

WASHINGTON & LEE UNIVERSITY SCHOOL OF LAW

# Why Doesn't She Leave?

Civil Protection Orders for Low-Income Women  
Facing Economic Abuse

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**Poverty Seminar**

“A lot of times there is hardly any marks on you. The physical marks are not really as bad as the emotional. The physical you get used to it, emotionally it takes away yourself. Financial is tied to the emotional. The physical part stops at a certain point – they won’t hit you for a week or so – emotional and financial goes on, it doesn’t let up.”<sup>1</sup>-Fiona

“So he came home one Sunday night and he said “Well I’ve decided I’ve gone back to work,” and he’s making \$21.16 an hour, getting paid every Friday. And he’s decided...he told me, “I’ve decided that this is my money. I’ll do what I want to do with my money. I don’t have to give you any money, spend the money on you, I don’t have to pay bills ‘cause I don’t live here [they resided together but only her name was on the lease]. And by the way, I took your name off the checking account and the savings account. So that’s it. If you want some money...if you think you need some money, then you need to ask me for some money. And if I have it I’ll give you half of what you ask for.”<sup>2</sup>-Nellie

“He continued to complain when I ‘consumed’ things. I started eating cereal for lunch as it was inexpensive (but he bought his) ... I had also been constantly tired from anemia as I had tried to keep my expenses down and had stopped the supplements that I had been on during the pregnancy.”<sup>3</sup>-Lydia

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<sup>1</sup> ELIZABETH BRANIGAN, COBURG: COBURG BRUNSWICK COMMUNITY LEGAL AND FINANCIAL COUNSELING CENTRE INC., HIS MONEY OR OUR MONEY: FINANCIAL ABUSE OF WOMEN IN INTIMATE PARTNER RELATIONSHIPS 28 (2004).

<sup>2</sup> CYNTHIA K. SANDERS, ST. LOUIS: WASHINGTON UNIVERSITY, CENTER FOR SOCIAL DEVELOPMENT, DOMESTIC VIOLENCE, ECONOMIC ABUSE, AND IMPLICATIONS OF A PROGRAM BUILDING ECONOMIC RESOURCES FOR LOW-INCOME WOMEN: FINDINGS FROM INTERVIEWS WITH PARTICIPANTS IN A WOMEN’S ECONOMIC ACTION PROGRAM 33 (2007).

<sup>3</sup> Branigan, *supra* note 1 at 21.

“If I wanted some type of money, then I would have to have sex with him. So that’s how he was. Yeah. He held that against me. Like, he knew payday...that I didn’t really want to have sex with him...so payday, he kind of figured he was going to get some. Yeah, I felt like a prostitute. But he said I wasn’t a prostitute because I was his wife.”<sup>4</sup>-Tami

“When I was in hospital after delivering the baby he would not give me any money for me to buy the baby’s ‘Cradle Photo’ or for sanitary products. I felt totally ashamed and humiliated when a nurse reprimanded me for ‘poor hygiene’ as I had run out of pads and had no money to buy more. I felt too ashamed to ask anyone to bring me in some or explain the situation to the nurses.”<sup>5</sup>-Lydia

## I. Introduction

These are the personal narratives of low-income women who have experienced economic abuse. These stories illustrate how men deprive their partners of basic needs and manipulate their finances in an effort to coerce and control them. Low-income women are particularly disadvantaged when suffering from this type of abuse because economic insecurity limits their options for leaving the abuser.<sup>6</sup>

Economic abuse consists of “behaviors that control a woman’s ability to acquire, use, and maintain economic resources, thus threatening her economic security and potential for self-

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<sup>4</sup> CYNTHIA K. SANDERS, ST. LOUIS: WASHINGTON UNIVERSITY, CENTER FOR SOCIAL DEVELOPMENT, DOMESTIC VIOLENCE, ECONOMIC ABUSE, AND IMPLICATIONS OF A PROGRAM BUILDING ECONOMIC RESOURCES FOR LOW-INCOME WOMEN: FINDINGS FROM INTERVIEWS WITH PARTICIPANTS IN A WOMEN’S ECONOMIC ACTION PROGRAM 36 (2007).

<sup>5</sup> Branigan, *supra* note 1, at 19.

<sup>6</sup> Lisa Goodman, et al., *Beyond the 50-Minute Hour: Increasing Control, Choice, and Connections in the Lives of Low-Income*, 80 AM. J. ORTHO. 3, 5 (2010).

sufficiency.”<sup>7</sup> A batterer ensures that his partner will be dependent on him by regulating and reducing the victim’s access to financial resources.<sup>8</sup> Due to this financial dependence, women are then forced to decide between risking extreme monetary instability or remaining in an abusive relationship.<sup>9</sup>

Economic abuse is just one aspect of Intimate Partner Violence, a larger pattern of abusive behaviors aimed at gaining or maintaining control over their intimate partner.<sup>10</sup> Women commonly experience more than one type of abuse including physical, sexual, emotional, psychological, and economic.<sup>11</sup> Implementation of one or more of behaviors is linked to the success of the behaviors in dominating the woman.<sup>12</sup>

Currently, the United States legal system does not adequately address economic abuse. It does not recognize economic abuse in its domestic violence statutes for issuing civil protection orders. This paper explores remedies to this legal deficit for impoverished women. A civil protection order is an important option for a low-income individual seeking protection from economic abuse. A civil protection order allows the victim sufficient autonomy to tailor her

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<sup>7</sup> Judy L. Postmus et al., *Effects of IPV and Economic Abuse on Life Outcomes for Survivors*, J. INTERPERSONAL VIOLENCE 411, 414 (2011) citing Adams et al., *Developments of the Scale of Economic Abuse*, 14 VIOLENCE AGAINST WOMEN 563 (2008).

<sup>8</sup> Susan L. Pollet, *Economic Abuse: The Unseen Side of Domestic Violence*, 83 N.Y. ST. B.J. 40 (2011) citing *About Domestic Violence, Violence Against Women*, <http://www.ovw.usdoj.gov/domviolence.htm> (last visited Nov. 23, 2010).

<sup>9</sup> *Id.*

<sup>10</sup> *Id.*

<sup>11</sup> G. ANNE BOGAT ET AL., THE FUTURE OF RESEARCH ON INTIMATE PARTNER VIOLENCE: PERSON-ORIENTED AND VARIABLE-ORIENTED PERSPECTIVES 53 (2005).

<sup>12</sup> Joan B. Kelly & Michael P. Johnson, *Differentiation Among Types of Intimate Partner Violence: Research Update and Implications for Intervention*, 46 FAM. CT. REV. 476, 477 (2008).

remedy to meet her needs.<sup>13</sup> In contrast, the criminal justice system decides consequences for the abuser and victim, often forcing the couple to separate despite their relevant financial dependence.<sup>14</sup> Allowing the victim to seek a remedy that meets her unique circumstances also serves as a psychological purpose.<sup>15</sup> The civil protection order is one way for these women to achieve empowerment because it places the law on the side of the victim and allows her to convey the message that the abuse will not be tolerated.<sup>16</sup>

Members of the international community have begun to include economic abuse in their domestic violence legislation.<sup>17</sup> New Zealand and India offer examples of two ways that other countries have implemented economic abuse into their domestic violence legislation. They offer models for what United States law could do to relieve these victims of some of the effects of their economic abuse. The United States may also look to its own laws on financial elder abuse as another alternative.

## II. Intimate Partner Violence

### A. Distinct Features of Intimate Partner Violence

Intimate partner violence<sup>18</sup> was first recognized as a societal issue in the 1960s and 1970s largely in part to work by feminist activists.<sup>19</sup> Intimate partner violence has been defined as “a

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<sup>13</sup> Margaret E. Johnson, *Redefining Harm, Reimagining Remedies, and Reclaiming Domestic Violence Law*, 42 U.C. DAVIS L. REV. 1107, 1149 (2009).

<sup>14</sup> Sally F. Goldfarb, *Reconceiving Civil Protection Orders for Domestic Violence: Can Law Help End the Abuse Without Ending The Relationship?* 29 CARDOZO L. REV. 1487, 1489 (2008).

<sup>15</sup> *Id.*

<sup>16</sup> *Id.*

<sup>17</sup> Pollet, *supra* note 8.

<sup>18</sup> Intimate partner violence is not exclusively male violence against women and it affects women of all income levels, nonetheless, this paper focuses on economic abuse affecting female, low-income individuals because of the high levels of domestic violence seen in these individuals. *See* Martha R. Mahoney, *Legal Images of Battered Women: Redefining the Issue of Separation*, 90

pattern of abusive behavior in any relationship that is used by one partner to gain or maintain power and control over another intimate partner.”<sup>20</sup> The general consensus in the literature is that there are different types of patterns of Intimate Partner Violence.<sup>21</sup> These different types include Coercive Controlling Violence, Violent Resistance, Situational Couple Violence, and Separation-Instigated Violence.<sup>22</sup>

### **B. Intimate Partner Violence is a Type of Coercive Controlling Violence**

Courts most frequently encounter intimate partner violence in the form of Coercive Controlling Violence.<sup>23</sup> Coercive Controlling Violence refers to “a pattern of emotionally abusive intimidation, coercion, and control coupled with physical violence against partners.”<sup>24</sup> Researchers have found that “68% of women who filed for protection orders and 79% of women who contacted shelters” were experiencing this type of intimate partner violence.<sup>25</sup> Coercive control is described as “target[ing] a victim’s autonomy, equality, liberty, social supports and

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MICH. L. REV. 1, 10 (1991) citing MURRAY A. STRAUS ET AL., *BEHIND CLOSED DOORS: VIOLENCE IN THE AMERICAN FAMILY* (1980).

<sup>19</sup> Martha R. Mahoney, *Legal Images of Battered Women: Redefining the Issue of Separation*, 90 MICH. L. REV. 1, 10 (1991).

<sup>20</sup> Pollet, *supra* note 8.

<sup>21</sup> Joan B. Kelly & Michael P. Johnson, *Differentiation Among Types of Intimate Partner Violence: Research Update and Implications for Intervention*, 46 FAM. CT. REV. 476, 477 (2008).

<sup>22</sup> *Id.*

<sup>23</sup> *Id.* at 482.

<sup>24</sup> *Id.* at 478.

<sup>25</sup> *Id.*

dignity in a way that compromises the capacity for independent, self-interested decision-making vital to escape and effective resistance to abuse.”<sup>26</sup>

This pattern of abuse and control may be demonstrated through the Power and Control Wheel.<sup>27</sup> Staff at the Domestic Abuse Intervention Project (DAIP) developed the Power and Control Wheel in 1984 as a way to describe battering to the general public.<sup>28</sup> The wheel demonstrates the “pattern of actions that an individual uses to intentionally control or dominate his intimate partner.”<sup>29</sup> The most common behaviors that men implement in order to gain control are the spokes<sup>30</sup> and the most common acts of violence are the rim.<sup>31</sup> It is a wheel to represent the cyclical nature of the behaviors and control.<sup>32</sup>

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<sup>26</sup> EVAN STARK, VIOLENCE AGAINST WOMEN: COMPLEX REALITIES AND NEW ISSUES IN A CHANGING WORLD, RE-PRESENTING BATTERED WOMEN: COERCIVE CONTROL AND THE DEFENSE OF LIBERTY 6 (2012).

<sup>27</sup> *FAQs About the Wheels*, HOME OF THE DULUTH MODEL: SOCIAL CHANGE TO END VIOLENCE AGAINST WOMEN, (2011), <http://www.theduluthmodel.org/training/wheels.html>.

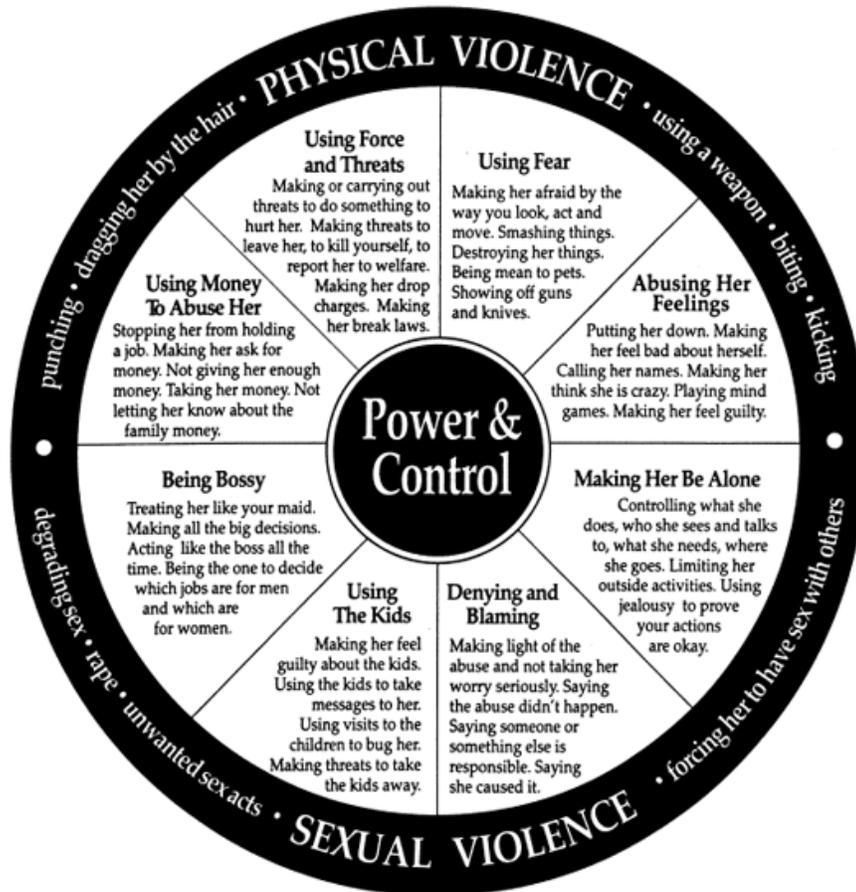
<sup>28</sup> *Id.*

<sup>29</sup> *Id.*

<sup>30</sup> *Id.*

<sup>31</sup> *Id.*

<sup>32</sup> *Id.*



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### C. Economic Abuse is A Behavior Experienced in Coercive Controlling Violence

As seen by this picture of the Power and Control Wheel, women commonly experience more than one type of abuse including physical, sexual, emotional, psychological, and economic.<sup>34</sup> Abusers may or may not engage in one or all of the behaviors depending on their

<sup>33</sup> *FAQs About the Wheels*, HOME OF THE DULUTH MODEL: SOCIAL CHANGE TO END VIOLENCE AGAINST WOMEN, (2011), <http://www.theduluthmodel.org/training/wheels.html>.

<sup>34</sup> G. ANNE BOGAT ET AL., THE FUTURE OF RESEARCH ON INTIMATE PARTNER VIOLENCE: PERSON-ORIENTED AND VARIABLE-ORIENTED PERSPECTIVES 53 (2005).

success in gaining dependence over the woman.<sup>35</sup> As described by Joan and Kelly, “[abusers]...use a combination of the ones that they feel are most likely to work for them.”<sup>36</sup>

Violence may range from moderate to severe during the abuser’s attempts at destroying a woman’s self-sufficiency.<sup>37</sup> Therefore, the abuser may successfully achieve his goal of maintaining the woman’s dependence through only nonviolent control tactics.<sup>38</sup> Frequently this is not the case. A recent study found that “in 76% of the cases of Coercive Controlling Violence the violence had escalated over time, and 76% of the cases involved severe violence.”<sup>39</sup> Rather, this type of intimate partner violence is one of “the major predictors of continued violence.”<sup>40</sup>

Beyond the physical ramifications of Coercive Controlling Violence, this type of abuse also has harmful psychological affects on its victims.<sup>41</sup> Some of the major psychological affects attributed to this type of abuse include fear, anxiety, loss of self-esteem, depression, and posttraumatic stress disorder.<sup>42</sup> More recently, research has recognized nightmares, flashbacks, avoidance of reminders of the event, and hyperarousal as psychological effects of this abuse.<sup>43</sup>

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<sup>35</sup> Kelly & Johnson, *supra* note 21 at 481.

<sup>36</sup> *Id.*

<sup>37</sup> Bogat, *supra* note 33 at 53-54.

<sup>38</sup> Kelly & Johnson, *supra* note 21 at 481.

<sup>39</sup> Kelly & Johnson, *supra* note 21 at 482 citing Johnson, M. P., *Conflict and Control: Gender Symmetry and Asymmetry in Domestic Violence*, 12 VIOLENCE AGAINST WOMEN 1003 (2006).

<sup>40</sup> Kelly & Johnson, *supra* note 21 at 483.

<sup>41</sup> *Id.*

<sup>42</sup> *Id.*

<sup>43</sup> *Id.* at 484.

### III. Effects of Intimate Partner Violence on Low-Income Women

Low-income women experience higher rates of intimate partner violence than other women.<sup>44</sup> In fact, annual household income has been found to be “the most importance influence on the probability of intimate partner violence for White, Black, and Hispanic couples.”<sup>45</sup> From 2001-2005, 12.7% of women with an annual household income of less than \$7,500 experienced intimate partner violence compared to only 2% of women with an income of \$50,000 or more.<sup>46</sup>

It is generally accepted that “the poorer women are, the more likely they are to experience violence at the hands of their intimate partners.”<sup>47</sup> One study found that “between 34% and 65% of women receiving welfare report having experienced some form of relationship violence in their lifetime, and between 8% and 33% experience some form of relationship violence each year.”<sup>48</sup> Previous research has found that women who are abused during pregnancy are more likely to have a lower income.<sup>49</sup> In addition, national research has found that domestic violence calls and requests for shelter beds increase during economic downturns.<sup>50</sup>

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<sup>44</sup> Demie Kurz, *Women, Welfare, and Domestic Violence*, 25 SOCIAL JUSTICE 105, 107 (1998).

<sup>45</sup> Carol B. Cunradi et al., *Socioeconomic Predictors of Intimate Partner Violence Among White, Black, and Hispanic Couples in the United States*, 17 J. FAMILY VIOLENCE 377, 385 (2002).

<sup>46</sup> INTIMATE PARTNER VIOLENCE IN THE U.S., Bureau of Justice Statistics, Office of Justice Programs

<sup>47</sup> Kurz, *supra* note 32.

<sup>48</sup> Terrence D. Hill, *The Long-Term Health Consequences of Relationship Violence in Adulthood: An Examination of Low-Income Women From Boston, Chicago, and San Antonio*, 99 J. Public Health, 1645, 1645 (2009) citing P. Tjaden & N. Thoennes, *Full Report of the Prevalence, Incidence, and Consequences of Violence Against Women* (2000).

<sup>49</sup> Lynda M. Sagrestano & Doris Carroll, Demographic, 28 *Psychological, and Relationship Factors in Domestic Violence During Pregnancy in a Sample of Low-Income Women* 309, 311 (2004).

<sup>50</sup> Pollet, *supra* note 9 citing Chris Jenkins, *Victims of Abuse and the Economy: Rise in Domestic Violence Cases Strains Fairfax’s Services*, Wash. Post (June 16, 2009).

Abuse has drastic effects for women with limited resources. In low-income women, recent relationship violence is associated with significantly higher rates of depression, anxiety, posttraumatic stress disorder, and poor self-related health when compared to women with no violence in their lives.<sup>51</sup> Violence is also associated with higher levels of cigarettes, alcohol, marijuana, and sedatives or tranquilizer abuse in both the abuser and victim compared to low-income women not facing abuse.<sup>52</sup> It must be noted that it is difficult to know that these are consequences rather than signs of vulnerability making intimate partner violence more likely.<sup>53</sup>

Monetary stability is imperative for all women struggling for safety and independence from their abusers.<sup>54</sup> As noted by Jean Williams, “it demands a significant amount of money to avail oneself of other options, such as staying in a hotel, renting an apartment alone, or moving to another city.”<sup>55</sup> Therefore, lack of financial resources for women of low-income result in additional barriers to their escape from domestic violence. These barriers are intensified when low-income women have children as few are “able to sever their ties because their need for financial and emotional support in caring for their children [is] great.”<sup>56</sup> The lower a woman’s income, the less likely she is to receive child support.<sup>57</sup>

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<sup>51</sup> Richard Tolman, *Domestic Violence in the Lives of Women Receiving Welfare* (2001).

<sup>52</sup> Kimberly K. Eby, *Exploring the Stressors of Low-Income Women With Abusive Partners: Understanding Their Needs and Developing Effective Community Responses*, 19 J. FAMILY VIOLENCE 221, 230 (2004).

<sup>53</sup> Professor Beckley.

<sup>54</sup> Angela M. Moe & Myrtle P. Bell, *Abject Economics: The Effects of Battering and Violence on Women’s Work and Employability*, 29 (2004).

<sup>55</sup> Jean C. Williams, *Domestic Violence and Poverty: The Narratives of Homeless Women*, 19 J. WOMEN STUDIES 143, 152 (1998).

<sup>56</sup> Holy Bell, *Cycles Within Cycles: Domestic Violence, Welfare, and Low-Wage Work*, 9 VIOLENCE AGAINST WOMEN 1245, 1250 (2003).

<sup>57</sup> Kurz, *supra* note 32, at 109.

Adding to their struggle, partner violence is often responsible for women being forced out of the labor market and into poverty.<sup>58</sup> A study found that “56% of domestic violence survivors said abusers prevented them from having money of their own and 59% reported money was hidden from them.”<sup>59</sup> Pollet states that “a quarter to one half of employed victims lost their jobs because of domestic violence at home.”<sup>60</sup>

Compounding their difficulties, low-income women often lack the necessary social support to cope with adversity.<sup>61</sup> This social support may include assisting emotionally or by contributing resources.<sup>62</sup> Because low-income women often are in a social circle of poverty, the other individuals are unable to provide sustained emotional and economic resources due to their own difficulties.<sup>63</sup> Although not due to coercion by the abuser, this lack of support has the effect of further isolating the low-income individual.<sup>64</sup>

#### **IV. Economic Abuse**

Economic abuse is a unique yet frequently experienced form of abuse in the relationships of low-income women.<sup>65</sup> This abuse is defined as consisting of “behaviors that control a woman’s ability to acquire, use, and maintain economic resources, thus threatening her economic

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<sup>58</sup> Moe & Myrtle, *supra* note 41.

<sup>59</sup> Pollet, *supra* note 9.

<sup>60</sup> *Id.*

<sup>61</sup> Goodman et al., *Beyond the 50-Minute Hour: Increasing Control, Choice, and Connections in the Lives of Low-Income Women*, 80 AM. J. ORTHOPSYCHIATRY 3, 6 (2010).

<sup>62</sup> *Id.*

<sup>63</sup> *Id.*

<sup>64</sup> *Id.*

<sup>65</sup> Adrienne Adams et al., *Development of the Scale of Economic Abuse*, 14 VIOLENCE AGAINST WOMEN 563, 580 (2008).

security and potential for self-sufficiency.”<sup>66</sup> These behaviors are engaged in for the purpose of causing the victim to become dependent on the abuser financially.<sup>67</sup> As explained by the National Coalition Against Domestic Violence,

By controlling and limiting the victim’s access to financial resources, a batterer ensures that the victim will be financially limited when she chooses to leave the relationship. As a result, victims of domestic violence are often forced to choose between staying in an abusive relationship and facing economic hardship, which would possibly result in extreme poverty and homelessness.<sup>68</sup>

Entrenched in gender stereotypes, this abuse is noted as being a “profoundly under-recognized phenomenon as it is deeply hidden within societal expectations that couples will equitably share their financial resources for the good of the whole family.”<sup>69</sup> In a national poll, the Allstate Foundation found that, “while 70% of Americans know people who are or have been victims of domestic violence, nearly the same percentage of Americans fail to see a connection between domestic violence and economic abuse.”<sup>70</sup> Typical behaviors the economic abuser may engage in include putting the victim on a strict “allowance,” withholding money at will and forcing the victim to beg, withholding basic necessities (food, clothes, medications, shelter), making the victim account for the money she spends, and exploiting her assets for personal gain.<sup>71</sup>

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<sup>66</sup> Postmus, *supra* note 7.

<sup>67</sup> Adams, *supra* note 64 at 568.

<sup>68</sup> Pollet, *supra* note 9.

<sup>69</sup> Branigan, *supra* note 3 at 11.

<sup>70</sup> Pollet, *supra* note 9 citing *National Poll Reveals Economic Abuse Defined Differently on Main Street Than Wall Street*, NAT'L NETWORK TO END DOMESTIC VIOLENCE, <http://www.nnedv.org/projects/ecojustice/280-new-national-poll-reveals-economic-abuse-defined-differently-on-main-street-than-wall-street.html> (last visited Nov. 23, 2010).

<sup>71</sup> Pollet, *supra* note 9.

In 2007, using in-depth interviews with 30 low-income women, Dr. Cynthia Sanders identified various “themes [that] emerged in discussions with women about the ways in which money and economic issues played a role in their experience of abuse.”<sup>72</sup> Some of these themes were: monetary control and lack of access to financial resources; economic dependence and the role in staying or leaving; economic or financial issues as an impetus to verbal, physical, and/or sexual abuse; impact on employment or education; impact on debt and credit; and stealing and destruction of property.<sup>73</sup>

#### **A. Monetary Control and Lack of Access to Financial Resources**

Sanders found that the strongest theme to emerge from her interviews was a “lack of access, or limited access to household financial resources and conversely the complete control of money and financial decisions held by abusers.”<sup>74</sup> The abusers sought to control their partners by regulating the use of resources they acquired through monitoring the use and controlling distribution.<sup>75</sup> Of the limited resources low-income women were able to obtain, they reported that their abusers continuously denied them access to their money and necessities and would withhold information about their finances.<sup>76</sup> Behaviors that Sanders noted included control of household income earned by an abuser, requiring a woman to hand over her earnings, not putting or removing women’s names from bank accounts, and monitoring all expenditures by accompanying women to the store or requiring receipts for all purchases made.<sup>77</sup>

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<sup>72</sup> Sanders, *supra* note 2 at 30.

<sup>73</sup> *Id.*

<sup>74</sup> *Id.* at 31.

<sup>75</sup> Adams, *supra* note 64 at 566.

<sup>76</sup> *Id.*

<sup>77</sup> Sanders, *supra* note 2 at 30.

A corollary of controlling the finances was men's ability to then deny money to meet the basic needs of women and their children.<sup>78</sup> Through focus groups and interviews constructed as two-way exchanges of information, Elizabeth Branigan reported on financial abuse and low-income women's experiences.<sup>79</sup> She found that "some men's frequent denial of women's right to spend money on food was extremely punitive."<sup>80</sup> Branigan documented that consequently, women were often deprived of food "especially if they had to choose between feeding themselves and their children."<sup>81</sup> Participants in the study identified clothing for themselves and their children and access to transportation, as necessities that were frequently denied.<sup>82</sup>

### **B. Economic Dependence and the Role in Staying or Leaving**

Sander's second theme was the role that financial dynamics and economic dependence played in a woman's decision about staying or leaving an abusive relationship.<sup>83</sup> There are many complex motives for a woman in an abusive relationship to remain in that relationship; however, a commonly stated explanation was inadequate finances to support themselves and/or the children.<sup>84</sup>

Low-income women have unstable economic situations<sup>85</sup> and often lack access to childcare.<sup>86</sup> Through interviews with seventy-five low-income women over three years in three

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<sup>78</sup> *Id.*

<sup>79</sup> Branigan, *supra* note 3 at 14.

<sup>80</sup> *Id.*

<sup>81</sup> *Id.* at 21.

<sup>82</sup> *Id.* at 21-22.

<sup>83</sup> Sanders, *supra* note 2 at 33.

<sup>84</sup> *Id.*

<sup>85</sup> Bell, *supra* note 55.

<sup>86</sup> Postmus, *supra* note 7 at 414.

different cities, Holly Bell found that abusive men frequently used childcare as a way to control women.<sup>87</sup> This control was demonstrated in various ways. The abuser may have refused to care for or support the children thereby interfering with the woman's ability to work because she lacked formal childcare.<sup>88</sup> Another example of this control was when the abuser would use the child in a manipulative manner in order to remain in the relationship with the woman.<sup>89</sup>

Women's inability to become self-sufficient was a major factor identified as a reason for remaining in the relationship.<sup>90</sup> Economic self-sufficiency is defined "as the ability to maintain long-term employment with wages that keep individuals out of poverty and off of welfare rolls."<sup>91</sup> Low-income women face many barriers in attempting to become self-sufficient.<sup>92</sup> These individuals encounter poor labor market conditions, race and class discrimination, inadequate or unstable housing, problems with access to childcare or transportation, and personal barriers such as fear of change or failure, mental or physical health problems, substance abuse, lack of social or financial capital, or Intimate Partner Violence.<sup>93</sup> Therefore, low-income women were not only at a higher risk of experiencing Intimate Partner Violence but also "experiences of abuse contributed to their financial instability, poverty, and for many, subjugation to the government's ever-watchful eye under welfare."<sup>94</sup> Sanders observed, "in addition to being economically

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<sup>87</sup> Bell, *supra* note 55 at 1249.

<sup>88</sup> *Id.* at 1256.

<sup>89</sup> *Id.* at 1256-57.

<sup>90</sup> Postmus, *supra* note 7 at 413.

<sup>91</sup> *Id.*

<sup>92</sup> *Id.* at 414.

<sup>93</sup> *Id.* at 414-15.

<sup>94</sup> *Id.*

dependent and unable to leave, some women were afraid that what little bit of economic stability they did have would be compromised.”<sup>95</sup>

### **C. Economic or Financial Issues as an Impetus to Verbal, Physical, and/or Sexual Abuse**

Another theme identified by Sanders was economic or financial issues as an impetus to verbal, physical, and/or sexual abuse.<sup>96</sup> The National Violence Against Women Survey found “the risk of experiencing physical abuse among those who also experienced economic abuse was 4.68 times greater than those who did not experience economic abuse.”<sup>97</sup> In her interviews, Sanders found that the women often experienced abusive acts, whether verbal, physical, sexual, or emotional, as a direct result of conflicts about financial issues.<sup>98</sup>

### **D. Impact on Employment and/or Education**

The prevention of employment and education by partners was another common theme portrayed in Sander’s interviews.<sup>99</sup> Sanders wrote that this prevention took the form of either prohibition and threats of violence or actual disruption if women desired to work or gain further education.<sup>100</sup> Economic abusers seek to control women by interfering with their ability to acquire resources when they “forbid, discourage and actively prevent their partners from working outside

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<sup>95</sup> Sanders, *supra* note 2 at 34.

<sup>96</sup> *Id.*

<sup>97</sup> Postmus, *supra* note 7 at 413.

<sup>98</sup> Sanders, *supra* note 2 at 35.

<sup>99</sup> *Id.* at 36.

<sup>100</sup> *Id.*

the home.”<sup>101</sup> One way in which men might do this is by engaging in work-related harassment.<sup>102</sup>

Work-related harassment may include such behaviors as,

Stalk[ing] and/or assault[ing] them immediately prior to or during a work shift, threaten[ing] their child or children, hid[ing] or [stealing] their car keys or transportation money, repeatedly call[ing] or sen[d]ing e-mail messages to them throughout the work day, spread[ing] lies about them disguised as concern. . . and destroy[ing] their work documents.<sup>103</sup>

Research conducted after the 1996 welfare reform found that “between 16% and 59% of women reported (through interviews) that their partner discouraged or prevented them from working.”<sup>104</sup>

Additional research found that for those that do work, 35% to 56% reported (through interviews) they were harassed by their partners at their place of employment; 55% to 85% reported they were late, left early, or missed work completely as a result of abuse; 44% to 60% reported they were reprimanded at work for behaviors related to their abuse; and 24% to 52% reported they lost their job as a result of the abuse.<sup>105</sup>

### **E. Impact on Debt and Credit**

The impact on debt and credit was a theme that had lasting effects. Through the interviews with women, Branigan identified “responsibility for debts they did not accumulate” to be a “hallmark() of financial abuse.”<sup>106</sup> Abusive partners attempted to exert control by negatively

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<sup>101</sup> Adams, *supra* note 64.

<sup>102</sup> Moe, *supra* note 53 at 3.

<sup>103</sup> Postmus, *supra* note 7 at 413.

<sup>104</sup> *Id.*

<sup>105</sup> *Id.*

<sup>106</sup> Branigan, *supra* note 3 at 27.

affecting women's credit and accumulation of debt.<sup>107</sup> Conduct recognized by researchers included running up credit or debt for the victim, excessive gambling, or purposefully ruining credit scores with the intent of keeping the victim dependent on him for economic resources.<sup>108</sup> Branigan found that "given the limits to many women's access to information about financial matters during the relationships it was often, in fact, only upon the demise of the relationship that many women realized the extent of the debts they were liable for."<sup>109</sup>

#### **F. Stealing and Destruction of Property**

Abusers may also gain control by depleting their partner's available resources as a way to limit their options.<sup>110</sup> This theme was characterized by behaviors such as theft, damage to property, causing utilities to be cut off, and generating debt in her name.<sup>111</sup>

#### **V. Civil Protection Orders**

A protection order is an important option for a low-income individual seeking protection from economic abuse. Although these court orders are an imperfect remedy, they have the potential to offer impoverished women the flexibility to craft a working solution to the problems they experience as they face abuse from their partner. Unfortunately, these benefits can only be realized if the United States expands its domestic violence legislation to include economic abuse.

Civil protection orders (CPOs) are the "most commonly used legal remedy for [traditional]<sup>112</sup> domestic violence."<sup>113</sup> A protection order is an order from a judge requiring the

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<sup>107</sup> Sanders, *supra* note 2 at 38.

<sup>108</sup> Postmus, *supra* note 7 at 414.

<sup>109</sup> Branigan, *supra* note 1 at 27.

<sup>110</sup> Adams, *supra* note 64 at 567.

<sup>111</sup> *Id.*

<sup>112</sup> The insertion of the word "traditional" is meant to demonstrate that current civil protection orders do not remedy economic abuse.

abusing partner to stop committing or threatening to commit certain behavior against the individual.<sup>114</sup> This order may also include a range of other orders personalized to the needs of the individual.<sup>115</sup> These provisions may include no contact and no-abuse provisions as well as temporary child support, financial support, housing, personal property, and removal of the perpetrator.<sup>116</sup> Once issued, the Violence Against Women Act, a federal law, requires full faith and credit for the protection orders making them enforceable throughout the country independent of where they were originally issued.<sup>117</sup>

#### **A. Civil Protection Orders Benefit Impoverished Women Facing Abuse**

Civil protection orders offer low-income women many benefits. They are generally recognized as successful because they have been found to decrease subsequent violence and perhaps especially important for low-income women, they allow a forum to discuss their experience of abuse.<sup>118</sup> Contrary to the criminal justice system where “justice” is defined by the State, civil protection orders allow the petitioner control over her remedy.<sup>119</sup> Civil protection

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<sup>113</sup> Sally F. Goldfarb, *Reconceiving Civil Protection Orders for Domestic Violence: Can Law Help End the Abuse Without Ending the Relationship?* 29 CARDOZO L. REV. 1487, 1489 (2008) citing Deborah Sontag, *Fierce Entanglements*, N.Y. TIMES, Nov. 2002, §6 at 52.

<sup>114</sup> National Network to End Domestic Violence, Inc., *How Can A Civil Protection Order Help Me?*, KNOW THE LAWS: DISTRICT OF COLUMBIA, CIVIL PROTECTION ORDERS (FOR DOMESTIC VIOLENCE VICTIMS) citing D.C. CODE 16-1005(c) (2008).

<sup>115</sup> *Id.*

<sup>116</sup> Dana Harrington Conner, *Financial Freedom: Women, Money, and Domestic Abuse*, 20 WM. & MARY J. WOMEN & L. 339, 370 (2014).

<sup>117</sup> Metropolitan Police Department of the District of Columbia, *Civil Protection Orders*, [http://mpdc.dc.gov/sites/default/files/dc/sites/mpdc/publication/attachments/DV\\_TPO.pdf](http://mpdc.dc.gov/sites/default/files/dc/sites/mpdc/publication/attachments/DV_TPO.pdf).

<sup>118</sup> Johnson, *supra* note 13 citing Michelle R. Waul, *Civil Protection Orders: An Opportunity for Intervention with Domestic Violence Victims*, 6 GEO. PUB. POL’Y REV. 51, 56 (2000).

<sup>119</sup> Johnson, *supra* note 13 citing Laurie S. Kohn, *The Justice System and Domestic Violence: Engaging the Case but Divorcing the Victim*, 32 N.Y.U. REV. L. & SOC. CHANGE 191, 198 (2008) at 234.

orders allow the petitioner the “ability to self-direct and define how best to address the abuse in her relationship”<sup>120</sup> thereby avoiding “a system that overrides victims’ interest for society’s interest.”<sup>121</sup>

### **B. Civil Protection Orders Must Allow Low-Income Women the Option to Remain in the Relationship**

Research has established that “women who are economically dependent on their partners are less likely to want criminal prosecution” and accordingly, are less likely to use the criminal legal system for protection.<sup>122</sup> Income level also affects the frequency with which women report their incidences of any type of abuse to law enforcement.<sup>123</sup> As noted by Durfee and Messing, “victims at or below the poverty line are more likely to call the police but less likely to speak with a lawyer in response to intimate partner violence.”<sup>124</sup> Therefore, a civil protection order with sufficient flexibility to account for their unique circumstances may be a more attractive option for these women. As discussed by one lawyer,

[W]hen a client is very reluctant about getting an order, she is sometimes more willing if we can tailor it to fit her need for contact with the abuser. We can then enter an order allowing contact but preventing abuse. They can even live in the same house together.<sup>125</sup>

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<sup>120</sup> Johnson, *supra* note 13 citing Linda G. Mills, *Insult to Injury: Rethinking Our Responses to Intimate Abuse* 23 (2003), note 74, at 31 (“[T]he idea that intimate violence is best addressed by silencing the victim and letting the state take the initiative against the batterer, ignores the significance of a woman’s agency when she is threatened by intimate violence.”).

<sup>121</sup> Johnson, *supra* note 13.

<sup>122</sup> Ruth E. Fleury-Steiner et al., *Contextual Factors Impacting Battered Women’s Intentions to Reuse the Criminal Legal System*, 34 J. CMTY. PSYCHOLOGY 327, 338 (2006).

<sup>123</sup> Alesha Durfee & Jill Theresa Messing, *Characteristics Related to Protection Order Use Among Victims of Intimate Partner Violence*, 18 VIOLENCE AGAINST WOMEN 701, 702 (2012).

<sup>124</sup> *Id.*

<sup>125</sup> Goldfarb, *supra* note 110 at 1527.

The option to decline a no-contact order and remain in the relationship is especially important for impoverished women. Due to the barriers to self-sufficiency discussed previously, low-income women often must remain in these relationships to support themselves and their children. Consequently, a solution that imagines a stop to the abuse while maintaining the relationship is imperative.

A civil protection order that allows a low-income woman to remain in the relationship with her abuser while stopping the abuse can be achieved. Empirical research has shown that legal intervention can assist in transforming violent relationships into non-violent relationships.<sup>126</sup> Rather than forcing the partners apart, flexible civil protection orders may offer an assortment of remedies beneficial to women experiencing economic abuse. In particular, it may require the abuser to enter a counseling program for domestic violence, drugs, and/or alcohol, reimburse the victim for property damage, return personal property, and even ensure that the victim and her children remain on his health insurance.<sup>127</sup>

Furthermore, contrary to the belief that leaving the batterer will end the abuse, a woman may face more risk by leaving.<sup>128</sup> Women often face the most violence when they attempt to leave because the abuser becomes desperate to force them to remain.<sup>129</sup> According to one attorney, a civil protection order that allows for ongoing contact is still effective because “he is on notice

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<sup>126</sup> Goldfarb, *supra* note 110 at 1489 citing Deborah Sontag, *Fierce Entanglements*, N.Y. TIMES, Nov. 2002, §6 at 52, part II.

<sup>127</sup> National Network to End Domestic Violence, Inc., *How Can A Civil Protection Order Help Me?*, KNOW THE LAWS: DISTRICT OF COLUMBIA, CIVIL PROTECTION ORDERS (FOR DOMESTIC VIOLENCE VICTIMS) citing D.C. CODE 16-1005(c) (2008).

<sup>128</sup> Goldfarb, *supra* note 110 at 1489.

<sup>129</sup> *Id.*

that the next time he ‘loses control’ he will be arrested.”<sup>130</sup> This statement is “consistent with studies showing that battered women feel that protection orders are effective because they place the power of the law on the victim’s side and convey the message that abuse is unacceptable.”<sup>131</sup>

As mentioned previously, civil protection orders are an imperfect solution. Historically, police departments were reluctant to make arrests for domestic violence because they did not want to intervene.<sup>132</sup> Holding on to the common law rule of coverture, the law held the view that protection of the family took priority over protection of women.<sup>133</sup> As concern for coverture disappeared, this belief was retained under concerns for the doctrine of family privacy.<sup>134</sup> After numerous lawsuits and heavy pressure from feminist advocates, legislatures and police departments responded with new legal remedies for domestic violence.<sup>135</sup>

Currently, these orders often function as paternal demands for the victims to separate from the batterer without regard to the victim’s desire or ability to do so.<sup>136</sup> Lenore Walker’s work on domestic violence is responsible in large part for the public and legal system’s attitude

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<sup>130</sup> Goldfarb, *supra* note 110 at 1487 citing Silvia M. Straka & Lyse Monminy, *Responding to the Needs of Older Women Experiencing Domestic Violence*, 12 VIOLENCE AGAINST WOMEN 251, 253, 258 (2006).

<sup>131</sup> *Id.*

<sup>132</sup> DOUGLAS E. ABRAMS, ET. AL., CONTEMPORARY FAMILY LAW, 357 (West 3d. ed. 2012).

<sup>133</sup> Goldfarb, *supra* note 110 at 1488.

<sup>134</sup> *Id.*

<sup>135</sup> Abrams, *supra* note 128 at 358.

<sup>136</sup> Goldfarb, *supra* note 110 at 1489 citing Deborah Sontag, *Fierce Entanglements*, N.Y. TIMES, Nov. 2002, §6 at 52, part II.

toward separating the victim and abuser.<sup>137</sup> Walker is infamous for her description of battered woman's syndrome.<sup>138</sup> Goldfarb summarized Walker's contributions as

“Walker described domestic violence as ‘a cycle, consisting of a tension-building phase, followed by an acute battering incident, a honeymoon phase, during which the abuser is kind, loving, and contrite. Walker also drew on the research of experimental psychologist Martin Seligman, who showed that dogs subjected to random electrical shocks would eventually stop trying to escape; she concluded that battered women, like the dogs in Seligman's experiment, suffer from learned helplessness that renders them incapable of acting in their own self-interest.’”<sup>139</sup>

Despite the ample critiques Walker's work has since received, the legal system accepted her theories and quickly implemented them into the legal regime.<sup>140</sup> Legal policy that had once remained uninvolved to the detriment of women now moved to the opposite extreme and held tightly to the belief that these women should be assisted in leaving, even against their will.<sup>141</sup>

Women should be empowered by being provided with choices in remedying their situation. The “why would she stay?” discussion must change. A solution to economic abuse will require an evolution in our attitudes concerning how to deal with domestic violence victims. This remedy will necessitate awareness by the public as well as the legal community. As advocated by Goldfarb, a remedy that fails to “recognize() and accommodate() the desires of many battered

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<sup>137</sup> Goldfarb, *supra* note 110 citing Lenore E. Walker, *The Battered Woman*, 55-70 (1979).

<sup>138</sup> *Id.*

<sup>139</sup> *Id.*

<sup>140</sup> *Id.* at 1497.

<sup>141</sup> *Id.* at 1498 citing Cheryl Hanna, *No Right to Choose: Mandated Victim Participation in Domestic Violence Prosecutions*, 109 HARV. L. REV. 1489, 1857 (1996)(describing an extreme example of enforcing separation against the will of the victim is the practice of jailing a victim who refuses to testify against the abuser).

women to remain in their relationships cannot be considered truly successful.”<sup>142</sup> In order for the legal realm to meet the needs of low-income women facing abuse, lawyers “must recognize the full range of abusive behaviors and relationships in order to appropriately serve the needs of abused women.”<sup>143</sup> This will require consideration of the complexities a woman faces as she attempts to “achieve an economic fresh start” despite facing financial dependence on their abusers.<sup>144</sup>

### C. Examining Washington D.C.’s Civil Protection Order

Washington D.C. has one of the more liberal statutes for civil protection orders in the remedies it affords victims of domestic violence. For example, the judge may order the traditional relief such as stay-away and no-contact orders but may also order more evolved remedies such as participation in a psychiatric or medical treatment or counseling programs for domestic violence, parenting, alcohol, or drugs.<sup>145</sup>

In D.C., an individual may file for a protection order against an intimate partner that has allegedly committed or threatened to commit any criminal offense against the individual.<sup>146</sup> Therefore, domestic violence under this section would include the threat or commission of any

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<sup>142</sup> Goldfarb, *supra* note 110.

<sup>143</sup> Pollet, *supra* note 9 citing Michael Satz & Elizabeth Barker Brandt, *Representing Victims of Domestic Violence in Property Distribution Proceedings After the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005*, 41 FAM. L.Q. 275, 278 (2007-09).

<sup>144</sup> *Id.*

<sup>145</sup> National Network to End Domestic Violence, Inc., *How Can A Civil Protection Order Help Me?*, KNOW THE LAWS: DISTRICT OF COLUMBIA, CIVIL PROTECTION ORDERS (FOR DOMESTIC VIOLENCE VICTIMS) citing D.C. CODE 16-1005(c) (2008).

<sup>146</sup> D.C. CODE 16-1003 (2013).

crime.<sup>147</sup> An intimate partner would include someone the individual is married to, in a domestic partnership with, or a romantic, dating, or sexual relationship.<sup>148</sup>

In D.C., a protection order may be either a temporary (ex parte) protection order or a civil protection order.<sup>149</sup> A temporary protection order may be issued immediately without the abusing partner in court if a judicial officer finds that the safety or welfare of the individual is immediately endangered by the abusing partner.<sup>150</sup> This order may last up to fourteen days and may be extended upon additional court appearances until a hearing or trial is complete.<sup>151</sup>

A judge may issue a civil protection order if the judge has good cause to find that the abusing partner committed or threatened to commit a criminal offense after the presentation of evidence by an individual and an abusing partner in court or if the abusing partner receives notice but fails to appear in court.<sup>152</sup> A judge may also issue a civil protection order upon consent of the abusing partner.<sup>153</sup> A final civil protection order may last up to one year unless extended or rescinded by either party after proof of good cause for such action.<sup>154</sup> An abusing partner that

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<sup>147</sup> *How Can A Civil Protection Order Help Me?* *supra* note 142.

<sup>148</sup> *What is the Legal Definition of Domestic Violence in the District of Columbia?* *supra* note 142.

<sup>149</sup> *What Types of Civil Protection Orders are There? How Long Do They Last?* *supra* note 142.

<sup>150</sup> D.C. CODE 16-1004 (2013).

<sup>151</sup> *Id.*

<sup>152</sup> *What is the Legal Definition of Domestic Violence in the District of Columbia?* *supra* note 142.

<sup>153</sup> *Civil Protection Orders*, *supra* note 142.

<sup>154</sup> *Id.*

violates a protection order may be convicted of contempt.<sup>155</sup> An individual guilty of contempt may be sent to jail or required to pay a fine.<sup>156</sup>

#### **D. Civil Protection Orders Must Recognize Economic Abuse as an Aspect of Domestic Violence**

Another criticism of civil protection orders is their focus on physical violence. Legal definitions of intimate partner violence grew out of the criminal justice system and consequently focus almost entirely on the occurrence of assault with punishments only for serious harm inflicted.<sup>157</sup> Although D.C. “provide[s] a remedy for domestic violence that is composed of psychological or emotional abuse other than fear or physical injury” it limits the available remedies to acts governed by criminal law.<sup>158</sup> The majority of jurisdictions’ civil protection order laws only recognize physical violence or a criminal acts in their definitions of abuse warranting a protective order.<sup>159</sup> As Margaret Johnson states,

[S]ixteen states do recognize coercive behavior, false imprisonment, or interference with personal liberty as abuse. . .[but they]. . .differ in whether they remedy coercive control if there is no physical violence or a threat of physical violence.<sup>160</sup>

This emphasis on injury ignores the reality that a shocking “99% of domestic violence involves non-injurious assaults.<sup>161</sup> Consequently, as acknowledged by Stark, “most tactics in coercive

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<sup>155</sup> *Id.*

<sup>156</sup> *Id.*

<sup>157</sup> Stark, *supra* note 26 at 6.

<sup>158</sup> Johnson, *supra* note 13 at 1134-45.

<sup>159</sup> *Id.* at 1129.

<sup>160</sup> *Id.* at 1133.

<sup>161</sup> Stark, *supra* note 26 at 6.

control have no legal standing, are rarely identified with abuse and are almost never targeted by intervention.”<sup>162</sup>

Low-income women facing economic abuse fit squarely into the category Stark mentions as not being afforded a remedy. Refusing to recognize economic abuse in civil protection orders leaves women incapable of seeking a legal solution and allows no forum for women to express their stories of abuse.<sup>163</sup> As discussed previously, civil protection orders have become a way for women to “send a message to the batterer that his behavior would not be tolerated” and are an “initial step toward regaining control of their lives.”<sup>164</sup> Ignoring the various types of harm that women face robs them of this narrative and resulting empowerment.<sup>165</sup> As low-income women are less likely to have the resources to leave the relationship, this opportunity to redeem control is imperative. Additionally, it has been shown that the refusal of a court to grant a civil protection order to qualified women results in an increase in abuse and threats of abuse compared to successful recipients.<sup>166</sup>

The focus on physical violence may intuitively feel as if it is justified because bruises and slaps are easier to prove. However, that is not necessarily so. The failure of the violence model to catch non-injurious assaults has equally disastrous results for the violence it seeks to prevent as “there is mounting evidence that the level of ‘control’ in abusive relationships is a better predictor than prior assaults of future sexual assault and of severe and fatal violence.”<sup>167</sup>

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<sup>162</sup> *Id.*

<sup>163</sup> Johnson, *supra* note 13 at 1139.

<sup>164</sup> *Id.* at 1141.

<sup>165</sup> *Id.* at 1142.

<sup>166</sup> *Id.* at 1145.

<sup>167</sup> *Id.* at 4.

Furthermore, issues of proof have not stopped some states from recognizing psychological abuse among the grounds for issuing a protection order.<sup>168</sup> These states simply train the police, prosecutors, and judges to be familiar with that type of abuse and “describe the prohibited acts with specificity” in order to facilitate enforcement.<sup>169</sup> Accordingly, the law should be amended to allow women to seek civil protection orders for all forms of abuse, specifically economic abuse.

## VI. International Recognition of Economic Abuse

Unlike the United States, members of the “international community [have] deem[ed] it essential to have legislation that expands the definition of domestic violence to include economic abuse in order to provide women with remedies for all forms of this ‘social oppression.’”<sup>170</sup> As of 2002, “countries such as Zimbabwe, Ecuador, Cambodia, South Africa, Mongolia, Ukraine, Dominican Republic, and Costa Rica, among others, have included economic abuse or economic violence as forms of domestic violence.”<sup>171</sup> Problems of enforcement may remain but recognition is a first step towards affording victims of economic abuse a remedy.

### A. India and New Zealand’s Incorporation of Economic Abuse Into Their Domestic Violence Legislation

In September 2005, India, a country that has historically struggled with issues of domestic violence passed the Protection of Women from Domestic Violence Act.<sup>172</sup> This Act “expand[ed] existing definitions of domestic violence to include verbal, emotional, sexual, and economic

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<sup>168</sup> Golfarb, *supra* note 110 at 1546.

<sup>169</sup> *Id.*

<sup>170</sup> Pollet, *supra* note 9.

<sup>171</sup> Pami Vyas, *Reconceptualizing Domestic Violence in India: Economic Abuse and the Need For Broad Statutory Interpretation to Promote Women’s Fundamental Rights*, 13 MICH. J. GENDER & L. 177, 204 (2006).

<sup>172</sup> *Id.* at 179.

abuse and allows women civil and/or criminal remedy for violations of the Act.”<sup>173</sup> Economic abuse as defined in this bill includes “a deprivation of economic resources to which the victim is ‘entitled under any law’ or ‘requires out of necessity, disposal of goods to which she is entitled to use by virtue of the domestic relationship, or prohibition of access to resources which she is entitled to use by virtue of her domestic relationship.’”<sup>174</sup>

The passing of this legislation is seen as a “significant step towards advancing women’s rights” but raises issues of enforcement that the United States may face as well.<sup>175</sup> As Pami Vyas points out, the inclusion of economic abuse in domestic violence legislation is merely the first step.<sup>176</sup> The definition must be interpreted broadly enough “to encompass a deprivation of a woman’s legal right to work outside the home and her right to control her economic resources.”<sup>177</sup>

In 2013, New Zealand addressed the problem by including economic abuse as a component of psychological abuse under §3(c)(iva) of their Domestic Violence Act.<sup>178</sup> Their statute reads, “. . . violence means—. . .psychological abuse, including, but not limited to,— financial or economic abuse (for example, denying or limiting access to financial resources, or preventing or restricting employment opportunities or access to education).”<sup>179</sup> New Zealand also recognizes the different experiences that women may have with abuse and allows for punishment

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<sup>173</sup> *Id.*

<sup>174</sup> *Id.* citing The Protection of Women From Domestic Violence Act, No. 43 of 2005, INDIA CODE (2005), ch. 3, §3(iv)(a).

<sup>175</sup> *Id.* at 177.

<sup>176</sup> *Id.* at 206.

<sup>177</sup> *Id.*

<sup>178</sup> Domestic Violence Act 1995 (N.Z.).

<sup>179</sup> *Id.*

for either “a single act amounting to abuse” or “a number of acts that form part of a pattern of behavior may amount to abuse for that purpose, even though some or all of those acts, when viewed in isolation, may appear to be minor or trivial.”<sup>180</sup>

These countries show that recognition for economic abuse may come through various alternatives such as an expansion of current domestic violence legislation to include economic abuse as an aspect of psychological abuse as New Zealand did, or to stand on its own as India did. Both are viable options for the United States and they are steps that need to be taken to help low-income individuals facing this type of domestic violence.

**B. Legislation on Financial Elder Abuse May Offer an Example for the United State’s Incorporation of Economic Abuse into their Domestic Violence Legislation**

The United States is moving in the right direction towards recognizing economic abuse. In 2013, “28 states and the District of Columbia had legislation to address financial crimes and exploitation against the elderly.”<sup>181</sup> As discussed in Branigan’s study, “elder abuse occurs because older people often prefer to make informal, family arrangements for dealing with their finances and place high levels of trust in family members to do the right thing.”<sup>182</sup> Although not pertaining to domestic violence, it is an important step for legislation of financial abuse. It is recognition that loved ones may play an improper role in manipulating one’s finances despite societal expectations of families as acting in each other’s best interests.

It is possible that financial elder abuse statutes may offer another model for economic abuse statutes. Although these statutes fail to confront the full extent of the abusive behaviors,

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<sup>180</sup> *Id.*

<sup>181</sup> National Conference of States Legislatures, *Financial Crimes Against the Elderly* (2013), <http://www.ncsl.org/research/financial-services-and-commerce/financial-crimes-against-the-elderly-2013-legis.aspx>

<sup>182</sup> Branigan, *supra* note 1 at 9.

they are a possibility for addressing at least some aspects of the financial harm. Taking California's statute on financial elder abuse as an example, by substituting elder for intimate partner a potential statute may read: "Civil law defines civil [economic abuse] as when a person: takes, secretes, appropriates, obtains, or retains real or personal property of an [intimate partner] for a wrongful use or...by undue influence."<sup>183</sup> This captures at least a portion of the manipulation and destruction these abusers engage in when controlling their partner's finances.

## VII. Conclusion

Economic abuse is a serious form of domestic violence that is devastating to women of low socioeconomic status. Victims of this abuse should be given the opportunity to tailor a civil protection order to meet their needs in remedying this abuse. This flexibility must allow low-income women the option of remaining in the relationship for personal or financial reasons. Accordingly, the United States should mirror the international community's evolution towards expanding domestic violence legislation to encompass economic abuse. New Zealand's expansion of psychological abuse to encompass economic abuse, India's stand alone provision for economic abuse, and the United State's legislation on financial elder abuse all offer possible models for the incorporation of economic abuse into domestic violence legislation.

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<sup>183</sup> WELF. & INST. CODE §15610.30