizations involved in the development of low-income housing to rehabilitate public buildings which included both permanent units and transitional apartments.¹⁰⁶ The two nonprofit organizations did the rehabilitation and development work and managed the units once they were completed, and VSA provided the families and support services.¹⁰⁷ Funding for this development came from city and state funds.¹⁰⁸

¹⁰¹ The Advisory Committee is a multi-racial group which includes seven community women and several sympathetic professionals such as a lawyer, a rehabilitation specialist and a banker. *Id.*

¹⁰² *Id.*

¹⁰³ "In April 1987, the Lutheran Women's Settlement House Women's Program helped create a separate nonprofit corporation, the Women's Community Revitalization Project . . . , in order to continue the activities of the Advisory Committee." *Id.*

¹⁰⁴ *Id.* at 939.

¹⁰⁵ *Id.*

¹⁰⁶ Arias, *supra* note 52, at 3.

¹⁰⁷ Arias, *supra* note 52, at 3.

¹⁰⁸ Arias, *supra* note 52, at 3.

In 1985, six Latina activists from the Los Angeles area formed New Economics for Women ("NEW"), the first nonprofit economic development corporation to be created, owned and operated by Latinas.¹⁰⁹ In May 1993, NEW opened a 110-unit, \$18 million apartment complex designed to meet the needs of single mothers who work outside the home.¹¹⁰ NEW secured a municipal loan, contacted innovative architects and established a focus group of single mothers.¹¹¹ Rents start at eighty-nine dollars per month, and NEW completed the project on time and within its budget.¹¹²

The above organizations have experienced certain problems which, although common for any new housing scheme, are particularly onerous because of the battered woman's experience. First, while most city procedures require review of property disposition by community boards and city planning commissions, this poses problems for many shelters because there is concern about breaching the battered woman's confidentiality and, thereby, jeopardizing her safety.¹¹³ Second, organizations have a hard time receiving funds from local private donations because many battered women seek housing outside of their immediate community for safety reasons, and community residents and businesses like to encourage and support projects that are going to benefit residents from their own community.¹¹⁴ Third, community residents often object to housing projects designed for battered women and their children because these residents believe that it would disrupt their neighborhoods.¹¹⁵ Finally, development and rehabilitation of housing units is costly and time consuming,¹¹⁶ and these social service organizations often lack the skills, resources and time to oversee such an extensive project.¹¹⁷

¹⁰⁹ *The Many Faces of Feminism*, Ms., July/Aug., 1994, at 61.

¹¹⁰ *Id.* The apartment complex provides round-the-clock security, ample play space, an adult learning center and a childcare center. *Id.*

¹¹¹ *Id.*

¹¹² *Id.*

¹¹³ Arias, *supra* note 52, at 3.

¹¹⁴ Arias, *supra* note 52, at 3.

¹¹⁵ Arias, *supra* note 52, at 3.

¹¹⁶ Arias, *supra* note 52, at 3.

¹¹⁷ *See* Arias, *supra* note 52, at 3.

Any solution to the long-term housing needs of battered women must be developed within the context of the battered woman's experience, or else it will not be effective. The examples of recent innovative approaches to the housing crisis are encouraging, but without the government's support to help fund these projects they will not be able to succeed. Until battered women's needs are treated as a priority, the existing funding problems will not change and battered women and their children will be forced to return to their batterers.

*D. Violence Against Women Act of 1993*¹¹⁸

The Violence Against Women Act of 1993 ("VAWA") represents a comprehensive federal response to the problem of domestic violence which would direct society's perception of domestic violence away from blaming the woman for the abuse that she suffers. It seeks to create policies that prevent the occurrence of domestic violence in the first place. VAWA treats domestic violence as a major law enforcement priority and provides for improved services to the victims of domestic violence.¹¹⁹ Title II of the bill, the Safe Homes for Women Act, is designed to increase federal funding for battered women's shelters and related programs.¹²⁰ It also creates a new federal crime for spouse abuse committed during interstate travel.¹²¹ By creating emergency and long-term solutions for battered women's housing and survival needs, VAWA represents an important step in the government's commitment to prevent domestic violence.

¹¹⁸ Violent Crime Control and Law Enforcement Act of 1994, H.R. 3355, 103d Cong., 1st Sess. § 3201 (1993). The Violence Against Women Act of 1993 ["VAWA"] was passed by Congress as part of the Violent Crime Control and Law Enforcement Act of 1994, which amended the Omnibus Crime Control and Safe Streets Act of 1968. Michael Kranish, *Crime Bill is Approved in Senate; Vote is 61-38*, BOSTON GLOBE, Aug. 26, 1994, at 1. VAWA includes grants for a national domestic violence hotline. See H.R. 3355 § 3311.

¹¹⁹ Harvard Law Review Association, *supra* note 15, at 1544.

¹²⁰ Harvard Law Review Association, *supra* note 15, at 1544; see S. 11, 103d Cong., 1st Sess. § 241 (1993).

¹²¹ Harvard Law Review Association, *supra* note 15, at 1544; see S. 11, 103d Cong., 1st Sess. § 221 (1993).

CONCLUSION

Without the basic necessities of life—adequate food, clothing and shelter—battered women are not able to successfully address factors which may contribute to their homelessness. Physical and psychological abuse, lack of adequate housing and economic strictures of funding programs all contribute to, and perpetuate, the oppression of battered women and their children. Recent legal developments and shelter movements help to reform the problem of woman battering in the public's mind, but the deemphasized connection between woman abuse and homelessness needs to be specifically addressed if we truly want to prevent woman battering in this country. The devastating effects of domestic violence will prevail until the focus on helping victims of domestic violence is diverted away from analyzing the pathology of battered women and toward creating programs and policies which recognize the severity of the problem in this country.

