
COUNTERING NEOLIBERALISM AND ALIGNING SOLIDARITIES: RETHINKING DOMESTIC VIOLENCE ADVOCACY

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INTRODUCTION

This article seeks to situate domestic violence¹ in a larger analytical frame of the political economic, to extend institutional responsibility for violence beyond the criminal justice system, and to form common bonds with other social justice initiatives. It argues that improved remedies for domestic violence victims lie within the reform of the political economy. It examines the efficacy of integrating anti-domestic violence initiatives into realms of work and labor and issues pertaining to the financialization of everyday life, as a way to engage larger questions bearing on economic justice and structural social change. The relationship between domestic violence and political economy is under-theorized and constrained by prevailing neoliberal paradigms. Moreover, deepening wealth inequality in capitalist societies has produced new forms of suffering within families, which underscores the need for diverse constituencies to act in concert and in common political cause.² Shifting domestic violence strategies so that they operate within the frame of

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1. There are a number of terms to describe what was once ubiquitously called “domestic violence” and useful critiques about the term. Domestic violence may best be framed as gender violence to avoid imposing a gendered frame on violence that occurs in intimate relationships. This article uses, for the most part, the term “domestic violence” because of the critical analysis it offers of what is most commonly defined as domestic violence advocacy. For an excellent critique of the term “domestic violence,” see Julie Goldscheid, Julie Goldscheid, *Gender Neutrality, the “Violence Against Women” Frame, and Transformative Reform*, 82 UMKC L. REV. 623 (2014).

2. Ed Morales, *Radically Reshaping Latino/a America*, NACLA (Dec. 2015), <https://nacla.org/article/radically-reshaping-latino-a-america>.

the political economy may generate greater opportunities for coalition building for and with domestic violence advocates.

The framework offered by models of patriarchy as source of domestic violence is no longer adequate; strategies of remedy through the criminal justice system are increasingly problematical.³ Reliance on the criminal justice system has tended to fracture the domestic violence movement and marginalize disenfranchised populations.⁴ In contrast, work and labor-related matters and issues of economic inequality as they relate to gender-based violence implicate a broadly based and widely shared set of concerns relevant to social justice groups in shared objective while decentering the predominant response from the criminal justice system.

The relevance of economic security has loomed large in domestic violence advocacy, to be sure. It has been properly identified as a critical factor that determines whether a victim can escape domestic violence.⁵ However, advocacy in this area has been often circumscribed by a narrow focus on individual circumstances, reliance on a residualist welfare state that perceives dependency on public assistance as moral deficiency, and “an ethic . . . [that] emphasizes the significance of contractual relations in the marketplace.”⁶ Too often economic justice initiatives designed to mitigate domestic violence have been fitted neatly within neoliberal economics that fail to provide meaningful social change.⁷ Much of the advocacy has advanced programmatic responses derived from assumptions associated with punitive welfare systems, exploitative labor practices, and capitalist forms of consumer financialization. These responses have failed to challenge such policies while discounting the full impact of the neoliberal model on one’s ability to escape domestic violence. Economic justice “solutions” promoted by domestic violence programs that align uncritically with an economy

3. See generally Symposium, *Converge! Reimagining the Movement to End Gender Violence*, 5 U. MIAMI RACE & SOC. JUST. L. REV. 249 (2015).

4. This article will refer to those engaged in responding to domestic violence as the domestic violence movement. Other terms used within the broader community include the anti-domestic violence movement and the anti-violence movement. See Donna Coker and Ahjané D. Macquoid, *Why Opposing Hyper-Incarceration Should Be Central to the Work of the Anti-Domestic Violence Movement*, 5 U. MIAMI RACE & SOC. JUST. L. REV. 585, 587 (2015) (describing the destructive consequences of the criminal justice system and over-incarceration on domestic violence).

5. Margaret E. Johnson, *Changing Course in the Anti-Domestic Violence Legal Movement: From Safety to Security*, 60 VILL. L. REV. 145, 147 (2015); Jamie Haar, *Women’s Work: Economic Security in the Domestic Violence Context*, 31 HOFSTRA LAB. & EMP. L.J. 471, 474 (2014).

6. DAVID HARVEY, *A BRIEF HISTORY OF NEOLIBERALISM* 3 (2005); Deborah M. Weissman, *Law as Largess: Shifting Paradigms of Law for the Poor*, 44 WM. & MARY L. REV. 737, 789-90 (2002).

7. For the discussion of the definitions of neoliberalism see *infra* notes 16-18 and accompanying text.

dependent on exploitative labor practices and include a form of financial literacy that offers “a depoliticized view of economic issues” serves to diminish expectations of domestic violence victims and poor families.⁸

This article relies on the scholarship that considers the impact of neoliberalism on law and social justice claims to provide a contextual examination of the ways in which the constraints of neoliberalism hinder efforts to address laws gender-based violence. It describes and then critiques current economic-related strategies offered by the state and the market⁹ designed to improve outcomes for victims of domestic violence and questions the “sources of submission” by domestic violence advocates to a neoliberal pragmatic.¹⁰ It offers proposals to advance economic security in ways that join domestic violence advocacy with other forms of socio-economic advocacy that provide additional progressive promise, but does so cautiously as “[n]eoliberalism is everywhere and nowhere; its custodians are largely invisible.”¹¹ It suggests that transforming the ways in which attention is paid to economic concerns provides a complementary if not alternative way of understanding and addressing the phenomenon of domestic violence through the broad perspective of socio-economic justice.¹²

This article suggests that there are particular benefits to be gained by expanding domestic violence advocacy within a broader framework of social justice advocacy. Work and consumer economics occupy much of daily life. Men and women spend most of their waking hours at the workplace, seeking employment, and often coping with insufficient income to support themselves and their families. Economic issues provide significant opportunities to build coalitions and strengthen solidarities.¹³ These concerns are at the center of many institutions including the workplace, unions and worker centers, employment agencies, welfare offices, lending entities, as

8. Chris Arthur, *Consumers or Critical Citizens? Financial Literacy Education and Freedom*, 3 CRITICAL EDUC., July 15, 2012, at 1, 3.

9. I use the categories of “state” and “market” for organizational purposes rather than to suggest that they operate differently or in opposition to one another, and in recognition of their conforming and interdependent relationships.

10. See STEVE FRASER, *THE AGE OF ACQUIESCENCE: THE LIFE AND DEATH OF AMERICAN RESISTANCE TO ORGANIZED WEALTH AND POWER* 203 (2015).

11. Jackson Lears, *The Long Con*, 37 LONDON REV. BOOKS 28, 30 (2015) (reviewing STEVE FRASER, *THE AGE OF ACQUIESCENCE: THE LIFE AND DEATH OF AMERICAN RESISTANCE TO ORGANISED WEALTH AND POWER* (2015)).

12. See ANN STEWART, *GENDER, LAW AND JUSTICE IN A GLOBAL MARKET 2* (Margaret Davies & Vanessa Munro eds., 2011), <http://ssrn.com/abstract=2071049> (suggesting that a wider lens of economic and social processes offers other ways of understanding social relationships).

13. Lears, *supra* note 11 (suggesting that the workplace provides a useful place to confront exploitation and inequality).

well as many domestic violence programs that face their own workplace issues.

Part I of this article provides an overview of neoliberalism as a “normative order of reason” that pervades all political, economic, and social relationships, threatens basic democratic values and thwarts social justice projects.¹⁴ It considers the ways in which neoliberal ideas insinuate themselves into laws and advocacy and examines the authoritative proliferation of values that seem to hold hostage genuine desires for a meaningful reform. Part II elaborates on neoliberalism and gender violence by analyzing the various economic initiatives that bear on the circumstances of battered persons, including programmatic responses to poverty offered by the U.S. welfare system and legislation related to the intersection of domestic violence and employment. The article critiques public sector programs and laws as insufficient—if not harmful—to the well-being of victims of gender violence, and detrimental to socio-economic equality generally. It demonstrates that recent neoliberal restructuring of welfare programs has further limited the possibilities by which victims of domestic violence may achieve economic self-sufficiency. Part III considers the impact of neoliberalism functioning as a “stealth revolution” within the anti-domestic violence movement. It examines the sources of acquiescence to neoliberalism to which much of domestic violence advocacy has been given. It then provides a critical analysis of some of current economic justice initiatives offered by the domestic violence movement.

Part IV offers recommendations for revising advocacy strategies for victims of domestic violence. It suggests reforms of welfare programs in ways that will minimize harm to victims of domestic violence and their families and observes that domestic violence advocates are well-positioned to advocate for such reforms. It proposes that domestic violence programs center their employment assistance programs with unions and labor centers, many of which are engaged in advocacy to protect the rights of women workers. It also suggests alternatives to the current apolitical financial literacy programs so that attention is paid to educating critical citizens about the problematic structures of the financial institutions. Shifting strategies enhances the possibilities of collective action and new alliances that inure to the benefit domestic violence advocacy as it refashions its approach to socio-economic concerns, including new perspectives on improved outcomes for

14. WENDY BROWN, UNDOING THE DEMOS: NEOLIBERALISM’S STEALTH REVOLUTION 9 (2015).

domestic violence victims. Those benefits derive from the opportunity to connect more broadly with other social justice movements.¹⁵

The article concludes by observing that the opportunity to relocate domestic violence concerns within the realm of expanded collaborations and more broadly imagined social justice movements provides greater opportunities to re-politicize domestic violence advocacy, to advance the mission to end to domestic violence, and to do so in accordance with counter-hegemonic and progressive politics.

I. THE NEOLIBERAL REGIME

A vast body of scholarship has addressed neoliberalism as a ubiquitous phenomenon that explains much of the current power relations of civil society. The definitions offered in the literature often vary but there is a consensus in describing its essence and structure: an ideology that “is based around a belief in so-called ‘free markets’”¹⁶ and a predilection for “a state [that is] supervised by the market, rather than a market controlled by the state.”¹⁷ David Harvey states that “[n]eoliberalism is in the first instance a theory of political economic practices that proposes that human well-being can best be advanced by liberating individual entrepreneurial freedoms and skills within an institutional framework characterized by strong private property rights, free markets, and free trade.”¹⁸ Unlike classical *laissez-faire* thought, neoliberalism implicates institutions and regulations even as it eschews the influence of the state in the economy.¹⁹ Whether the term is abstract, or a combination of concepts, it serves to identify both a hegemonic belief system and process that can more readily be contested once named.²⁰

Neoliberalism expands as a totalizing premise. It is not just economics; it is politics and culture. It shapes the practice of law and mediates the

15. LORETTA PYLES, *PROGRESSIVE COMMUNITY ORGANIZING: A CRITICAL APPROACH FOR A GLOBALIZING WORLD* 7 (2009) (noting the benefits of establishing “mutually supportive communities” as a means to improve the lives of disenfranchised people).

16. OWEN JONES, *THE ESTABLISHMENT: AND HOW THEY GOT AWAY WITH IT* 6 (2014).

17. Michael Hardt, *Militant Life*, 64 *NEW LEFT REV.* 151, 154 (2010) (reviewing MICHAEL FOUCAULT, *LE COURAGE DE LA VERITE: LE GOUVERNEMENT DE SOI ET DES AUTRES II* (1984)) (highlighting Foucault’s description of the operation of neoliberalism); see Stuart Hall, *The Neo-Liberal Revolution*, 25 *CULTURAL STUD.* 705, 706 (2011) (observing that the term neoliberalism includes so many “things” as to defy one meaning but nonetheless observes that there are enough common features so that it is useful in referencing the “shaping influence of capitalism on modern life”).

18. HARVEY, *supra* note 6, at 2.

19. See Verónica Gago, *Financialization of Popular Life and the Extractive Operations of Capital*, 114 *S. ATL. Q.* 11, 11-12 (2015).

20. Hall, *supra* note 17.

meaning of law and social justice reform.²¹ It influences commercial enterprises, labor transactions, and social engagements in all facets of daily life while reshaping institutions once given to the well-being of citizens. Wendy Brown describes the consequences of the ideology and pragmatics of neoliberalism: deepening inequality, a pervasive marketization across a spectrum of goods and activities undermining ethics, the seizing of state power by corporate and finance capital interests, and a destabilized economy.²²

Neoliberalism is discerned in legislative acts and legal principles enunciated through Congress and the courts.²³ Neoliberal dogma permeates constitutional principles and undermines what was once considered to be the fundamental right of the people to the protections of the state in matters pertaining to health and well-being, including issues pertaining to domestic violence.²⁴ First amendment ideals, previously understood as a structural framework for a functioning representative democracy, have now been employed to protect commercial interests and inhibit government regulations that interfere with an unfettered market.²⁵ The right of access to the judicial system by those who cannot avail themselves of the market to seek legal redress has been thwarted by Congress and the courts.²⁶ Relying on the logic of neoliberalism, Congress slashed the budgets of legal services programs (where much of domestic violence cases are handled), restricted the nature of the legal work, and rendered categories of the poor ineligible for any type of assistance while calling for the reinvigoration of the principles of personal responsibility.²⁷ Legal services opponents characterized the Legal Services Corporation as “[b]ig Government legal services,”²⁸ and argued that the

21. David Singh Grewal & Jedediah Purdy, *Introduction: Law and Neoliberalism*, 77 LAW & CONTEMP. PROB. 1, 9 (2014).

22. BROWN, *supra* note 14, at 28-30.

23. See generally Jedediah Purdy, *Neoliberal Constitutionalism: Lochnerism for a New Economy*, 77 LAW & CONTEMP. PROB. 195 (2014).

24. Martha T. McCluskey, *Efficiency and Social Citizenship: Challenging the Neoliberal Attack on the Welfare State*, 78 IND. L.J. 783, 789 (2003) (“Neoliberalism revives the *Lochner*-era view that social citizenship is an oxymoron.”).

25. See AMANDA SHANOR, THE NEW LOCHNER 7 (2015) (noting that business interests have taken over individual litigants’ claims in First Amendment litigation). The recent U.S. Supreme Court decision *Elonis v. United States* may have future bearing on the rights of internet communication, first amendment protections, and domestic violence. 135 S. Ct. 2001 (2015).

26. See, e.g., Weissman, *supra* note 6, at 760-765, 771-776 (reviewing e.g., *Velazquez v. Legal Services Corporation*, 531 U.S. 533, 548 (2001) (affirming the lack of right to counsel in civil matters); *Phillips v. Washington Legal Foundation*, 524 U.S. 156 (1998) (redefining property in a challenge to a program that funded legal services for the poor behalf of principles of property rights, economic liberty, and free enterprise)).

27. 141 CONG. REC. S8945-04 (1995) (statement of Sen. Helms).

28. 142 CONG. REC. H8177 (1996) (statement of Rep. Taylor).

needs of the poor ought to be met by market-driven private firms.²⁹ From legal services to law school clinical programs, the power of the market has curtailed all forms of efforts to expand access to lawyers for those without means.³⁰

Moreover, matters concerning fundamental legal rights and protections are often dismissed as inappropriate for regulation or adjudication. Plant closings, factory relocations, and corporate bankruptcies that result in the wholesale laying off of workers and the demise of entire communities have long been considered within the province of the private sector and beyond the reach of public remedy.³¹ The withering concepts of worker protections serves to discourage others who would seek protection from the market resulting in an easier path of obeisance by the courts to decisions made within the realm of private business transactions.³² At the same time, the neoliberal turn demands a strong punitive state as government protection in other realms diminishes.³³

Through the mediation of laws and political institutions, neoliberalism takes on the appearance of the natural order of things, and tends to function as common-place normality.³⁴ Wendy Brown refers to this phenomenon as a “stealth revolution.”³⁵ Steve Fraser explains that as a matter of historical processes and the successful development of mass consumption capitalism, neoliberalism has been inoculated from effective critique.³⁶ As the economy shifted from industrialized labor production to finance capital, a much-weakened organized labor force has been unable to stand up to the interests of the wealth class.³⁷ To be sure, neoliberalism spawns opposition, both

29. *Id.* at H8178 (statement of Rep. Ballenger) (noting the existence of “sufficient private alternatives”).

30. See Peter A. Joy, *Political Interference with Clinical Legal Education: Denying Access to Justice*, 74 TUL. L. REV. 235, 244 (1999) (quoting the Governor of Louisiana when he was asked whether low-income residents seeking enforcement of the environmental laws had a right to counsel: “Let them use their own money, not Tulane’s.”); see also Adam Babich, *Controversy, Conflicts, and Law School Clinics*, 17 CLINICAL L. REV. 469 (2011).

31. Deborah M. Weissman, *The Personal is Political—And Economic: Rethinking Domestic Violence*, 2007 BYU L. REV. 387, 437 (2007).

32. *Id.*

33. See Karen Engle, *Anti-Impunity and the Turn to Criminal Law in Human Rights*, 100 CORNELL L. REV. 1069, 1076 (2015).

34. See Wendy Brown, *Neoliberalism and the End of Liberal Democracy*, 7 THEORY & EVENT 9, 10 (2003). David Harvey includes the work of think-tanks, the academy, and cultural elites that help to disseminate studies and arguments to serve the ideology of neoliberalism. HARVEY, *supra* note 6, at 44, 47.

35. BROWN, *supra* note 14.

36. FRASER, *supra* note 10, at 196.

37. Nancy Fraser, *A Triple Movement? Parsing the Politics of Crisis After Polyani*, 81 NEW LEFT REV. 119, 124 (2013).

internally and externally, but recriminations are limited to neoliberalism's protection of individual rights to the detriment of collective well-being and economic security for all.³⁸ The circumstances of these times have thus been described as the "Age of Acquiescence."³⁹ The consolidation of state and market interests has obtained moral validation, hardly noticed at all except as a confirmation that all is right in the world.

To understand the pervasiveness and mechanisms of the neoliberal project, this article now turns to how it affects adversely efforts to mitigate gender violence. Although the paradigmatic response to domestic violence has remained most closely associated with the criminal justice system, advocates and scholars have focused attention on the economic repercussions of such violence with an emphasis on the relationship between economic insecurity, obstacles to employment, and victims. Recent studies have persuaded domestic violence advocates to embrace the notion of economic independence as a precondition to victim safety.⁴⁰ Yet much of domestic violence advocacy of late has embraced uncritically economic initiatives that may deprive victims of their autonomy and dignity while conferring little improvement in day-to-day life.⁴¹ Neoliberalism's emphasis on individual freedoms easily co-exists with identity politics associated with domestic violence and have bounded advocacy efforts so that they conform to the neoliberal frame.⁴²

II. THE WELFARE SYSTEM AND THE ECONOMY OF DOMESTIC VIOLENCE

This Part first provides an overview of statutory programs and laws pertaining to the ability of victims of domestic violence to extricate themselves from abusive relationships. It then demonstrates that these laws manifest a prevailing anti-welfare ideology that endorses market responses as the principal means by which domestic violence victims can hope to achieve well-being. The neoliberal legal narrative on poverty and its

38. HARVEY, *supra* note 6, at 176, 178.

39. FRASER, *supra* note 10, at 211.

40. See Deborah A. Widiss, *Domestic Violence and the Workplace: The Explosion of State Legislation and the Need for A Comprehensive Strategy*, 35 FLA. ST. U. L. REV. 669, 669-70 (2008) (noting attention to the effects of domestic violence on the workplace); Patricia Cole & Sarah M. Buehl, *Safety and Financial Security for Battered Women: Necessary Steps for Transitioning from Welfare to Work*, 7 GEO. J. ON POVERTY L. & POL'Y 307, 309 (2000) (identifying opportunities to enhance victim safety in welfare-to-work programs).

41. Cole & Buehl, *supra* note 40 at 310.

42. Nancy Fraser, *Feminism, Capitalism and the Cunning of History*, 56 NEW LEFT REV. 97, 110 (2009).

“solutions” also serves to promote a type of advocacy that often facilitates failed and punitive policies.

A. *Welfare Programs and Domestic Violence*

1. *Welfare Benefits*

Public welfare in the United States has long been administered through federal assistance programs under the Social Security Act, and state general assistance programs.⁴³ The primary welfare program that provides economic support for victims of domestic violence is currently known as Temporary Assistance to Needy Families (TANF),⁴⁴ the successor to an earlier entitlement program first established in 1935 with the passage of the Social Security Act (Aid to Dependent Children) and later amended in 1962 to Aid to Families with Dependent Children (AFDC).⁴⁵ As part of TANF, an amendment known as the Family Violence Option (FVO) allows but does not mandate state-by-state exemptions for victims of domestic violence from certain TANF requirements, including time limits and work requirements.⁴⁶

The benefits provided pursuant to these statutory schemes have been crucial to the subsistence of the poor, and particularly to victims of domestic violence. Researchers Jody Raphael and Richard Tolman published their path-breaking study that demonstrated that many victims of domestic violence are unable to enter or remain in the labor market because of domestic violence.⁴⁷ Scholars have established the importance of income maintenance

43. For an overview of the modern history of U.S. statutorily-based welfare programs, see Joel F. Handler, *The Transformation of Aid to Families with Dependent Children: The Family Support Act in Historical Context*, 16 N.Y.U. REV. L. & SOC. CHANGE 457, 479-487 (1987-88).

44. Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. No. 104-193, 110 Stat. 2105 (1996) (codified as amended at scattered sections of U.S.C.); *see infra* note 63.

45. For a review of these programs and their relation to domestic violence, see Ralph Henry, *Domestic Violence and the Failures of Welfare Reform: The Role for Work Leave Legislation*, 20 WIS. WOMEN'S L.J. 67, 73-74 (2005).

46. 42 U.S.C. § 602(a)(7) (2014); *See* Jody Raphael, *The Family Violence Option: An Early Assessment*, 5 VIOLENCE AGAINST WOMEN 449, 451-52 (1999); Shelby A.D. Moore, *Understanding the Connection Between Domestic Violence, Crime, and Poverty: How Welfare Reform May Keep Battered Women from Leaving Abusive Relationships*, 12 TEX. J. WOMEN & L. 451, 479 (2003); 42 U.S.C. § 602(a)(7)(A)(i)-(ii) (2014) (noting that States wishing to implement the Family Violence Option would be required to screen TANF applicants for domestic violence to determine whether they were eligible for time limit and work requirement waivers); *see supra* note 46 and accompanying text for further discussion on the problems with the FVO.

47. JODY RAPHAEL & RICHARD TOLMAN, TRAPPED BY POVERTY, TRAPPED BY ABUSE: NEW EVIDENCE DOCUMENTING THE RELATIONSHIP BETWEEN DOMESTIC VIOLENCE AND WELFARE (1997), <http://www.icadvinc.org/wp-content/uploads/2012/10/Trapped-By-Poverty-Trapped-By-Abuse.pdf>.

benefits for victims of domestic violence and have demonstrated the significant numbers of victims who rely on welfare as a safety net.⁴⁸ Some studies suggest that at least three-quarters of welfare recipients had experienced domestic violence.⁴⁹ In theory, welfare payments may make it possible for victims of domestic violence to achieve some level of economic autonomy, particularly during periods of transition.⁵⁰

2. Other State Benefits of an Economic Nature

The relationship between housing, homelessness, and domestic violence is also well-established.⁵¹ In response to the consequence of homelessness occasioned by domestic violence, Congress enacted legislation designed to protect victims of domestic violence who resided in subsidized housing.⁵² The Violence Against Women Act (VAWA) of 2005 prohibited federally funded public housing agencies from limiting “a resident’s right to summon police or other emergency assistance in response to domestic violence.”⁵³ The 2013 reauthorization of the VAWA protects domestic violence victims by regulating public housing authorities and subsidized housing programs to prohibit the denial, eviction, or termination of a tenant on the basis of his or her status as a domestic or sexual assault survivor.⁵⁴ Federal law may also

48. Jody Raphael, *Welfare Reform: Prescription for Abuse? A Report on New Research Studies Documenting the Relationship of Domestic Violence and Welfare*, 19 LAW & POL’Y 123, 125 (1997).

49. See generally Jody Raphael, *Domestic Violence and Welfare Receipt: Toward A New Feminist Theory of Welfare Dependency*, 19 HARV. WOMEN’S L.J. 201 (1996); Stacy Brustin & Lisa Vollendorf Martin, *Paved with Good Intentions: Unintended Consequences of Federal Proposals to Integrate Child Support and Parenting Time*, 48 IND. L. REV. 803, 837 (2015).

50. MIMI ABRAMOVITZ, REGULATING THE LIVES OF WOMEN: SOCIAL WELFARE POLICY FROM COLONIAL TIMES TO THE PRESENT 355 (1988); Symposium, *A Leadership Summit: The Link Between Violence and Poverty in the Lives of Women and Their Children*, 3 GEO. J. ON FIGHTING POVERTY 5, 8 (1995); Alan W. Houseman, *Civil Legal Assistance for the Twenty-First Century: Achieving Equal Justice for All*, 17 YALE L. & POL’Y REV. 369, 388 (1998).

51. See generally Joan Zorza, *Woman Battering: A Major Cause of Homelessness*, 25 CLEARINGHOUSE REV. 16 (1991-92); U.S. Conference of Mayors, *Hunger and Homelessness Survey*, U.S. CONF. MAYORS 30 (Dec. 2013), <http://usmayors.org/pressreleases/uploads/2013/1210-report-HH.pdf>; Joan H. Rollins, Renee N. Saris & Ingrid Johnston-Robledo, *Low-Income Women Speak Out About Housing: A High-Stakes Game of Musical Chairs*, 57 J. SOC. ISSUES 277, 280-81 (2001) (finding the victimization is a frequent precursor of homelessness and that victims of domestic violence were vulnerable to repeat episodes of homelessness).

52. Violence Against Women Reauthorization Act of 2013, Pub. L. No. 113-4, 127 Stat. 54 (2013) (codified in scattered sections of the U.S. Code).

53. Violence Against Women and Department of Justice Reauthorization Act (VAWA) of 2005, Pub. L. No. 109-162, tit. VI, § 601, 119 Stat. 2960, 3036 (2006). The amendment also includes protection for lesbian, gay, bisexual, transgendered, and undocumented individuals. *Id.*

54. Violence Against Women Reauthorization Act of 2013, Pub. L. No. 113-4, 127 Stat. 54 (2013). For an overview of housing protections for battered women, see generally Rasheedah

provide support for victims who seek to transfer to a different subsidized unit in order to escape domestic violence.⁵⁵ The U.S. Department of Housing and Urban Development includes individuals and families who are fleeing or attempting to flee domestic violence as one of four federally defined categories eligible to receive public housing assistance if otherwise qualified.⁵⁶ The Fair Housing Act may also provide federal statutory protections to a victim of domestic violence who believes she has suffered discrimination on the basis of sex.⁵⁷

Margaret Johnson recently reviewed legislative remedies enacted to provide some measure of economic security for victims and identifies state statutes that provide in-state tuition and education waivers for persons subjected to abuse as well as their children.⁵⁸ For example, California enacted legislation that exempts victims of certain types of gender violence-related crimes victims from paying nonresidential tuition and waives certain college fees.⁵⁹ Similarly, New Jersey passed legislation that requires the state to pay for school tuition charges when a child resides in a domestic violence shelter or transitional housing.⁶⁰

B. From a Liberal to a Neoliberal Welfare State: Diminishing Assistance for Victims of Domestic Violence

Notwithstanding the benefits that may assist victims of domestic violence as described above, the U.S. welfare state has been and is

Phillips, *Addressing Barriers to Housing for Women Survivors of Domestic Violence and Sexual Assault*, 24 TEMP. POL. & CIV. RTS. L. REV. 323 (2015).

55. See Margaret E. Johnson, *A Home With Dignity: Domestic Violence and Property Rights*, 2014 B.Y.U. L. REV. 1, 36-37 (2014) (citing 42 U.S.C. § 1437f(r)(5) (2012) but explaining that tenants remain liable to the landlord).

56. *Homelessness Assistance*, HUD.GOV, http://portal.hud.gov/hudportal/HUD?src=/program_offices/comm_planning/homeless.

57. Meris L. Bergquist, *After the Violence: Using Fair Housing Laws to Keep Women and Children Safe at Home*, 34-SPG VT. B.J., 46, 46-47 (2008). Some states have followed the lead of the federal government and have enacted legislation to prohibit discrimination in housing on the basis of domestic violence. See Johnson, *supra* note 55, at 53; Bergquist, *supra* note 57, at 47-48; see generally Eryn Jane Branch & Amy Pincolini-Ford, *Family Violence: Legislative Update Volume 18*, NAT'L COUNCIL JUV. & FAM. CT. JUDGES (Oct. 23, 2013), <http://www.ncjfcj.org/resource-library/publications/family-violence-legislative-update-volume-18>; Rasheedah Phillips, *Addressing Barriers to Housing for Women Survivors of Domestic Violence and Sexual Assault*, 24 TEMP. POL. & CIV. RTS. L. REV. 323, 324-25 (2015) (noting that Philadelphia prohibits a landlord from terminating a lease of or otherwise retaliating against a tenant who is a victim of domestic violence and Pennsylvania prohibits nuisance provisions in a lease from being used to evict domestic violence victims).

58. Johnson, *supra* note 5, at 163-64.

59. *Id.* at 16 n.106.

60. *Id.*

increasingly stingy and punitive. Welfare programs have long operated in the realm of a political economy of efficiency that has celebrated the market as the optimal regulatory mechanism for the distribution of goods and services over government assistance.⁶¹ Since the 1996 enactment of the Personal Responsibility and Work Opportunity Reconciliation Act (PROWA), responsibility for subsistence has, more than ever, fallen to the individual, kinship systems, charities, and to a lesser degree, communities.⁶² Government benefits are no longer guaranteed, but rather are administered through a state block grant program functioning as restrained largess. PROWA now imposes time limits and work requirements in exchange for meager cash assistance.⁶³ Recipients are discharged from welfare rolls whether or not they are prepared for employment.⁶⁴ Welfare reform also requires that recipients cooperate with the federal child support enforcement program and assign child support payments to the state as reimbursement for subsistence payments.⁶⁵ Welfare reform has generated significant profits for private firms with which some states contract to administer the mandatory work programs.⁶⁶ The obligations of the state to provide for the day-to-day needs of its citizens have further contracted as the role of the state has been radically redefined to that of shoring up the institutions of the market and substituting private for public programs.⁶⁷

PROWA is not only an economic program that favors the market for family survival. Welfare reform, as part of the neoliberal order, must also be

61. Bob Jessup, *Liberalism, Neoliberalism, and Urban Governance: A State-Theoretical Perspective*, 34 ANTIPODE 452, 453-54 (2002).

62. See Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. No. 104-193, 110 Stat. 2105 (1996) (codified as amended at scattered sections of U.S.C.).

63. Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. No. 104-193, 110 Stat. 2105 (1996) (codified as amended at scattered sections of U.S.C.); GENE FALK, THE TEMPORARY ASSISTANCE FOR NEEDY FAMILIES (TANF) BLOCK GRANT: A PRIMER ON TANF FINANCING AND FEDERAL REQUIREMENTS 12-20 (2013), <https://www.fas.org/sgp/crs/misc/RL32748.pdf>. The AFDC program also included a child support enforcement mechanism by which the state sought to reimburse subsistence payments from a non-custodial parent. *Id.*; see also 42 U.S.C. § 602(a)(26) (1982).

64. 42 U.S.C.S. § 602 (2012).

65. FALK, *supra* note 63, at 19. This provision is an enhanced requirement from pre-PROWA and there are statutory waivers of the requirement that victims cooperate with child support enforcement. *Id.* Other provisions of welfare reform disqualified unwed teens living on their own, non-citizens for the first five years of residency in the United States, certain felons, and others. *Id.* at 14.

66. Joel Handler, *Reforming/Deforming Welfare*, 4 NEW LEFT REV. 114, 134 (2000).

67. Bob Jessup, *Liberalism, Neoliberalism, and Urban Governance: A State-Theoretical Perspective*, 34 ANTIPODE 452, 453 (2002); NICOLE ASCHOFF, THE NEW PROFITS OF CAPITALISM 20 (2015) (noting that a government subsidized safety net has been replaced with shelters and food pantries).

understood as a reformulation of a broad set of policies and strategies for social and cultural change. As Nichole Aschoff notes, “[n]eoliberal restructuring entailed both a political-economic dimension in the reorganization of laws and practices and an ideological dimension in which social issues were transformed into personal troubles.”⁶⁸ This conceptualization serves as a useful framework for considering the impact of welfare reform on victims of domestic violence.

1. Work, Punishment, and the Undeserving Victim

The neoliberal turn that has served to diminish and privatize what were once state obligations to provide a safety net has impacted all poor people who require government assistance, but perhaps most perniciously, victims of domestic violence, and more particularly women victims. As Jacqueline Rose observes, “[t]he single mother, it seems, was the original ‘scrounger’, the term which allows a cruelly unequal society to turn its back on those it has thrown on the scrapheap.”⁶⁹ It is women—and single women—who comprise the vast majority of welfare recipients and women who are domestic violence victims comprise a sizeable proportion of that cohort.⁷⁰

Welfare reform punishes domestic violence victims dependent on the state safety net due to circumstances that they may not control, but who are now required to work in order to receive benefits. The conditions of such work are punitive: the narrative of the underserving recipient embedded in the PROWA, in turn, has influenced the attitudes of employers who justify paying depressed “work-first” wages on the assumption that women on welfare are unreliable and lazy.⁷¹ Black women suffer the greatest stigmatization; indeed, as Ann Cammett and others have observed, “the use of the Welfare Queen as ‘race code’ for undeserving beneficiaries of welfare” has been well-established.⁷²

Welfare recipients are often pushed into the informal economy even while receiving benefits and complying with program work requirements due

68. ASCHOFF, *supra* note 67, at 87.

69. Jacqueline Rose, *Mothers*, 36 LONDON REV. BOOKS 17 (2015), <http://www.lrb.co.uk/v36/n12/jacqueline-rose/mothers> (reviewing PAT THANE & TANYA EVANS, *SINNERS? SCROUNGERS? SAINTS? UNMARRIED MOTHERHOOD IN 20TH-CENTURY ENGLAND* (2012)).

70. Raphael, *supra* note 49, at 204-05.

71. Mary C. Noonan & Colleen M. Heflin, *Does Welfare Participation Affect Women's Wages?* 86 SOC. SCI. Q. 1123, 1126 (2005); Mark Vermillion & Jaime Burns, *Women and Low-Wage Work*, SOCIOLOGISTS FOR WOMEN IN SOC'Y. (Dec. 15, 2005), http://www.socwomen.org/wp-content/uploads/2010/05/fact_12-2005-lowwage.pdf.

72. Ann Cammett, *Deadbeat Dads & Welfare Queens: How Metaphor Shapes Poverty Law*, 34 B.C.J.L. & SOC. JUST. 233, 237 (2014).

to paltry wages.⁷³ This is particularly true of domestic violence victims who often have unanticipated personal and financial crises as a result of the violence in their lives.⁷⁴ Domestic violence welfare recipients further experience anxiety and fear that the income they realize from unreported sources will be discovered by their case workers.⁷⁵ Indeed, state surveillance of welfare participants is part and parcel of the neoliberal welfare program.⁷⁶

If victims cannot readily enter the job market, there are a myriad of bureaucratic rules by which they can be sanctioned.⁷⁷ Failure to appear at never-ending screening appointments, assessments, and other required assignments often results in a family being entirely cut off from welfare.⁷⁸ Studies reveal that TANF's requirements have produced an organizational culture within welfare offices where case managers have fully subscribed to the narratives of undeserving recipients obligated to work regardless of circumstances.⁷⁹ Caseworkers are reluctant to grant waivers of work and/or time requirements as permitted by the FVO, and in some localities, no waivers are granted whatsoever.⁸⁰ Domestic violence victims who may have little or no control over their readiness to enter the job market within TANF's time frames are pushed off of welfare rolls and forced to accept low-wage, dead-end jobs without any state support. Promised job placement and training programs often never materialize.⁸¹ The jobs available to domestic violence victims who are no longer eligible for welfare provide little benefit to their efforts to achieve economic stability.⁸²

73. See Noonan & Heflin, *supra* note 71, at 1127; Loretta Pyles, *Economic Well-Being and Intimate Partner Violence: New Findings About the Informal Economy*, 33 J. SOC. & SOC. WELFARE 101, 103-04 (2006).

74. Pyles, *supra* note 73, at 105.

75. *Id.* at 121.

76. For a thorough review of welfare and state surveillance, see generally Michele E. Gilman, *Welfare, Privacy, and Feminism*, 39 U. BALT. L.F. 1 (2008).

77. See Handler, *supra* note 66, at 127.

78. *Id.* at 128.

79. Adela Beckerman & Leonard Fontana, *The Transition from AFDC to PRWORA in Florida: Perceptions of the Role of Case Managers in Welfare Reform*, 28 J. SOC. & SOC. WELFARE 29 (2015).

80. See *supra* note 46 and accompanying text; Rachel J. Gallagher, *Welfare Reform's Inadequate Implementation of the Family Violence Option: Exploring the Dual Oppression of Poor Domestic Violence Victims*, 19 AM. U. J. GENDER SOC. POL'Y & L. 987, 1003-04 (2011).

81. *Why It's So Hard to Get Off Welfare*, PBS (Apr. 15, 2015, 6:25 PM), <http://www.pbs.org/newshour/bb/hard-get-welfare>; Handler, *supra* note 66, at 124.

82. KATHRYN EDIN & H. LUKE SHAEFER, \$2.00 A DAY: LIVING ON ALMOST NOTHING IN AMERICA 61 (2015); Anne L. Alstott, *Neoliberalism in U.S. Family Law: Negative Liberty and Laissez-Faire Markets in the Minimal State*, 77 LAW & CONTEMP. PROBS. 25, 40 (2014).

The law has been a principal instrument by which those who rely on welfare are deemed to be personally responsible for their circumstances.⁸³ Indeed, as David Grewal and Jedediah Purdy have observed, “neoliberalism is always mediated through the law.”⁸⁴ The neoliberal turn has all but obliterated the law’s notion that the federal welfare program reflects the nation’s “basic commitment . . . to foster the dignity and well-being of all persons within its borders,” a position articulated by the U.S. Supreme Court in a landmark decision during the period in which the field of poverty law flourished.⁸⁵

Once relegated to the low-wage work market, domestic violence victims have few rights to employment protection, notwithstanding studies that demonstrate the ways that domestic violence interferes with their work lives. The Family Medical Leave Act guarantees some categories of employees unpaid leave; however, the statutorily defined circumstances when such rights attach often do not apply to victims of domestic violence.⁸⁶ State leave laws may be more generous but are still insufficient, and often require a minimum number of employees before the laws are applicable.⁸⁷

A growing number of states have enacted legislation that allows employers to obtain workplace restraining orders.⁸⁸ These orders are often sought by employers without notice to or consent of victims who have determined not to seek their own protection order.⁸⁹ Most state statutes create a safe harbor for employers who are immune from liability for any consequences that result from the seeking of or issuance of the order.⁹⁰ Workplace restraining order statutes reflect a paternalistic attitude toward victims and may further endanger them. They reinforce neoliberal structures by protecting market interests without providing long-term safety or security

83. Karen Syma Czapanskiy, *Domestic Violence and the Maryland Family Violence Option*, 11 AM. U. J. GENDER SOC. POL’Y & L. 447, 448-49 (2003) (noting that Congress rejected the notion that structural issues keep some people from working).

84. Grewal & Purdy, *supra* note 21, at 9.

85. *Goldberg v. Kelly*, 397 U.S. 254, 264-65 (1970); *see generally* SUSAN E. LAWRENCE, *THE POOR IN COURT: THE LEGAL SERVICES PROGRAM AND SUPREME COURT DECISION MAKING* (1990).

86. 29 U.S.C. §§ 2601-2654. *See* Haar, *supra* note 5, at 487-488.

87. LEGAL MOMENTUM, *STATE LAW GUIDE: EMPLOYMENT RIGHTS FOR VICTIMS OF DOMESTIC OR SEXUAL VIOLENCE* (rev. ed. 2015), <https://www.legalmomentum.org/resources/state-law-guide-employment-rights-victims-domestic-or-sexual-violence>.

88. LEGAL MOMENTUM, *STATE LAW GUIDE: WORKPLACE RESTRAINING ORDERS* (rev. ed. 2013), <http://www.scribd.com/doc/158440265/State-Law-Guide-Workplace-Restraining-Orders>.

89. Njeri Mathis Rutledge, *Employers Know Best? The Application of Workplace Restraining Orders to Domestic Violence Cases*, 48 LOY. L.A. L. REV. 175, 200-01 (2014).

90. *See* Widiss, *supra* note 40, at 715.

for victims of domestic violence. In the end, these laws contribute to producing low-wage labor pool for a punishing market economy.

2. Other Economic Benefits, Punishment, and the Undeserving Victim

Notwithstanding the legal commitment to protect victims of domestic violence with regard to housing, the neoliberal framework that restrains the state from assisting the poor undermines the few housing protections that do exist. Domestic violence victims, the majority who are poor, are frequently unable to afford housing.⁹¹ Landlords who fix their rental rates per the whims of the market remain relatively unrestrained in their ability to determine to whom to rent or how much to charge, particularly when choosing between tenants who demonstrate economic stability and those who do not. Moreover, the protections offered by VAWA's housing provisions are of little use to domestic violence victims who may have a record of having been previously evicted from past dwellings, or who have had to break their lease, circumstances that are not included in the statute's protections against housing discrimination.⁹² Although Congress established the links between economic instability and domestic violence, and recognized that victims often have bad credit histories due to the dynamics of abusive relationships, it has never prohibited a landlord from denying housing due to a negative credit report.⁹³ Anti-discrimination laws that protect domestic violence victims based on their victimhood status are thus trumped by the state's commitment to a neoliberal economic order and private property laws.

Similarly, victims of domestic violence who have been incarcerated cannot avail themselves of a variety of social services and economic benefits, including job training.⁹⁴ They can be denied housing due to a criminal record, a circumstance likely to disproportionately affect poor women of color as a

91. Susan A. Reif & Lisa J. Krisher, *Subsidized Housing and the Unique Needs of Domestic Violence Victim*, 34 CLEARINGHOUSE REV. 20, 21 (2000) (noting that for victims of domestic violence, obtaining affordable housing is often considered their greatest obstacle).

92. Rasheedah Phillips, *Addressing Barriers to Housing for Women Survivors of Domestic Violence and Sexual Assault*, 24 TEMP. POL. & CIV. RTS. L. REV. 323, 324-25, 328 n.36, 329 (2015) (observing that victims of domestic violence may frequently break their lease in order to escape the abuser).

93. See Deborah M. Weissman, *Gender-Based Violence As Judicial Anomaly: Between "The Truly National And The Truly Local"*, 42 B.C. L. REV. 1081, 1090-1091 (2001) (further reviewing four years of Congressional testimony that shaped the Violence Against Women Act of 1994 and that focused on the impact of domestic violence on women's economy and interstate commerce).

94. See Andrea L. Dennis & Carol E. Jordan, *Encouraging Victims: Responding to a Recent Study of Battered Women Who Commit Crimes*, 15 NEV. L.J. 1, 24, 26 (2014).

result of racial profiling and over-policing in their communities.⁹⁵ A criminal record is also likely to diminish the usefulness of educational benefits that are designed to assist victims of domestic violence to improve their circumstances.⁹⁶ Recent studies have examined the barriers to admission faced by college applicants with criminal records.⁹⁷ Domestic violence victims with prior criminal records, or who were suspended or expelled in high school even for trivial and arbitrary reasons, face significant obstacles to college admission.⁹⁸ These circumstances reveal the relationship between neoliberalism and the minimal state on the one hand, and the criminal justice system where the state over-reaches on the other.⁹⁹ As Bernard Harcourt has explained, “law and order is joined at the hip with the argument for limited government intervention elsewhere.”¹⁰⁰

3. Child Support, Punishment, and the Undeserving Family

In recent years, a number of commentators have turned their attention to another consequence of welfare reform, that is, the state’s expanded efforts to collect child support from the noncustodial parent when the custodial parent is a welfare recipient.¹⁰¹ It has been well-established that child support enforcement requirements may endanger victims of domestic violence who

95. *Id.* at 26. See Sandra S. Park, *Equal Protection for Survivors of Gender-Based Violence: From Criminalization to Law Enforcement Accountability*, 5 U. MIAMI RACE & SOC. JUST. L. REV. 401, 406-07 (2015).

96. See Johnson, *supra* note 5, at 149-51, 163-64; Dennis & Jordan, *supra* note 94, at 24-26.

97. See MARSHA WEISSMAN ET AL., *THE USE OF CRIMINAL RECORDS IN COLLEGE ADMISSIONS: RECONSIDERED* (2015), <http://communityalternatives.org/pdf/Reconsidered-criminal-hist-recs-in-college-admissions.pdf>; MARSHA WEISSMAN & EMILY NAPIER, *EDUCATION SUSPENDED: THE USE OF HIGH SCHOOL DISCIPLINARY RECORDS IN COLLEGE ADMISSION* (2015), available at <http://www.communityalternatives.org/pdf/publications/EducationSuspended.pdf>; ALAN ROSENTHAL ET AL., *BOXED OUT: CRIMINAL HISTORY SCREENING AND COLLEGE APPLICATION ATTRITION* (2015), http://communityalternatives.org/pdf/publications/BoxedOut_FullReport.pdf.

98. WEISSMAN ET AL., *supra* note 97, at 17, 25 (noting the racial impact of such screening); WEISSMAN & NAPIER, *supra* note 97, at 17, 21, 23 (noting the disproportionate and arbitrary discipline of black students as well as students with disabilities).

99. Anne L. Alstott, *Neoliberalism in U.S. Family Law: Negative Liberty and Laissez-Faire Markets in the Minimal State*, 77 LAW & CONTEMP. PROBS. 25, 33-35 (2014).

100. BERNARD E. HARCOURT, *THE ILLUSION OF FREE MARKETS: PUNISHMENT AND THE MYTH OF NATURAL ORDER* 204 (2011).

101. Stacy Brustin & Lisa Vollendorf Martin, *Paved with Good Intentions: Unintended Consequences of Federal Proposals to Integrate Child Support and Parenting Time*, 48 IND. L. REV. 803 (2015); Ann Cammett, *Expanding Collateral Sanctions: The Hidden Costs of Aggressive Child Support Enforcement Against Incarcerated Parents*, 13 GEO. J. ON POVERTY L. & POL’Y 313 (2006); GWENDOLYN MINK, *WELFARE’S END* 72-73 (1998) (noting that TANF no longer establishes national standards for “good cause” but rather leaves it to the determination of the states and the emergence of tougher new standards).

may need to avoid any contact with an abusive parent, an outcome likely to occur as a result of the child support system.¹⁰² Indeed, Congress seemingly recognized this dilemma when providing states with the option to allow welfare victims to seek a waiver of the child support enforcement cooperation requirement.¹⁰³ Yet study after study demonstrates that victims are most often denied waivers and that fewer still are ever advised of the waiver option.¹⁰⁴ Rigorous child support enforcement mechanisms reflect the welfare system's preference for kinship systems second only to the market for purposes of family support.

Victims of gender violence are often reluctant to cooperate with child support enforcement for reasons unrelated to fear of violence; however, a significant number seek to avoid the child support cooperation requirement in order to protect the noncustodial parent.¹⁰⁵ Some rely on the informal support they receive from the other parent.¹⁰⁶ Regardless of the reasons, the law coerces a poor woman to surrender the choices she might otherwise have if not for poverty. As Gwendolyn Mink has noted, the law "concede[s] that mothers may live separately from the biological fathers of their children, but insist[s] that they may not live independently of them."¹⁰⁷ She cogently observes that "[w]elfare law thus activates constitutionally significant distinctions among mothers who need welfare and between such mothers and other citizens—distinctions that enforce inequality."¹⁰⁸

Without question, child support is central to the economic well-being of a custodial parent and her child. Indeed, lawyers for domestic violence victims have long urged courts to issue temporary child support orders as part

102. TIMOTHY CASEY ET AL., NOT ENOUGH: WHAT TANF OFFERS FAMILY VIOLENCE VICTIMS 17-18 (2010), <http://www.legalmomentum.org/sites/default/files/reports/not-enough-what-tanf-offers.pdf>; Heather R. Parker, *Access Denied: The Disconnect Between Statutory and Actual Access to Child Support for Civil Protection Order Petitioners*, 76 U. CIN. L. REV. 271, 287 (2007) (reporting on a study that demonstrated increased violence for victims in states with strict child support enforcement laws that also require paternity testing); see also Naomi Stern, *Battered by the System: How Advocates Against Domestic Violence Have Improved Victims' Access to Child Support and TANF*, 14 HASTINGS WOMEN'S L.J. 47, 54-55 (2003).

103. See 42 U.S.C. § 602(a)(7) (2014); Raphael, *supra* note 46; Moore, *supra* note 46.

104. Laurie Pompa, *The Family Violence Option in Texas: Why It Is Failing to Aid Domestic Violence Victims on Welfare and What to Do About It*, 16 TEX. J. WOMEN & L. 241, 250 (2007); Gallagher, *supra* note 80, at 1002; Stern, *supra* note 99, at 50; Daniel G. Saunders et al., *TANF Workers' Responses to Battered Women and the Impact of Brief Worker Training*, 11 VIOLENCE AGAINST WOMEN 227, 246 (2005).

105. JUNE GIBBS BROWN, CLIENT COOPERATION WITH CHILD SUPPORT ENFORCEMENT: CHALLENGES AND STRATEGIES TO IMPROVEMENT 6 (2000), <http://oig.hhs.gov/oei/reports/oei-06-98-00041.pdf>.

106. *Id.*

107. MINK, *supra* note 101, at 74.

108. *Id.* at 75.

of a domestic violence protection orders and have argued that assisting with enforcement of such orders through wage garnishments or other means constitutes standard practice.¹⁰⁹ However, recent studies reveal worrisome consequences that arise when poor people owe child support. In addition to the fact that many poor noncustodial parents are often assessed child support payments that they cannot realistically pay, their failure to meet their court ordered obligation can result in suspended driver's and occupational licenses, additional fines, and penalties.¹¹⁰ These consequences not only further reduce one's ability to pay, but research demonstrates that poor fathers turn to their families for help in paying these debts, thus, further impoverishing an already economically vulnerable social network.¹¹¹

Poor women who are victims of domestic violence and punished for embodying dependency culture are now joined on the "scrapheap" by poor men who are unable to pay child support and are criminally punished as "deadbeat dads."¹¹² Their fate may include incarceration.¹¹³ In the case of Walter Scott, a fifty-year old father, punishment and the threat of more punishment for unpaid child support contributed to his death.¹¹⁴ Scott was shot in the back eight times by police while running away after being stopped for a minor traffic infraction.¹¹⁵ As his family explained to the media, a warrant for his arrest for failure pay child support likely caused him to flee from the officer.¹¹⁶

The warrant, the threat of another stay behind bars and the potential loss of yet another job caused him to run, a brother, Rodney Scott, said. "Every job he has had, he has gotten fired from because he went to jail because he was

109. See A.B.A. COMM'N ON DOMESTIC VIOLENCE, STANDARDS OF PRACTICE FOR LAWYERS REPRESENTING VICTIMS OF DOMESTIC VIOLENCE, SEXUAL ASSAULT AND STALKING IN CIVIL PROTECTION ORDER CASES 5, 56 (2007).

110. Ann Cammett, *Deadbeat Dads & Welfare Queens: How Metaphor Shapes Poverty Law*, 34 B.C. J.L. & SOC. JUST. 233, 262-63 (2014); Ann Cammett, *Expanding Collateral Sanctions: The Hidden Costs of Aggressive Child Support Enforcement Against Incarcerated Parents*, 13 GEO. J. ON POVERTY L. & POL'Y 313, 320 (2006).

111. MITALI NAGRECHA ET. AL, WHEN ALL ELSE FAILS, FINING THE FAMILY 19-20 (2014), available at <http://www.communityalternatives.org/pdf/Criminal-Justice-Debt.pdf>.

112. Rose, *supra* note 69; Cammett, *supra* note 110, at 237-38.

113. See *Turner v. Rogers*, 564 U.S. 431 (2010) (holding that due process does not, in all cases, provide a right to counsel for an indigent parent facing jail time for civil contempt, although allowing that when the state is prosecuting the case, such right may attach).

114. Francis Robles & Shaila Dewan, *Skip Child Support. Go to Jail. Lose Job. Repeat.*, N.Y. TIMES, Apr. 20, 2015, at A1. Mr. Scott's death must be understood in the larger context of the police murders of black people, a tragedy framed most recently by the campaign Black Lives Matter.

115. Michael S. Schmidt & Matt Apuzzo, *South Carolina Officer is Charged with the Murder of Walter Scott*, N.Y. TIMES, Apr. 15, 2015 at A1.

116. Robles & Dewan, *supra* note 114.

locked up for child support,” said his brother. . . . “He got to the point where he felt like it defeated the purpose.”¹¹⁷

Disciplined by the market and the criminal justice system, poor parents, and especially men of color, along with their entire families suffer. Child support cannot be a substitute for government benefits. Moreover, in the current scheme of welfare reform, “*making mothers* make fathers pay means trading their rights and safety for subsistence.”¹¹⁸

III. DOMESTIC VIOLENCE ADVOCACY: CONSENT AND ACQUIESCENCE

Segments of the domestic violence movement have often fallen under the sway of neoliberalism and the promise of the free market.¹¹⁹ Scholars have addressed the shift from a domestic violence advocacy movement that emerged within second-wave feminism that sought a “fundamental emancipatory promise with its expanded sense of injustice and its structural critique of society”¹²⁰ to a type of identity politics that “has unwittingly provided a key ingredient of the new spirit of neoliberalism.”¹²¹ This Part first examines the sources of acquiescence to neoliberal approaches to which much of domestic violence advocacy has been given and then critiques particular programmatic initiatives promoted by the domestic violence movement designed to achieve economic justice for victims.

A. *Establishing Consent*

Those who work in the realm of domestic violence advocacy are not immune from the myths of the free market and the accompanying cultural concepts about the poor as unworthy. As the domestic violence movement shifted into a type of victim-identity politics, efforts to maintain class solidarity that characterized an earlier point in the history of gender violence activism waned.¹²² Contradictions deepened between those who work in the field of domestic violence and other social justice movements, including

117. *Id.*

118. MINK, *supra* note 101, at 85.

119. Lears, *supra* note 11 (noting “the vast majority of Americans uttered scarcely a murmur against the long con of neoliberalism”).

120. Fraser, *supra* note 42, at 97. See also Herbert Marcuse, *Marxism and Feminism*, 2 WOMEN’S STUD. 279, 288 (1974) (“Feminism is a revolt against decaying capitalism.”); Wendy Brown, *Women’s Studies Unbound: Revolution, Mourning, Politics*, 9 PARALLAX, no. 2, 2003, at 3, 3 (describing feminism as “born of the utopian aspiration”).

121. Fraser, *supra* note 42, at 110; Mary Bernstein, *Identity Politics*, 31 ANN. REV. SOC. 47, 52 (2005).

122. See *infra* notes 124-26 and accompanying text.

groups fighting for socioeconomic justice.¹²³ Favoring a seemingly politically efficacious position that holds that domestic violence knows no class bounds, advocates urged a “universalist” victim-focused approach through which all women are positioned as vulnerable to the violent behavior of men.¹²⁴ Gender trumped class, race, and ethnicity.¹²⁵ Notwithstanding the evidence that poor communities are more likely to suffer domestic violence often as a consequence of economic strain, advocates feared domestic violence identified as an issue that disproportionately affected the poor would erode the political will to address the problem.¹²⁶

As Joan Meier has observed, the disconnect between domestic violence advocates and the anti-poverty movement served to dissuade domestic violence advocates from voicing their concern about welfare reform and its effect on poor women.¹²⁷ She notes that due to an unwillingness to draw attention to the relationship of poverty and domestic violence, advocates remained on the sidelines of 1996 legislative debates concerning welfare reform, despite the harm such policies would cause to domestic violence victims.¹²⁸ Meier, while duly criticizing the anti-poverty movement for its failure to grasp the relationship between domestic violence and poverty, calls attention to the unwillingness of feminist advocates to engage in the welfare debate, much to the peril of poor victims of domestic violence.¹²⁹

The domestic violence movement has not only avoided the opportunity to engage in a critique of a political economy based on inequality and a

123. Joan Meier, *Domestic Violence, Character, and Social Change in the Welfare Reform Debate*, 19 LAW & POL’Y 205, 207 (1997) (Meier properly observes that similarly, the ideological chasm affects the anti-poverty movement and the distance it has put between poverty and domestic violence) (Meier properly observes that similarly, the ideological chasm affects the anti-poverty movement and the distance it has put between poverty and domestic violence); BETH E. RICHIE, *ARRESTED JUSTICE: BLACK WOMEN, VIOLENCE, AND AMERICA’S PRISON NATION 2* (2013) (critiquing the “white feminist anti-violence movement . . . that argued gender inequality was the main factor that motivated violence against women—almost to the exclusion of other factors.”). Richie also demonstrates that the failure to attend to the issues affecting marginalized women have contributed to their worsening circumstances and worsened solidarities with domestic violence groups. *Id.* at 95-96.

124. See Jody Raphael, *Battering Through the Lens of Class*, 11 AM. U. J. GENDER SOC. POL’Y & L. 367, 368 (2003); Nina W. Tarr, *Civil Orders of Protection: Freedom or Entrapment?* 11 WASH. U. J.L. & POL’Y 157, 182 (2003) (observing that such a position “appeals to both policy makers and society as a whole”).

125. See generally Kimberle Crenshaw, *Mapping the Margins: Intersectionality, Identity Politics, and Violence Against Women of Color*, 43 STAN. L. REV. 1241 (1991).

126. See Deborah M. Weissman, *Law, Social Movements, and the Political Economy of Domestic Violence*, 20 DUKE J. GENDER L. & POL’Y 221, 231 (2013).

127. Meier, *supra* note 123, at 208, 223.

128. *Id.*

129. *Id.* at 220.

political economic culture that scorned the poor, but at times have contributed to the undermining of poor victims. As many think tanks, academics, and the media validated the principles of neoliberalism, domestic violence advocates also embraced the orthodoxy. Studies of domestic services providers find that many program practices are “infantilizing,” and “adher[e] to increasingly rigid bureaucratic expectations of self-sufficiency, similar to the philosophy of welfare reform.”¹³⁰ Many have adopted a law-and-order approach to the problem and focus on individual instances of domestic violence while discounting its structural sources.¹³¹ Other programs automatically require all victims with children to participate in parenting programs emphasizing individual and idiosyncratic deficiencies, thus “inadvertently reinforcing society’s message to these women that they were inadequate.”¹³²

Most domestic violence programs, of course, are under-resourced and are compromised by their own funding constraints that encourage cost-saving approaches to the provision of services.¹³³ That the relationship between neoliberalism and domestic violence is under-theorized is, in part, a likely consequence of such constraints which negatively affects the ability of programs to formulate policy and programs in an independent and progressive manner.¹³⁴ As in the case with many social service providers, they are accountable less to their clients than to their donors.¹³⁵ Moreover, as state support for poor victims diminishes, domestic violence programs fill the void, and—however unwittingly—thus contribute to the privatizing of government services.¹³⁶

These are not concerns limited to the domestic violence advocacy movement, of course.

As a means to “make-do” within an all-encompassing neoliberal framework, many social service providers have invoked concepts such as social capital theory and human capital approaches as an alternative to state

130. Angela M. Moe, *Silenced Voices and Structured Survival: Battered Women’s Help Seeking*, 13 *VIOLENCE AGAINST WOMEN* 676, 679 (2007).

131. Carol Bohmer et al., *Domestic Violence Law Reforms: Reactions from the Trenches*, 29 *J. SOC. & SOC. WELFARE* 71, 76 (2002).

132. Helen P. Hartnett & Judy L. Postmus, *The Function of Shelters for Women: Assistance or Social Control?*, 20 *J. HUMAN BEHAVIOR SOC. ENV’T* 289, 292 (2010).

133. See Njeri Mathis Rutledge, *Looking A Gift Horse in the Mouth: The Underutilization of Crime Victim Compensation Funds by Domestic Violence Victims*, 19 *DUKE J. GENDER L. & POL’Y* 223, 252 (2011).

134. *See Id.*

135. HARVEY, *supra* note 6, at 177.

136. *Id.* (referring to NGOs generally as the Trojan horses of global neoliberalism).

subsistence programs to alleviate poverty.¹³⁷ According to these theories, individuals who benefit from networks of trust and acquire assets are less likely to be victimized and are more likely to have the wherewithal to survive violence.¹³⁸ These theories easily co-exist with neoliberalism and require little or no engagement with structural economic inequalities. Rather they suggest that poverty and violence can be solved without wealth redistribution and without the need for collective effort. As Steve Fraser has suggested, “[a]rguably, ‘the personal is political’ has morphed into something far more debilitating than liberating: namely that only the personal is political.”¹³⁹

B. Domestic Violence Advocacy and Neoliberalism: In Practice

Neoliberalism produces more than ideas and ideology; it encourages real-life interventions concealed of political purpose. In the realm of domestic violence advocacy, there are a number of categories where economic interventions for victims have taken a neoliberal turn and may encourage victims to serve as “the props of neoliberalism.”¹⁴⁰ Domestic violence programs advancing economic issues of the victims intervene in benefits for welfare their clients, job training, and financial literacy. Moreover, they have used market concepts as the discursive framework for gender violence. In each instance, the ideology of neoliberalism has served to inform assistance and programmatic initiatives.

1. Domestic Violence Programs and Welfare Benefits

As demonstrated above, victims of domestic violence who suffer financial instability are often dependent on welfare payments. Yet many seek to avoid government benefits due to the disciplinary nature of welfare programs. Mandatory drug testing of TANF applicants is now the law in at least fourteen states; seventeen more are considering such legislation.¹⁴¹ Poor

137. See Carissa Van Den Berk-Clark & Loretta Pyles, *Deconstructing Neoliberal Community Development Approaches and a Case for the Solidarity Economy*, 23 J. PROGRESSIVE HUM. SERV. 1, 3-4 (2012).

138. Naomi Farber & Julie E. Miller-Cribbs, *Violence in the Lives of Rural, Southern, and Poor White Women*, 20 VIOLENCE AGAINST WOMEN 517, 518 (2014); Rebecca M. Loya, *The Role of Sexual Violence in Creating and Maintaining Economic Insecurity Among Asset-Poor women of Color*, 20 VIOLENCE AGAINST WOMEN 1299, 1300-01 (2014).

139. FRASER, *supra* note 10, at 412.

140. See Rose, *supra* note 69 (criticizing Sheryl Sandberg’s bestseller, *LEAN-IN*, for promoting a view of success of women as corporate executives).

141. *Drug Testing for Welfare Recipients and Public Assistance*, NAT’L CONF. ST. LEGISLATURES (Mar. 28, 2016), <http://www.ncsl.org/research/human-services/drug-testing-and-public-assistance.aspx>.

families, and particularly African-American parents who rely on welfare benefits, are more likely to be scrutinized by child protection agencies than families without connection to government programs.¹⁴² Victims describe welfare as another type of “trap” which they seek to avoid.¹⁴³ Notwithstanding the reluctance of some to apply for welfare, studies reveal complaints by victims who reported that program workers coerced them to applying for welfare in order to benefit from the cash assistance victims receive and thus reduce shelter costs.¹⁴⁴ They expressed anger and frustration at shelter workers who required them to apply for welfare as a condition of staying in the shelter, noting they “did not want to be part of the welfare system,” and did not want to be subjected to the demeaning state control on welfare recipients.¹⁴⁵ Rather than emphasizing the need to transform welfare programs so that they might better eradicate poverty, such programmatic action undermines a victim’s ability to assess and determine the danger of relying on a punitive welfare system. It further exploits the failure of the state to support program costs by transferring the burden to a victim who must become enmeshed in the surveillance and control mechanisms associated with government benefits.

While domestic violence providers may coerce victims in applying for welfare as a condition to receipt of services, they also often fail to advise women of the possibilities of applying for waivers pursuant to the FVO. This may be due to a lack of knowledge about the FVO, but one study suggests that advocates may deliberately withhold such information from victims.¹⁴⁶ The data suggests that those with domestic violence expertise fail to assist victims to make use of the waiver provisions for strategic reasons related to their programs’ interests.¹⁴⁷ In fact, programs that require victims to apply for welfare without guidance about the waivers may actually preempt victims from making decisions about whether to apply.¹⁴⁸

142. See Dorothy E. Roberts, *Child Welfare’s Paradox*, 49 WM. & MARY L. REV. 881, 900-01 (2007) (noting the tension that poor African-American families experience as shrinking public benefits have pushed them to seek other benefits from child protection services, exposing them to surveillance and punishment).

143. Rutledge, *supra* note 133, at 266.

144. Judy L. Postmus, *Valuable Assistance or Missed Opportunities?*, 9 VIOLENCE AGAINST WOMEN 1278, 1282, 1285 (2003) (describing programs that force women to apply for welfare benefits in order to remain in shelters regardless of their need or desire for welfare assistance, and the failure or refusal of programs to provide referrals to other community services).

145. *Id.* at 1282.

146. *Id.* at 1285.

147. *Id.*; see Pompa, *supra* note 104, at 250-51.

148. Postmus, *supra* note 144, at 1284 (describing a domestic violence client who said the domestic violence shelter advocate communicated with the welfare caseworker as though she were not in the room).

Domestic violence programs dependent upon financial support derived through victim's welfare benefits align ideologically and practically around the strict requirements of welfare programs. This adversely affects not only the victims of domestic violence but the parents of their children and members of the extended family. When advocates fail to inform victims or otherwise obscure information pertaining to waivers from child support cooperation, they are contributing to the punitive practices that have developed with regard to child support collection. As the authors of a study on the consequence of court fines and fees, including child support orders have found, when a parent cannot pay, it is the extended family that will make all efforts to pay the debt despite their own financial struggles.¹⁴⁹ "[D]ebt" they argue, "should not be levied on those who cannot pay for reasons of principle as well as pragmatism."¹⁵⁰ Gwendolyn Mink identifies an ideological convergence between some feminists who call for effective child support enforcement, and uncritically promote the narrative of the "dead-beat dad."¹⁵¹ Little is said about the obligations of the state. These circumstances accommodate neoliberal position that promotes a residualist welfare system and emphasizes individual and kinship responsibility over state supports.

2. Job Assistance and Employment Referral Programs

Domestic violence programs often work with businesses in an effort to establish programs to enhance safety and security at the workplace for victims of domestic violence. Experts have partnered with employer associations to develop trainings and other strategies by which to address the costs and consequences of domestic violence in the workplace.¹⁵² Some domestic violence programs offer in-house job training assistance; others have created collaborative relationships with job program services and employment referral agencies as a means to assist victims to obtain employment.¹⁵³ The initiatives are well-intended and often contribute to alleviating a victim's burden of choosing between remaining with an abuser or establishing some semblance of independence. Partnerships between

149. NAGRECHA ET AL., *supra* note 111, at 3.

150. *Id.* at 31.

151. MINK, *supra* note 101, at 80-81.

152. See, e.g., Employers Against Domestic Violence: Addressing the Causes and Effects of Violence in the Workplace, <http://employersagainstdomesticviolence.org/about/board/>.

153. Erin Ann O'Hara, *Apology and Thick Trust: What Spouse Abusers and Negligent Doctors Might Have in Common*, 79 CHI.-KENT L. REV. 1055, 1082 (2004); Widiss, *supra* note 40, at 678 n. 23; LISE MCKEAN, ADDRESSING DOMESTIC VIOLENCE AS A BARRIER TO WORK: BUILDING COLLABORATIONS BETWEEN DOMESTIC VIOLENCE SERVICE PROVIDERS AND EMPLOYMENT SERVICES AGENCIES 9 (2004), http://www.ncdsv.org/images/CIR_AddressingDVasABarrierToWork_10-2004.pdf.

employment services agencies and domestic violence programs provide opportunities for employment agency staff to learn about domestic violence, and to screen and refer job seekers to counselors—all with salutary effects.¹⁵⁴

But these programs fail address socio-structural challenges to meaningful employment.¹⁵⁵ Rather, they assist clients with “self-esteem,” “personal change,” and “journaling.”¹⁵⁶ These programs often rest on faulty assumptions about a low-income victim’s employment circumstances. In fact, many domestic violence victims often already work two or three jobs, and are often employed in the informal economy.¹⁵⁷ Job services do not address the structural obstacles to better paying employment and thus neither alleviate poverty nor the need for women to engage in multiple jobs that fail to provide them with economic security. For the unemployed, the job-related services do not take into account the problematic conditions of the labor market including exploitative and unequal wage scales, flexibilization, and at-will employment, all of which contribute to domestic violence in the first place.¹⁵⁸

Job training programs have little or no effect on improving the economic circumstances of low-income women.¹⁵⁹ Scholars who have assessed these types of work programs have observed that they are based on “the assumption that people can pull themselves up by their bootstraps, and by the power of their own individualism can complete against large corporate conglomerations that control wages and prices.”¹⁶⁰ These programs generally focus on low-wage work such as clerical and service sector positions that are “quickly obtainable.”¹⁶¹ Jobs are gender-stereotyped; women rarely obtain training in employment adequate for a living wage, such as carpentry and plumbing; they are rarely encouraged to seek professional positions that require education and training.¹⁶² They do not support postsecondary education, crucial to the possibilities of permanently alleviating poverty.¹⁶³ Among clients interviewed in domestic violence program-employment services collaboration were interviewed, a number of women criticized the “one-size-fits-all” model and identified the need to

154. MCKEAN, *supra* note 153, at 22, 27.

155. *See id.* at 22, 27.

156. *Id.* at 20.

157. Pyles, *supra* note 73, at 120.

158. Weissman, *supra* note 31, at 420-23.

159. Loretta Pyles, *Toward Safety for Low Income Women: Promoting Economic Justice Strategies*, 87 FAMILIES SOC’Y: J. CONTEMP. SOC. SERVS. 63, 65 (2006).

160. Van Den Berk-Clark & Pyles, *supra* note 137, at 10.

161. Pyles, *supra* note 159, at 65

162. *Id.* at 65-66.

163. *Id.* at 65.

create job services tailored to the needs of particular groups including older workers and undocumented immigrants.¹⁶⁴ Others commented on the failure of the job training and referral programs to consider the punitive aspects of welfare aid and whether the effect of wages would help or hurt family income and resources.¹⁶⁵ Moreover, readily available gender-stereotyped jobs such as restaurant and food service industries not only fail to pay a living wage, they are often characterized as a work environment in which sexual harassment is endemic.¹⁶⁶ Such observations reveal the insufficiency of both state and market income options. Employment opportunities offered to victims of domestic violence often fail to meet minimum criteria for economic security that must include not only living wages but “employment based benefits and workplace practices that recognize workers as members of families and communities.”¹⁶⁷

Employment-related services offered by domestic violence programs might be best described as “safe, market-friendly solutions” that fail to challenge assumptions about the poor—and especially poor women—and work.¹⁶⁸ Little attention is given to the economic determinants of gender violence or the ways in which success in the workplace is less a function of individual effort and more a function of the contingent and low-paying work to which poor women are often assigned.¹⁶⁹ As explained above, domestic violence advocates are not immune from the impact of neoliberalism and “normative order of reason” of the free market that pervades efforts to achieve meaningful social change.¹⁷⁰ However unwittingly, domestic violence advocates have aligned their efforts to obtain employment for victims within the structures of the exploitative labor market that in the end may contribute to the feminization of poverty, if not the perpetuation of

164. MCKEAN, *supra* note 153, at 28.

165. *Id.*

166. Mary Gatta, *Raise The Wage For Women's Economic Security and Workplace Safety*, WIDER OPPORTUNITIES FOR WOMEN: ECON. SECURITY BLOG (Feb. 13, 2015), <http://www.wowonline.org/blog/2015/02/13/raise-the-wage-for-womens-economic-security-and-workplace-safety>.

167. *Good Jobs & Economic Security*, WIDER OPPORTUNITIES FOR WOMEN, <http://www.wowonline.org/good-jobs-economic-security> (last visited Apr. 25, 2016). Wider Opportunities for Women further notes that failure to pay a living wage to survivors of domestic violence puts them at particular risk. Gatta, *supra* note 166.

168. ASCHOFF, *supra* note 67, at 12.

169. See, e.g., LINDA BURNHAM & NIK THEODORE, *HOME ECONOMICS: THE INVISIBLE AND UNREGULATED WORLD OF DOMESTIC WORK* xi-xii (2012), <http://www.domesticworkers.org/sites/default/files/HomeEconomicsEnglish.pdf> (noting that 95% of domestic workers are women who earn low rates of pay, at hazardous jobs, and have little recourse to improve substandard work-related conditions).

170. See BROWN, *supra* note 14.

domestic violence. There is little likelihood that victims of domestic violence will obtain meaningful economic progress and economic security without collective strategies that incorporate living wage campaigns, decent benefits, and dignified working conditions while undermining the power hierarchies that characterize the current labor market.

3. Economic Justice Projects and Financial Literacy Campaigns

Economic abuse is one of the principal forms of domestic violence. Perpetrators often control household and individual finances as a means of domination.¹⁷¹ A woman may be prohibited from opening an individual bank account or coerced into obtaining loans for the perpetrator who might intentionally negatively impact her credit scores as a means to maintain her dependency and his power.¹⁷² In response to this form of abuse, a growing number of domestic violence programs now feature “economic justice projects,” which include “financial literacy programs.”¹⁷³ These programs rely on a corporate-sponsored curriculum that claims to improve the “‘knowledge of personal money management concepts and skills’ including the principles of ‘earning, spending, saving and investing.’”¹⁷⁴ The prototype curriculum provides information about budgeting and ways to increase one’s confidence with regard to managing finances.¹⁷⁵ There is little assessment and even less evaluation of the effect of financial literacy training on racial, ethnic, or immigrant groups.¹⁷⁶ Notwithstanding the lack of assessment, a

171. Jane K. Stoeber, *Stories Absent from the Courtroom: Responding to Domestic Violence in the Context of HIV and AIDS*, 87 N.C. L. REV. 1157, 1212 n.210 (2009).

172. Harr, *supra* note 5, at 474.

173. See *Economic Justice Project*, NAT’L NETWORK TO END DOMESTIC VIOLENCE, <http://nnev.org/projects/eojustice.html> (last visited Dec. 15, 2015).

174. Susan L. Pollet, *Economic Abuse: The Unseen Side of Domestic Violence*, N.Y. ST. B.J. 40, 42 (2011); see ALLSTATE FOUND.’S CLICK TO EMPOWER, <http://www.clicktoempower.org/>. Similarly, the Jump\$tart Coalition, founded by the Chairman and CEO of the Ford Motor Credit Company, has produced a financial literacy program and works with survivors of domestic violence. See *About the Jump\$tart Coalition for Personal Financial Literacy*, JUMPSTART.ORG, <http://www.jumpstart.org/about-us.html> (last visited Apr. 9, 2016); *Working in Support of Education Inc. (W!se)*, JUMPSTART.ORG, <http://www.jumpstart.org/working-in-support-of-education-inc.-wse.html> (last visited Apr. 9, 2016). A number of credit card companies including MasterCard and Citibank provide financial literacy on campuses at the same time they solicit credit card applications. See Creola Johnson, *Maxed Out College Students: A Call to Limit Credit Card Solicitations on College Campuses*, 8 N.Y.U. J. LEGIS. & PUB. POL’Y 191, 272 n.344 (2005).

175. Judy L. Postmus, *Economic Empowerment of Domestic Violence Survivors*, NAT’L ONLINE RESOURCE CENTER ON VIOLENCE AGAINST WOMEN 1 (Oct. 2010), http://www.vawnet.org/Assoc_Files_VAWnet/AR_EcoEmpowerment.pdf.

176. *Id.* at 4. Although one curriculum designed for victims of domestic violence was evaluated, the limitations of the study prevent it from being of use in determining outcomes. *Id.* at 7.

close examination of the principles and practices that are fundamental to the curriculum provides an opportunity for critique and concern.¹⁷⁷

The principal financial literacy program for victims of domestic violence is sponsored by the Allstate Foundation and made available through the National Network to End Domestic Violence, among other organizations.¹⁷⁸ The course provides information about the indicators of economic abuse as a condition of domestic violence and offers “financial tools” and strategies to assist victims manage family finances.¹⁷⁹ The curriculum explains “needs” vs. “wants” from a budgeting perspective, suggests that victims avail themselves of community charities and public benefits, and further provides advice as to how best to go about applying for additional financial resources.¹⁸⁰ It outlines the necessary steps to creating and implementing a budget which includes deducting expenses from income with balance put toward savings.¹⁸¹ Savings, in fact, are identified as a crucial component of budgeting.

Before you pay bills, set aside money for your savings. Then pay your other bills. If you do not have enough money to cover all the expenses, find ways to reduce your spending or increase your income. This may mean you have to work a few extra hours, avoid eating out or limit treats for your children. This may sound difficult, but you will feel good knowing you have money saved for your future. Over time, paying yourself first will get easier, and you’ll wonder why you didn’t do it sooner!¹⁸²

Victims are advised not to “despair” if they have debt or need to incur debt, noting that “[d]ebt is common in the United States, and there are many resources to help you manage it.”¹⁸³ Credit cards are encouraged if frugality does not provide sufficient income to meet basic needs.¹⁸⁴ The curriculum also addresses the “problem” of making purchases as a result of “emotional needs.”¹⁸⁵ Finally, victims are advised to open bank accounts, and instructed that “earning interest on your money is important and the best way to ensure

177. The Allstate Foundation/NNEDV curriculum can be found online. *Economic Justice Curriculum*, NAT’L NETWORK TO END DOMESTIC VIOLENCE, <http://nnev.org/resources/ejresources/ejcurriculum.html> (last visited Apr. 10, 2016).

178. CLICK TO EMPOWER, <http://www.clicktoempower.org> (last visited Apr. 10, 2016).

179. *Id.*

180. See Financial Empowerment Curriculum, *Module Two: Learning Financial Fundamentals*, NAT’L NETWORK TO END DOMESTIC VIOLENCE 4 (2010) http://nnev.org/downloads/EconJust/Curriculum_English_2010/PC_Module_Two_June2010_FINAL.pdf.

181. *Id.* at 8-9.

182. *Id.* at 10.

183. *Id.*

184. *Id.*

185. *Id.* at 12.

your future financial success is to start saving today. The secret to growing money is by saving coupled with the miracle of compound interest. Even modest returns can generate real wealth given enough time and dedication.”¹⁸⁶

These initiatives have contributed to a new paradigm in the approach to domestic violence. To be sure, some victims have gained insight and information; moreover, many have likely learned about their legal rights. However, these efforts are unlikely to achieve either individual transformative changes or contribute to the larger social movement that “aims at challenging the social structures that are accountable for systemically produced unjust human suffering.”¹⁸⁷ The curriculum offers a form of unproblematic “apolitical technical know-how” with regard to financial management.¹⁸⁸ It preaches the strategy of reduced spending and increased frugality associated with the politics of austerity economics—a politics that has proven unrealistic and damaging, especially to poor families.¹⁸⁹

The economic model offered by domestic violence programs promotes a flexible definition of financial security that fails to question inequalities. Indeed, according to the lesson module, financial security for some may mean basic subsistence while for others it means vacations and acquiring property and planning for a “comfortable retirement.”¹⁹⁰ Women are counseled to “comparison-shop” and “compare prices” before making purchases but are never advised about the problems of lack of transportation, food deserts, and the general redlining of neighborhoods.¹⁹¹ In sum, the curriculum composes remedies that are utterly implausible.

The strategies are devoid of class and race analysis. Although communities of color are particularly targeted by subprime lenders, including information about the specific tools of financial exploitation such as

186. *Id.* at 14.

187. BOAVENTURA DE SOUSA SANTOS, *IF GOD WERE A HUMAN RIGHTS ACTIVIST* 80 (2015).

188. CHRIS ARTHUR, *FINANCIAL LITERACY: NEOLIBERALISM, THE CONSUMER AND THE CITIZEN* 70 (2012).

189. See Paul Krugman, *The Austerity Delusion*, *GUARDIAN* (Apr. 29, 2015), <http://www.theguardian.com/business/ng-interactive/2015/apr/29/the-austerity-delusion>; Paul Krugman, *How the Case for Austerity Has Crumbled*, *N.Y. REV. BOOKS* (June 6, 2013), <http://www.nybooks.com/articles/2013/06/06/how-case-austerity-has-crumbled/>; OXFAM CASE STUDY, *THE TRUE COST OF AUSTERITY AND INEQUALITY* 4 (2013), <https://www.oxfam.org/sites/www.oxfam.org/files/cs-true-cost-austerity-inequality-uk-120913-en.pdf>.

190. Financial Empowerment Curriculum, *Module Two: Learning Financial Fundamentals*, NATIONAL NETWORK TO END DOMESTIC VIOLENCE 8 (2010) http://nnedv.org/downloads/EconJust/Curriculum_English_2010/PC_Module_Two_June2010_FINAL.pdf.

191. *Id.* at 13, 14.

predatory loan schemes are not included.¹⁹² No warnings are provided about pay-day loan centers that prey on vulnerable communities, particularly as banks close their neighborhood branches at record rates.¹⁹³ Yet it is these financial practices and institutions that deepen economic disparities and degradation, and contribute to higher rates of domestic violence.¹⁹⁴ In some instances, victims of domestic violence often identify predatory lending as a significant obstacle to economic independence.¹⁹⁵

Notwithstanding these concerns, the curriculum encourages women to function in what one scholar has defined as “an unfettered market dominated by individual empowerment and choice where responsibility remains within the limits of the consumer”¹⁹⁶ Financial literacy is driven by the interests of the financial industry whose purpose differs from the goal of social justice movements to further the well-being of victims.¹⁹⁷ These curricula depoliticize the understanding of the financialization of daily life and obscure the consequences of the transformation of economic systems now dominated by financial markets at the expense of industrial and agricultural economies.¹⁹⁸ No critique of the consumer-consumption culture in the United States is offered. Moreover, the curriculum conceals the fundamental weaknesses of a capitalist economy by “individualizing socially-created risk [] and treating it as a technical rather than political

192. Postmus, *supra* note 175, at 4. See also Mark Belisle, *Wells Fargo is Baltimore's Real Looter*, REVERBPRESS (May 1, 2015), <http://reverbpress.com/justice/wells-fargo-is-baltimores-real-looter>.

193. Pyles, *supra* note 73, at 120; Gillian B. White, *Borrowing While Poor*, ATLANTIC (Nov. 5, 2015), <http://www.theatlantic.com/business/archive/2015/11/fixing-the-problem-of-payday-loans/414181/> (“Payday storefronts are frequently found in poor neighborhoods, almost never in rich ones.”); “*How the Other Half Banks*”: *Author Says America's Two-Tiered Banking System is a Threat to Democracy*, DEMOCRACY NOW (Oct. 30, 2015), http://www.democracynow.org/2015/10/30/how_the_other_half_banks_how (noting that over 90 percent of bank closings occurred in low-income neighborhoods).

194. Belisle, *supra* note 192; Michale A. Fletcher, *What You Really Need to Know About Baltimore, From a Reporter Who's Lived There for Over 30 Years*, WASH. POST (Apr. 28, 2015) <https://www.washingtonpost.com/news/wonk/wp/2015/04/28/what-you-really-need-to-know-about-baltimore-from-a-reporter-who-lived-there-for-30-years>.

195. Weissman, *supra* note 126, at 236-37.

196. Martin Saavedra, *Educated Consumer? Foreclosure Crisis and Neoliberal Subjectivities* 9 (Sept. 23-24, 2011) (unpublished manuscript) (on file with author).

197. See Weissman, *supra* note 126, at 236 (citing Rebecca Hall, Paper Abstract (Sept. 23-24, 2011) (unpublished manuscript) (on file with author)) (noting that large corporations like Allstate and cosmetics companies often fund “empowerment projects” for victims of domestic violence); see ARTHUR, *supra* note 188, at 76-77 (noting that banks promote financial literacy to gain positive recognition and to access otherwise hard to reach customers).

198. Thomas I. Palley, *Financialization: What It Is and Why It Matters* 3 (Levy Econs. Inst. Bard C., Working Paper No. 525, 2007), http://www.levyinstitute.org/pubs/wp_525.pdf.

problem[].”¹⁹⁹ In short, the prototype financial literacy curriculum “aids in disempowering the citizen, delegitimizes collective risk solutions and unjustly holds individual consumers responsible for economic risks they cannot manage.”²⁰⁰

Through its use of corporate-designed financial literacy programs as a means to achieve economic justice for victims, the anti-domestic violence movement has confined its initiatives within the neoliberal framework. The lessons offered conform to the dictates of personal autonomy and self-reliance. Austerity and credit card debt are the means to obtain relief from the consequences of domestic violence while achieving the American dream. This form of “economic justice” relies on a hollowed-out description of economic problems and serves as a means to adhere to an economy that has contributed to the violence it now purports to mitigate.²⁰¹ And if more were needed to demonstrate deference to the neoliberal response to economic abuse, some advocates have recently encouraged the creation of new crimes and criminal penalties to be imposed against perpetrators as a way to respond to the problem of economic abuse.²⁰²

4. Market Strategies: Branding and Buying for Domestic Violence

A series of national initiatives recently have emerged emphasizing an appeal to neoliberal consumer practices as a way to end gender violence. Although not specifically framed as an economic justice initiative, these campaigns bear mentioning in the context of political economic responses to gender violence due to their reliance on market strategies, particularly the practice of branding and shopping. The primary campaign, known as NO MORE, joins domestic violence and sexual assault programs with the Department of Justice and major corporations with the goal of increasing public awareness about the problem.²⁰³ This campaign provides responses to domestic violence formulated to conform to a consumer culture. Solutions are promoted within the realm of the power of purchases, pledges, and the support of the rich and famous.²⁰⁴

199. ARTHUR, *supra* note 188, at 12.

200. *Id.*; see also Nicholas J. Kiersey, *Everyday Neoliberalism and the Subjectivity of Crisis: Post-Political Control in an Era of Financial Turmoil*, 4 J. CRITICAL GLOBALISATION STUDS. 23 (2011) (observing how neoliberal discourses avoid discussing the role of capitalism and the crises it engenders).

201. Pollet, *supra* note 174, at 43.

202. *Id.*

203. See *About*, NO MORE, <http://nomore.org/about> (last visited Apr. 26, 2016).

204. *Id.*

The NO MORE campaign features “toolkit activation tools,” which first requires an agreement with regard to the proper use of the symbol and encourages use of a tagline and logos in social media, letterhead, and other written and web materials.²⁰⁵ The toolkit provides templates for flyers, postcards, posters, palm cards, and “Twibbons” described as “a bumper sticker for [. . .] Twitter or Facebook.”²⁰⁶ NO MORE relies on PSAs by well-known popular culture personalities, including a webinar with celebrity voices encouraging community conversations, advising supporters to say “no more [to] excuses,” and issuing a call to co-brand with Viacom.²⁰⁷ During the summer 2015, NO MORE announced its promotion that included an invitation to supporters to paint their fingernails purple, to host summer bake sales with lemonade, and emphasized their invitation to make purchases from the NO MORE store: caps, t-shirts, posters, post cards, back pack pins, water bottles, and tote bags.²⁰⁸ In honor of domestic violence awareness, the NO MORE store offered a 10 percent discount on purchases, proclaiming that “[s]hopping NO MORE is a great way to show support for ending domestic violence & sexual assault in your community.”²⁰⁹ Similarly, the National Coalition to End Domestic Violence called for supporters to shop their store “to show what you stand for.”²¹⁰ Still other organizations have developed their own campaigns that rely on celebrity PSAs and urge supporters to paint their left ring fingernails purple after donating money to their programs.²¹¹

These initiatives are not without benefit, to be sure. Encouraging public awareness of gender violence on campuses and at the workplace serves to increase concern about gender violence, and may foster healthier intimate partner relationships. Similarly, appealing to philanthropic sentiment assisting with fundraising for domestic violence and sexual assault programs

205. See *Tools to Say No More*, NO MORE, <http://nomore.org/the-no-more-toolkit/#table-of-contents> (last visited Apr. 26, 2016).

206. *Id.*

207. *Bringing No More to Your Campus*, NO MORE, <http://nomore.org/public-service-announcements/> (last visited Apr. 8, 2016); see Diana Moskovitz, *Why is the NFL Giving More Super Bowl Ad Time to Its Favorite Sham Domestic-Violence Group?*, DEADSPIN (Feb. 7, 2016, 3:36 PM), <http://deadspin.com/why-is-the-nfl-giving-more-super-bowl-ad-time-to-its-fa-1757575454>.

208. *8 Ways to Make a Difference This Summer*, NO MORE, <http://nomore.org/summer-guide-saying-no-more> (last visited Apr. 8, 2016).

209. NO MORE Campaign, FACEBOOK (Sep. 27, 2015), https://m.facebook.com/NOMORE.org/posts/888141117930309?comment_id=888465017897919&reply_comment_id=888844711193283&total_comments=1&comment_tracking={%22tn%22%3A%22R0%22}.

210. *12 Ways to Take a Stand*, NCADV, <https://web.archive.org/web/20150905052538/http://www.ncadv.org/takeastandmain/event-in-dc/12-ways>.

211. Safe Horizon, *#PutTheNailInIt*, PUT NAIL IT, <http://putthenailinit.com/index.php/paint> (last visited Apr. 26, 2016).

cannot but increase sorely-needed resources. Yet to emphasize market strategies suggests that the problems and their solutions can be commodified and purchased. Such campaigns move fully into the realm of market mechanisms, or as stated elsewhere, “folds empowerment into consumerism.”²¹² The brands, the logos, the communication prompts are homogenized and promote widespread assumptions that gender violence is derived from one source and its victims are all similarly situated.²¹³

The NO MORE project relies on paradigmatic neoliberal strategies, including the promotion of public-private partnerships and reliance on charities and communities for economic support with no attention to the structural issues of economic vulnerability.²¹⁴ Rather than promote state responsibility for economic security for victims of domestic violence through meaningful welfare programs or encouraging the market to pay workers a living wage, the branding campaign places responsibility on individuals who are expected to make choices through consumer spending and donations to cure a persistent social ill.²¹⁵

IV. RECOMMENDATIONS: REPOSITIONING ADVOCACY

Economic issues are central to an understanding of cause and consequence of domestic violence.²¹⁶ Accordingly, it behooves domestic violence advocacy to design strategies to reduce economic strain within families and increase economic independence of victims without being “handmaidens to a naturalized set of market relations.”²¹⁷ As Nancy Fraser has warned, a “‘dangerous liaison’ between feminism and marketization” has emerged requiring “feminists to break that unholy alliance and forge a principled new one.”²¹⁸ This part, while not meant to be a comprehensive overview of reform ideas, identifies possible shifts in strategies so that the

212. Christine Lavrence & Kristin Lozanski, “*This Is Not Your Practice Life*”: *lululemon and the Neoliberal Governance of Self*, 51 CAN. REV. SOC. 76, 76 (2014).

213. *Id.*

214. Eric D. Carter, *Making the Blue Zones: Neoliberalism and Nudges in Public Health Promotion*, 133 SOC. SCI. & MED. 374, 378 (2015) (arguing relatedly about the promotion of the Affordable Health Care Act).

215. Somogy Varga, *The Politics of Nation Branding: Collective Identity and Public Sphere in the Liberal State*, 39 PHIL. & SOC. CRITICISM 825, 841 (2013).

216. See generally Jennifer E. Copp et al., *Neighborhood Disadvantage, Strain, And Intimate Partner Violence: Linking Structural Context To Emotional Response* (Cent. for Fam. and Demographic Res., Working Paper 2014), <http://papers.ccpr.ucla.edu/papers/PWP-BGSU-2014-004/PWP-BGSU-2014-004.pdf>.

217. Grewal & Purdy, *supra* note 21, at 12.

218. NANCY FRASER, FORTUNES OF FEMINISM: FROM STATE-MANAGED CAPITALISM TO NEOLIBERAL CRISIS 2 (2013).

domestic violence movement may address the needs of battered persons as social rights, regain its claim as a critical social project, and obtain redistributive outcomes that would benefit social justice movements generally.

A. Challenging the State Welfare Apparatus

Domestic violence advocates have a vital role in advocating for reforms to the welfare state. They are closely situated to victims of gender violence who often turn to welfare as a means of escape and survival.²¹⁹ Nancy Fraser has promoted general principles that may serve as a guide to achieve a useful and dignified welfare state with attention to issues of gender.²²⁰ She recommends programs that provide sufficient income to prevent poverty, assure that recipients are not subjected to exploitation by employers or others, are treated fairly by case workers, and further the goals of equality.²²¹

Advocates should seek to reform the welfare system and could begin in the realm of child support. They should assure that victims who determine that seeking support from the noncustodial parent is not in their best interests are fully informed about child support enforcement waivers; moreover, they should assist victims in the process for obtaining waivers, and urge that such processes be liberalized. Advocates, in addition, should promote alternatives to the current mandatory child support enforcement program currently embedded in TANF requirements.²²² As a starting point, advocates can promote the fundamental principle that child support obligations should not be levied in such a way as to harm poor families and communities. Incarceration and license forfeiture of nonpaying parents do little to improve the economic circumstances for domestic violence victims and their children. This is not to absolve noncustodial parents from child support responsibilities. It does, however, conform to studies that find that almost all noncustodial parents would provide sufficient economic support if they could.²²³

There are other strategies available to single parents who cannot rely on support from a non-custodial parent. Advocates could endorse a program of government assured child support payments which would guarantee a

219. *See supra* Part II.

220. *See* FRASER, *supra* note 218, at 116-20.

221. *Id.*

222. *See supra* note 65 and accompanying text.

223. NAGRECHA ET AL., *supra* note 111, at 27 (“If there is a single summary evinced from our respondents’ comments, it is that almost all fathers with financial obligations would provide more outright economic support if they could.”).

minimum level of financial assistance to families where parents are unable to provide sufficient resources for their children.²²⁴ This program was originally promoted before the 1996 welfare reform laws and before the narrative of the dead-beat dad took firm hold on government policies.²²⁵ It was first promoted as a means to support only those children whose parents were unmarried and who failed to provide a minimum level of security; over time, however, scholars have suggested that a child support assurance plan could be expanded as a program of social security for all children—a proposal that would help to disrupt the public/private dichotomy that pervades the discourse of family responsibility.²²⁶ Such a program could resemble models used in European countries that offer guaranteed child support payments to custodial parents.²²⁷ For example, Sweden provides guaranteed financial assistance to all custodial parents when the non-custodial parent fails to pay, or pays pursuant to a court order in an amount insufficient for proper care.²²⁸ That a program of guaranteed child support income may be costly has not deterred its implementation in other developed nations.²²⁹

Beyond child support assurance payments, European activists Antonio Negri and Raúl Sánchez Cedillo have called for a welfare state that provides all citizens “a decent, guaranteed basic income for living our own lives, for exercising our own citizenship equally and freely.”²³⁰ They argue for a

224. See IRWIN GARFINKEL, ASSURING CHILD SUPPORT: AN EXTENSION OF SOCIAL SECURITY 8 (1992); Allen M. Parkman, *The Government's Role in the Support of Children*, 11 BYU J. PUB. L. 55, 60, 74 (1997). Child support assurance programs are designed to guarantee receipt of a minimal monthly amount whether or not the noncustodial parent pays child support. J. Thomas Oldham, *Marriage at the Crossroads: Law, Policy and the Brave New World of Twenty-First-Century Families* (Marsha Garrison & Elizabeth Scott, eds.), 47 FAM. L.Q. 311, 320 (2013). This proposal, while a first step, may not be fully sufficient by itself to achieve the goals of a welfare state that provides dignity and economic security to poor families. See Angela Cai, *Insuring Children Against Parental Incarceration Risk*, 26 YALE J.L. & FEMINISM 91, 163 (2014).

225. NATIONAL COMMISSION ON CHILDREN, BEYOND RHETORIC: A NEW AMERICAN AGENDA FOR CHILDREN AND FAMILIES 93-94 (1991).

226. Anne L. Alstott, *Private Tragedies? Family Law as Social Insurance*, 4 HARV. L. & POL'Y REV. 3, 24 (2010).

227. Bryce Covert, *The Brilliant Idea from Europe that Could Revolutionize Child Support*, THINK PROGRESS (Apr. 16, 2015), <http://thinkprogress.org/economy/2015/04/16/3647872/walter-scott-child-support/>; Martha A. Fineman, *Progress and Progression in Family Law*, 2004 U. CHI. LEGAL F. 1, 21 (2004).

228. Stephanie M. Westhuis, *Social Welfare and the Family: Examining the Policy Considerations, Similarities and Differences in the State of Wisconsin and Sweden*, 9 TULSA J. COMP. & INT'L L. 213, 225 (2001).

229. Marsha Garrison, *Child Support and Children's Poverty—A Review of Small Change: The Economics of Child Support*, 28 FAM. L.Q. 475, 506 (1994).

230. Antonio Negri & Raúl Sánchez Cedillo, *For a New Experience of Economic Government: A Call to Podemos*, TRANSVERSAL (Mar. 2015), <http://transversal.at/blog/A-call-to-Podemos>.

welfare program that provides “a guaranteed and decent basic income for all, policies of management and cooperative business [that] can develop and open up new ‘human services for human beings.’”²³¹

Similarly, Joel Handler argues that welfare programs should expand social benefits, reward home-care work, and pay “a universal Basic Income.”²³² He concludes that such benefits should be “unconditionally paid to all on an individual basis, without means test or work requirements” as a means to avoid the cyclical and exploitative poverty trap.²³³ Other suggestions include the subsidizing of work-related expenses as well as housing, food, and education including for families whose incomes exceed the welfare eligibility level.²³⁴

TANF work-related provisions could be amended to incorporate the criteria included in other statutory work-related programs that show promise of achieving economic well-being. For example, the 2014 Workforce Innovation and Opportunity Act (WIOA) supports postsecondary education and training, various counseling services, and allows increased reimbursement rates to participating employers of up to 75 percent of wages paid to program participants who are in on-the-job training programs.²³⁵ Education is a requirement of WIOA and should be included in TANF requirements. TANF’s goal is “to help needy families achieve self-sufficiency” through a limited and gendered focus on care at home, encouraging marriage and two-parent families, and preventing out-of-wedlock pregnancies.²³⁶ In contrast, WIOA’s goals are to “[p]rovide employment and training services to assist eligible individuals in finding and qualifying for meaningful employment and to help employers find the skilled workers they need to compete and succeed in business.”²³⁷

WIOA is also designed to enhance coordination between the TANF and other Workforce Investment Act programs; if properly managed, TANF programs would provide meaningful work and educational opportunities

231. *Id.*

232. Handler, *supra* note 66, at 135.

233. *Id.*

234. *Id.* at 136.

235. KISHA BIRD ET AL., *NEW OPPORTUNITIES TO IMPROVE ECONOMIC AND CAREER SUCCESS FOR LOW-INCOME YOUTH AND ADULTS: KEY PROVISIONS OF THE WORKFORCE INNOVATION AND OPPORTUNITY ACT (WIOA) 12* (2014), <http://www.clasp.org/resources-and-publications/publication-1/KeyProvisionsofWIOA-Final.pdf>.

236. GRETCHEN G. KIRBY ET AL., *COORDINATING EMPLOYMENT SERVICES ACROSS THE TANF AND WIA PROGRAMS* xiii (2015), http://www.acf.hhs.gov/sites/default/files/opre/COORDINATING_EMPLOYMENT_SERVICES_ACROSS_THE_TANF_AND_WIA_PROGRAMS.pdf.

237. *Id.*

based on the WIOA model.²³⁸ Studies demonstrate, however, that many of these programs do not coordinate with one another.²³⁹ Domestic violence advocates could identify the factors that support coordination and urge their implementation so that victims of domestic violence who are typically directed to TANF services might obtain up-graded training and educational opportunities provided through WIOA.²⁴⁰

These suggestions may seem beyond the reach of the current welfare state paradigm. Domestic violence advocates would not, however, be alone in urging these recommendations. Anti-poverty measures hold interest for social movements generally. Given the relationship between domestic violence and welfare, domestic violence advocates are well-positioned to provide leadership and guidance in seeking meaningful welfare reform.

B. *Employment-Related Services*

Domestic violence program strategies that focus on employment opportunities for victims are often constrained by lack of sufficient funding and the biases of an economic system that disadvantages poor women and women of color in particular.²⁴¹ Choices do exist, however, as to how to assist women in gaining meaningful employment and protections in the labor market. As noted above, statutory programs such as WIOA seek to increase the educational qualifications and skills for low-income persons that provide greater possibilities for escaping poverty.²⁴² Domestic violence programs could partner with WIOA programs independent of TANF and screen and refer victims for upgraded training and expanded opportunities for decent work.

Program advocates can identify local organizations that are similarly focused on procuring employment that is dignified and pays a living wage. Marion Crain has written about the importance of working in coalition around labor concerns, and has observed that labor unions, especially those that are “women-centered,” can help to establish “a link among class, race, and gender movements [and] offer the potential for radical change.”²⁴³ Some

238. *Id.*, at xix.

239. *Id.* at 41.

240. *Id.* at 19-25 (identifying the factors and circumstances that facilitate coordination).

241. For a discussion on the importance of providing economic support to perpetrators, see Weissman, *supra* note 31.

242. KIRBY ET AL., *supra* note 236.

243. Marion Crain, *Feminism, Labor, and Power*, 65 S. CAL. L. REV. 1819, 1869 (1992).

unions have, in fact, identified domestic violence as an issue central to the well-being of organized labor.²⁴⁴

Unions may serve as a unique umbrella for many domestic violence concerns at the workplace and at home. They seek to protect the health and safety of their members, protect against workplace discrimination, and often create solidarities extending beyond work.²⁴⁵ They can leverage services and negotiate contract terms that are beneficial to victims including time off for counseling, court proceedings, child care, and employee assistance plans that cover domestic violence issues, and of course, a living wage.²⁴⁶ Similarly, workers' centers have engaged in advocacy to protect the rights of women workers who are often left out of mainstream legal protection and have helped to advance their interests.²⁴⁷ Moreover, given that most domestic violence programs lack sufficient resources to accomplish their goals,²⁴⁸ working with unions and labor centers in order to strengthen advocacy around economic justice for victims enhances resources to achieve better outcomes.

Unions also have a duty to represent members who are perpetrators. They may negotiate employee assistance plans for perpetrator counseling, time off for court proceedings and counseling, and otherwise establish norms that domestic violence is unacceptable for which violators should be held accountable.²⁴⁹ These measures may offer a better alternative than the criminal justice system.

Domestic violence advocates may be natural allies in labor campaigns for additional reasons. Studies that show frontline domestic violence program workers often earn a minimum wage as a result of the failure of the State to provide adequate support for the programs where they are

244. See e.g., *Domestic Violence: What Unions Can Do*, AM. FED'N STATE, CTY., & MUN. EMPS., http://www.afscme.org/news-publications/publications/for-leaders/pdf/Domestic_Violence_What_Unions_Can_Do.pdf; Irish Cong. of Trade Unions, *Domestic Violence and the Workplace: A Guide for Negotiators*, http://www.ictu.ie/download/pdf/domestic_violence.pdf; see also *About CLUW*, COALITION OF LAB. UNION WOMEN (last visited Apr. 10, 2016), http://www.cluw.org/?zone=unionactive/view_page.cfm&page=About20CLUW (noting a training program on domestic violence issues).

245. See AM. FED'N STATE, CTY., & MUN. EMPS., *supra* note 244, at 7, 14.

246. *Id.* at 7.

247. Marion Crain & Ken Matheny, *Beyond Unions, Notwithstanding Labor Law*, 4 UC IRVINE L. REV. 561, 581 (2014).

248. See THE NAT'L NETWORK TO END DOMESTIC VIOLENCE, DOMESTIC VIOLENCE COUNTS 2008: A 24-HOUR CENSUS OF DOMESTIC VIOLENCE SHELTERS AND SERVICES 6 (2009), http://nmedv.org/downloads/Census/DVCounts2008/DVCounts08_Report_Color.pdf.

249. AM. FED'N STATE, CTY., & MUN. EMPS., *supra* note 244, at 12.

employed.²⁵⁰ Staff salaries often fail to meet a living wage scale, and in recent years, there have been few, if any increases in pay.²⁵¹ Inadequate staff salaries affect the quality of services provided to victims and create significant dissatisfaction among program workers leading to turnover and program instability.²⁵²

Domestic violence programs must go beyond current efforts to assist victims in entering the labor force. They must also help to achieve employment with reasonable working conditions and a living-wage salary. Advocates can engage in employment-related advocacy strategies that challenge rather than facilitate the structures of neoliberalism. Such strategies will promote a type of feminism that addresses the injustice of market-based employment strategies, improve social protections, and help to re-engage the domestic violence movement with other social justice movements.²⁵³

C. *Critical Financial Literacy: A New Approach*

David Harvey has observed that “[n]eoliberalism has meant . . . the financialization of everything.”²⁵⁴ He notes, too, the power shift from manufacturing to financial institutions, the growing disproportionate

250. See e.g., U.S. Dep’t of Health & Human Servs., *Overview of Violence Against Women Activities* (2010–11), <https://www.womenshealth.gov/publications/federal-report/overview-vaw-2010-2011-508.pdf> (stating the average starting salary of a full-time, salaried, front-line advocate is \$24,765); NAT’L NETWORK TO END DOMESTIC VIOLENCE, *supra* note 248, at 6 (noting that starting salaries have been reported as low as less than \$20,000; the average salary has been reported at less than \$25,000); ELEANOR LYON ET AL., *MEETING SURVIVOR’S NEEDS THROUGH NON-RESIDENTIAL DOMESTIC VIOLENCE SERVICES & SUPPORTS: RESULTS OF A MULTI-STATE STUDY* 45 (2011), http://www.vawnet.org/Assoc_Files_VAWnet/DVServicesStudy-FINALReport2011.pdf (noting that average program salaries at \$28,976); TEX. COUNCIL ON FAMILY VIOLENCE, *STATEWIDE POLICY FAMILY COMPENSATION PROGRAM ANALYSIS: SURVEY RESULTS FROM TEXAS FAMILY VIOLENCE PROGRAMS* iii (2012), <http://www.tcfv.org/wp-content/uploads/2014/05/2012-Salary-Survey.pdf> (noting that the highest concentration of overall annual salary was in the \$20,000 to \$30,000 range). In 2014, caseworkers earned approximately \$30,000. TEX. COUNCIL ON FAMILY VIOLENCE, *BUILDING LONGEVITY IN OUR MOVEMENT: A STATEWIDE FAMILY VIOLENCE PROGRAM COMPENSATION REPORT* (2014), http://www.tcfv.org/wp-content/uploads/2014/10/TCFV_Compensation_Report_2014.pdf; Rick Suttle, *Domestic Violence Shelter Coordinator Salary*, HOUS. CHRONICLE, <http://work.chron.com/domestic-violence-shelter-coordinator-salary-23381.html> (last visited Apr. 26, 2016) (stating program coordinators across the country earned an average of approximately \$37,000).

251. See Suttle, *supra* note 250.

252. NATIONAL NETWORK TO END DOMESTIC VIOLENCE, *DOMESTIC VIOLENCE COUNTS 2010: A 24-HOUR CENSUS OF DOMESTIC VIOLENCE SHELTERS AND SERVICES* 8 (2011), http://nnedv.org/downloads/Census/DVCounts2010/DVCounts10_Report_Color.pdf.

253. See Martha Chamallas, *Social Justice Feminism: A New Take on Intersectionality*, 1 *FREEDOM CTR. J.* 11, 17 (2014).

254. HARVEY, *supra* note 6, at 33.

influence wielded by these entities, and that the world of finance as currently constructed has been characterized by predatory practices likely to lead to greater inequality.²⁵⁵ Moreover, while financial security is promoted as a matter of individual endeavor, financial well-being has been specifically tied to financial products that are often not be affordable to low-income people.²⁵⁶ In this context, advocates would do well to consider financial literacy programs that are not market-driven, including those “benevolently” designed to assist victims of domestic violence, and substitute such initiatives with a curriculum that challenges the structures of economic inequality and disavows the neoliberal notion that poor people are responsible for their plight.²⁵⁷

Financial literacy campaigns must educate individuals about the problems and practices of predatory lending and lenders. Scholars have urged a critical financial literacy education program to allow individual to reflect on and transform the very financial processes that keep people poor.²⁵⁸ These programs should shift from a focus on educating the consumer to educating the citizen:

Educating citizens . . . entails a fostering of critical thinking skills that will enable citizens to reflect on not only the choices available but also the conditions, which have created the choices. The goal of fostering this critical reflective capacity ought to be to support citizens who can alter the conditions, which create certain choices over others. . . . Any financial literacy that has as its aim supporting “involved and responsible citizens” should be one that enables us to reflect on and ask whether the economic system and configuration of political forces which influences/limits/creates the choices we face is one that we want.²⁵⁹

A financial literacy curriculum should not only provide information about the need to save and invest, but must also include knowledge about poverty levels and steps the government is taking to achieve greater equality. It should include information about the disproportionate burdens of the tax system, as well as other factors that point to structural obstacles rather than simply offering an obfuscating narrative of individual barriers to self-sufficiency.²⁶⁰

This is not to suggest that the burden of such a shift in curriculum be borne by domestic violence advocates alone. A commitment to undertaking

255. *Id.* at 33-35, 161.

256. *Id.* at 168 (noting that security is tied to the affordability of financial products).

257. ARTHUR, *supra* note 188, at 76-77.

258. *Id.* at xii.

259. *Id.* at 107-108.

260. *Id.* at 114.

a financial literacy program requires an alliance with other social justice groups concerned about the costs of the financialization of daily life. Indeed, there are other groups currently advocating for reforms that bear on day-to-day economics purportedly addressed by financial literacy programs. The Consumer Rights for Domestic Violence Survivors Initiative has engaged in a broad set of strategies that address predatory lending and punitive financial practices that impact poor victims.²⁶¹ The organization undertakes an intersectional approach and a commitment to collaboration with other social justice entities.²⁶² Consumers International has identified consumer rights that include right to satisfaction of basic needs, the right to be protected against products that may injure health, the right to be heard, the right to redress, and more.²⁶³ Other groups have recommended shifting from the highly unregulated private banking industry to postal banking as a way to improve the financial needs of the poor.²⁶⁴ Jobs with Justice has promoted this idea, noting that postal banking will expand access and provide an alternative to predatory lenders while creating new jobs:

Our U.S. Postal Service can provide affordable, nonprofit, consumer-driven financial services in every community in the country. [. . .] With more than 30,000 offices – that’s at least one branch in every zip code – the USPS is ideally suited to step in to serve our communities with affordable banking options. The USPS already provides customers with financial services such as money orders. The USPS can expand those services to offer surcharge-free ATMs, payroll check cashing, bill payment, electronic funds transfers, savings accounts, small-dollar loans and more.²⁶⁵

Other scholars have promoted the creation of community banks as well as the need to grant other forms of emergency financial assistance to those in dire straits as a means to avoid pay-day loans and the likelihood of default and further financial strain.²⁶⁶ Given the importance of meaningful improvement of the economic lives of victims of domestic violence,

261. See *Consumer Rights for Domestic Violence Survivors Initiative*, CTR. FOR SURVIVOR AGENCY & JUSTICE (2011-12), <http://csaj.org/crdvsi>.

262. *Id.*

263. *Consumer Rights*, CONSUMERS INT’L, <http://www.consumersinternational.org/who-we-are/consumer-rights> (last visited Apr 14, 2016).

264. See Jobs With Justice, *Write the USPS Postmaster General Now and Ask Her to Implement Postal Banking*, SHELL TABANGAO REFINERY LIFE (Nov. 12, 2015), <http://shelltabangaorefinerylife.blogspot.com/2015/11/write-usps-postmaster-general-now-and.html>; see DEMOCRACY NOW, *supra* note 193.

265. Jobs with Justice, *supra* note 264. Senator Bernie Sanders has made a similar proposal. See DEMOCRACY NOW, *supra* note 193.

266. DEMOCRACY NOW, *supra* note 193; see White, *supra* note 193.

advocates might include these recommendations as part and parcel of their demands pertaining to economic self-sufficiency.

CONCLUSION

This article demonstrates the complexity of domestic violence as a social issue and the challenges of mitigating its harms given the “logic” of neoliberal paradigms and their emphasis on individual solutions and market-driven initiatives.²⁶⁷ Attention to individuals and their particular needs and circumstances, of course, must be part of program remedies. Most victims possess the capacity to exercise autonomy and extract knowledge and services from current initiatives in ways that improve their lives. But more is needed than remedies focused on the individual’s ability to survive in the current political economy. Strategies that resist the constraints of neoliberalism are necessary in order to improve the circumstances for battered persons.

The critique offered in this article particularizes the critique of a type of feminism that operates out of the neoliberal moment.²⁶⁸ Victims of domestic violence will have a difficult time achieving relief from the harms they have suffered without challenging existing structures of power.²⁶⁹ It is the very issue of power about which domestic violence experts are concerned. This article urges a shift in attention to power based on a critical analysis, one that promotes collective thinking and progressive policy changes—an analysis that differs from mainstream legal thinking that “tends to treat individual decision-making and institutional operation in isolation.”²⁷⁰

Shifting strategies, moreover, serves to pursue coalition building. Steve Fraser has suggested that organizing with others responds to the “ineffable yearnings to redefine what it means to be human together.”²⁷¹ Others have written about a global turn to the “solidarity economy” movement which seeks to “democratize economic relations so that participants are connected by the values that imbue their activities.”²⁷² The intersectionality of many progressive movements has been recognized, to quote Rev. Dr. William Barber, a chief architect and leader of the Moral Mondays movement in North

267. HARVEY, *supra* note 6, at 41.

268. ASCHOFF, *supra* note 67, at 39.

269. *Id.* at 40.

270. Naomi Cahn & June Carbone, *Unequal Terms: Gender, Power and the Recreation of Hierarchy*, 69 *STUDS. LAW, POL., & SOC.* 189 (2016), http://scholarship.law.gwu.edu/cgi/viewcontent.cgi?article=2442&context=faculty_publications.

271. FRASER, *supra* note 10, at 397.

272. Van den Berk-Clark & Pyles, *supra* note 137, at 5-6.

Carolina, as an “opportunity to fundamentally redirect America.”²⁷³ In fact, domestic violence advocates as such have not participated in many coalition efforts with which they share similar concerns. Just as importantly, domestic violence advocates need to bring the issues pertaining to domestic violence to coalition partners. The solution to domestic violence is found within the realm of political economy. Domestic violence advocates have the opportunity to re-politicize the domestic violence movement and to contribute to the broader goals of social justice. The constraints of neoliberalism and its accompanying logic affect all efforts to achieve lives of dignity for all and they are best overcome in accordance with counter-hegemonic and progressive politics.

273. REVEREND DR. WILLIAM J. BARBER II WITH JONATHAN WILSON-HARTGROVE, *THE THIRD RECONSTRUCTION: MORAL MONDAYS, FUSION POLITICS, AND THE RISE OF A NEW JUSTICE MOVEMENT* 122 (2016).