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## Re-Problematizing Anger in Domestic Violence Advocacy

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# RE-PROBLEMATIZING ANGER IN DOMESTIC VIOLENCE ADVOCACY

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## INTRODUCTION

Feminist domestic violence advocacy has been an important venue for theorizing about how to apply concepts like individual autonomy and how to intervene strategically and effectively into the dominant, patriarchal legal system. Consistently, feminists have insisted that a woman's actual, lived experiences must form the basis both for her understanding of the world and for solutions to problems that she faces in the world. More particularly for feminist domestic violence advocacy, scholars and advocates insisted that a woman subjected to abuse<sup>1</sup> should have the fullest

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\* Associate Professor, University of Colorado Law School. I owe enormous thanks to Tammy Kuennen who has been an ongoing source of inspiration to me throughout this piece. I also owe a debt of gratitude to feminist legal theoretician, Ann Scales, whose work and whose encouragement has kept me optimistic about social change. Her untimely death in 2012 is an enormous loss. I also would like to thank Aya Gruber, Helen Norton, Carolyn Ramsey, Pierre Schlag, Ahmed White, and colleagues at the University of Colorado Law School workshop for helpful guidance.

1. Following the thoughtful guidance of feminist domestic violence advocates and scholars like Ann Shalleck and Margaret E. Johnson, I am opting to use the phrase "women subjected to abuse" throughout this Article instead of other more-common phrases like "victims of domestic violence" or "survivors of domestic violence." As

sense of agency possible as she considers how to move forward in her life in light of the domestic violence she has, or continues to, experience.

As part of privileging individual autonomy, feminist domestic violence advocates have been exceedingly reluctant, if not adamant, that others working with a woman subjected to abuse should resist interceding in autonomous choices. Feminist domestic violence advocates also have thoughtfully and thoroughly critiqued the strategic choices that earlier feminists made about how to reform the legal system as choices that lead to a system that purports to be woman-centric, but, in fact, is rigid and disrespectful to true autonomous choice.

In crafting their discourse against the current domestic violence legal response system, scholars and advocates eliminated important moments of nuance. This Article seeks to reintroduce such nuance by focusing on one feature of domestic violence—the role of anger for a woman subjected to abuse. I hope to re-problematize anger by arguing that one can be respectful of the experiences of a woman subjected to abuse, including her experience of anger, while at the same time insisting that acting out of anger is ineffective. My approach to anger is intentionally pragmatic and instrumental. I embrace feminism’s insistence that real experiences matter. However, I illuminate how the rush from emotion to action is deeply problematic, and particularly so in the case of anger. While feminist *discourse* about anger has not been nuanced, I suggest that feminist domestic violence *practice* already contains within it the seeds of a productive solution, and that the productive solution is to craft space so that the arising of the experience or emotion of anger is disrupted and separated from action driven by that experience. I conclude by offering two possible discursive frames that can be used to take advantage of the disruptive moment between the arising of an experience or emotion and action upon those feelings. I label the frames as a “healing” frame and a “cognitive”

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Professors Shalleck and Johnson have persuasively argued, words like “victim” or “survivor” connote a particularized and limited experience with a normative valence, all of which can be problematic given the breadth of actual, lived experiences of women subjected to abuse in their relationships. See Margaret Johnson, *Redefining Harm, Reimagining Remedies, and Reclaiming Domestic Violence Law*, 42 U.C. DAVIS L. REV. 1107, 1163 (2009); Ann Shalleck, *Theory and Experience in Constructing the Relationship Between Lawyer and Client: Representing Women Who Have Been Abused*, 64 TENN. L. REV. 1019, 1023-24 (1997). Further, by using the phrase “women subjected to abuse,” I acknowledge that I run the risk of suggesting that men cannot be subjected to abuse, or of suggesting that domestic violence happens only within heterosexual relationships. Both suggestions are false, and my choice reflects my pragmatic need for a short phrase that I can use with sufficient ease throughout this Article. See generally Natalie J. Sokoloff & Ida Dupont, *Violence Against Women*, 11 VIOLENCE AGAINST WOMEN 38, 38 (2005) (providing a thorough overview regarding issues of race, class, gender, and sexual orientation can intersect in complicated ways related to domestic violence).

frame, each of which are designed to draw upon common goals expressed by women subjected to abuse—“I want to feel better,” and “I want to make the best decisions for me (and for my children).” I demonstrate how the frames can be used to create a disruptive moment. Both frames use the disruptive moment to illuminate that anger is a *descriptively true fact*, but is an ineffective *action response* to domestic violence.

#### I. A BRIEF REVIEW OF CONTEMPORARY DOMESTIC VIOLENCE ADVOCACY

Most scholars writing about domestic violence record the start of vigorous feminist domestic violence advocacy around the 1970s.<sup>2</sup> Legal advocacy about domestic violence was part of a larger feminist agenda that included issues such as sexual harassment, equal pay, employment discrimination, and issues in many other substantive areas of the law in which feminists saw the current legal structure as reinforcing women’s inequality or subordination.<sup>3</sup> In turn, feminists understood the legal system as only one example of many institutional structures created by a patriarchal society to maintain (white) men’s power and control.<sup>4</sup>

Using their own, lived experiences as “data,” feminists assessed that patriarchal control was both direct and indirect.<sup>5</sup> In its direct form,

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2. LEIGH GOODMARK, A TROUBLED MARRIAGE: DOMESTIC VIOLENCE AND THE LEGAL SYSTEM 9 (2012) [hereinafter GOODMARK, A TROUBLED MARRIAGE]; LISA A. GOODMAN & DEBORAH EPSTEIN, LISTENING TO BATTERED WOMEN: A SURVIVOR-CENTERED APPROACH TO ADVOCACY, MENTAL HEALTH, AND JUSTICE 1 (2008); Jane Aiken & Katherine Goldwasser, *The Perils of Empowerment*, 20 CORNELL J.L. & PUB. POL’Y 139, 141 (2010); Johnson, *supra* note 1, at 1124-25; Tamara L. Kuennen, “No Drop” Civil Protection Orders: Exploring the Bounds of Judicial Intervention in the Lives of Domestic Violence Victims, 16 UCLA WOMEN’S L.J. 39, 47-48 (2007).

3. See generally NANCY LEVIT & ROBERT R. M. VERCHICK, FEMINIST LEGAL THEORY: A PRIMER (2006). Throughout this article, I will refer to feminists working in the 1970s forward as “second-wave” feminists.

4. Early second-wave feminists were soundly criticized for focusing solely on gender as the reason for subordination, and neglecting race or other salient dimensions. Later second-wave feminists have been conscientious in acknowledging multiple perspectives from which subordination can be experienced. See generally Kimberle Crenshaw, *Mapping the Margins: Intersectionality, Identity Politics, and Violence Against Women of Color*, 43 STAN. L. REV. 1241, 1242-44 (1990); Kimberle Crenshaw, *Demarginalizing the Intersection of Race and Sex: A Black Feminist Critique of Antidiscrimination Doctrine, Feminist Theory and Antiracist Politics*, 1989 U. CHI. LEGAL. F. 139, 140 (1989).

5. A key feature of feminism is its methodology, which commits to building knowledge from a woman’s own experiences. It is a “bottom up” methodology in that it understands “knowledge” not as objective, neutral fact, but as something generated by those holding power and privilege in society. LEVIT & VERCHICK, *supra* note 3, at 45-47.

patriarchal control overtly prohibited some behavior or outcome (i.e., women could not do “x” or could not be “x,” like serve in the military on combat duty). In its indirect form, patriarchal control constructed concepts like “feminine” in a way that circumscribed behavior (i.e., it is unfeminine for a woman to raise her voice).

As it relates to domestic violence, advocates identified both direct and indirect control. Directly, the male-constructed legal system controlled access to its protection and prosecution services. Male police officers exercised their discretion against arresting a male abuser when responding to a “domestic” call. Male prosecutors exercised their discretion against using available criminal charges, like battery, in many cases in which women were making complainants against their male intimate partners. Male judges exercised their discretion against issuing protection orders when women subjected to abuse were the requesting parties.<sup>6</sup> Thus, male police officers, prosecutors, and judges controlled when an action constituted domestic violence and when a woman was worthy of protection. Feminist domestic violence advocates argued that more often than not, such control was exercised in favor of men.

Indirectly, male-defined social constructions of women and femininity insisted that women be well-behaved, which meant submitting to male demands and affirmatively working to please a man instead of a woman asserting her own needs or desires.<sup>7</sup> Male-defined social constructions further presumed that if some kind of domestic violence occurred, the woman in the relationship must have misbehaved in a way that caused her male partner justifiably to be angry with her. Women were further bound by the social construct of society divided into a public sphere in which government was encouraged to intervene and a private sphere in which it was discouraged. A feminine woman remained in the private sphere, tending hearth and home, and if her male partner abused her, it was a private matter into which government (and neighbors, and friends, and family) should be very reluctant to intercede.

Second wave feminists were particularly attuned to the ways in which women were, or were not, conscious about how they acceded to male-dominated society. Feminists adopted the phrase “false consciousness” to capture the dynamic through which women were unconsciously complicit

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6. See Leigh Goodmark, *Telling Stories, Saving Lives: The Battered Mothers' Testimony Project, Women's Narratives, and Court Reform*, 37 ARIZ. ST. L.J. 709, 746 (2005) (describing judicial skepticism towards testimony offered by women subjected to abuse); see also GOODMARK, *A TROUBLED MARRIAGE*, *supra* note 2, at 11.

7. See Marianne Wesson, *Mysteries of Violence and Self-Defense: Myths for Men, Cautionary Tales for Women*, 1 TEX. J. WOMEN & L. 1, 21 (1992) (detailing a myriad of cultural sources for gender stereotypes, including that to be feminine means being passive and non-violent).

in their own subordination. The antidote was consciousness raising.<sup>8</sup> In consciousness raising, groups of women could come together and, through the use of their own personal stories and narratives, help each other reveal their “false consciousness.”<sup>9</sup> In other words, women’s own experiences were the means for revealing the ways in which women participated in beliefs and activities that reinforced gender stereotypes and subordinated them to men.<sup>10</sup>

One effect of consciousness raising was that women reclaimed their “right” to act in ways that the patriarchy had deemed unfeminine. Especially relevant for this discussion is that women asserted that anger was an appropriate and necessary response to subordination and that seeing anger as unfeminine was a part of the false consciousness constructed by the patriarchy.<sup>11</sup> Under the male-constructed society, a woman was supposed to be nice, not angry. For feminists, however, if a woman was not angry about how society was constructed, then she must not yet have shaken the shackles of that male-constructed society. As one particularly ardent feminist put it, truly liberated women were “dominant, secure, self-confident, nasty, violent, selfish, independent, proud, thrill-seeking, free-wheeling arrogant females, who consider themselves fit to rule the universe.”<sup>12</sup>

Feminist commitments to women creating space for their own narratives

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8. Compare LEVIT & VERCHICK, *supra* note 3, at 49 and CATHARINE A. MACKINNON, TOWARD A FEMINIST THEORY OF THE STATE 84 (1989) (advocating that women shatter their oppressive self-reflecting world view and replace it with its own image of history), with Christine A. Littleton, *Women’s Experience and the Problem of Transition: Perspectives on Male Battering of Women*, 1989 U. CHI. LEGAL F. 23, 26 (1989) (noting that “false consciousness” at times has privileged the views of certain women, like white women, over others).

9. See ANNE FORER, *Thoughts on Consciousness-Raising*, in FEMINIST REVOLUTION: AN ABRIDGED EDITION WITH ADDITIONAL WRITINGS 151 (1978); MACKINNON, *supra* note 8, at 87, 89-90; KATHIE SARACHILD, *Consciousness-Raising: A Radical Weapon*, in FEMINIST REVOLUTION: AN ABRIDGED EDITION WITH ADDITIONAL WRITINGS 145 (1978); ANNE SCALES, LEGAL FEMINISM: ACTIVISM, LAWYERING, AND LEGAL THEORY 124 (2006).

10. See MACKINNON, *supra* note 8, at 91-92 (arguing that men’s power over women is a major part of what defines men as men); SARACHILD, *supra* note 9, at 145 (proposing that consciousness raising would make women better fighters for their rights).

11. See Judith Resnik, *Complex Feminist Conversations*, 1989 U. CHI. LEGAL F. 1, 5 (1989) (expressing that feminists are ridiculed if they express anger); see also Mari J. Matsuda, *Beside My Sister, Facing the Enemy: Legal Theory Out of Coalition*, 43 STAN. L. REV. 1183, 1185 (1990) (noting that discomfort remains if identified as “angry,” and that women of color can feel a particularized awkwardness).

12. VALERIE SOLANAS, SCUM MANIFESTO 70-71 (1968).

also helped women break silences about topics like domestic violence.<sup>13</sup> As Lisa Goodman and Deborah Epstein have thoughtfully chronicled, feminists assessed domestic violence as a primary example of an issue deeply affecting women, but on which male-constructed society benefitted by maintaining secrecy and silence.<sup>14</sup> Further, feminists insisted that domestic violence was as much a political issue as a personal issue, and that responses to domestic violence needed to include not only solutions for a woman's safety and shelter, but also for increasing her political empowerment.<sup>15</sup> Thus, feminists collaborated to create women-staffed and directed shelters that were "decentralized and nonhierarchical," where both staff and women receiving services were seen as having useful expertise.<sup>16</sup> Women subjected to abuse were experts on their own situations and needs, providing the necessary individualized information staff needed to help each woman craft an effective plan for safety and empowerment.<sup>17</sup>

In addition to community work building up shelters and support groups in the 1970s, feminist domestic violence advocates also were making strategic choices about how to engage the legal system. There, advocates assessed that to be most effective, they would have to be able to answer the primary question posed by the non-feminist dominant society—why a woman in an abusive relationship would not leave that relationship.<sup>18</sup> As Leigh Goodmark has exceptionally documented, in that first phase of domestic violence advocacy, feminists took account of women's actual experiences interacting with the legal system up to that point. Most importantly, advocates were clear-eyed that the legal system was skeptical about whether women were even subjected to abuse as well as reluctant to intervene in matters the system had treated as private, personal relationship matters.<sup>19</sup> However, advocates were also pragmatic and determined that

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13. See GOODMAN & EPSTEIN, *supra* note 2, at 4 (positing that women's involvement in political reform could shape the type of assistance received in domestic violence situations).

14. See *id.* at 31-32 (demonstrating clear connections between violence against women and women's inequality in the workplace and in the family).

15. See *id.* at 32-33 (emphasizing that political and social advocacy should be preferred for women facing domestic violence rather than psychological treatment because domestic violence arises out of social and economic inequality rather than individual psychopathology).

16. See *id.* at 35.

17. See *id.* at 34-35 (stating that a woman could view her suffering through a social and political framework).

18. See GOODMARK, A TROUBLED MARRIAGE, *supra* note 2, at 14-15 (discussing that legal structures promulgated the domination of men over women); Aiken & Goldwasser, *supra* note 2, at 159-60 (explaining that abusers often leave women so demoralized after abuse that they do not have support systems to rely on).

19. See GOODMARK, A TROUBLED MARRIAGE, *supra* note 2, at 13 (stating that

the best advocacy strategy was to work for reforms within the system, leading them to concede that they had to address the question posed by the system—“why doesn’t she just leave him?”<sup>20</sup>

Advocates responded by applying the theory of learned helplessness, originally developed by psychologist Martin Seligman, and tailored to domestic violence by Lenore Walker.<sup>21</sup> Learned helplessness justified a woman’s choice to stay in an abusive relationship, re-characterizing her actions as a lack of capacity for autonomous choice rather than as a personal failure to exercise autonomous choice.<sup>22</sup> Because learned helplessness precluded a woman from exercising agency and leaving the relationship, the legal system had an obligation to intercede and to manufacture an ability for the woman subjected to abuse to leave the relationship.<sup>23</sup>

As feminist scholars and advocates thoughtfully chronicled, the consequences of relying on learned helplessness were mixed. The strategy provided an out for some women subjected to abuse from being blamed for their abusive relationship. It also provided those women with a narrative that the patriarchal legal system accepted as deserving of intervention to gain some protection against their abusers. However, the system insisted that the “protection” have an ultimate goal of separating the woman and abuser and ending their relationship.<sup>24</sup> Further, the learned helplessness narrative had the negative consequence of creating a class of “undeserving” women—those who did not adopt learned helplessness as their story, or

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some feminists felt turning to the state for help was simply trading the regulation of one individual man for the institutional power of other men).

20. See GOODMARK, *A TROUBLED MARRIAGE*, *supra* note 2, at 82-83; see also Mari Matsuda, *When the First Quail Calls: Multiple Consciousness as Jurisprudential Method*, 11 *WOMEN’S RTS. L. REP.* 7, 8 (1989) (noting that “outsider” advocates, like feminists or advocates of color, well-understand how existing power structures maintain outsider domination, while also understanding the necessity of using the “elitist legal system” to seek reform).

21. GOODMARK, *A TROUBLED MARRIAGE*, *supra* note 2, at 31; GOODMAN & EPSTEIN, *supra* note 2, at 52.

22. See GOODMARK, *A TROUBLED MARRIAGE*, *supra* note 2, at 31 (positing that the learned helplessness cycle inevitably repeated until the death of a party to the relationship or a woman’s decision to leave the relationship); GOODMAN & EPSTEIN, *supra* note 2, at 52-53 (detailing the three steps in the learned helplessness cycle: the tension building stage, the acute battering incident, and the loving contrition stage).

23. See GOODMARK, *A TROUBLED MARRIAGE*, *supra* note 2, at 31-32 (establishing that judges recognized and adopted the learned helplessness theory of a cycle of violence in their decision-making); GOODMAN & EPSTEIN, *supra* note 2, at 53 (stating that learned helplessness was the way that advocates justified the need for public intervention).

24. See GOODMARK, *A TROUBLED MARRIAGE*, *supra* note 2, at 81 (noting that women lost credibility if they did not immediately report abuse to law enforcement).



who otherwise chose not to leave their relationships.<sup>25</sup>

The category of “undeserving” women was broad. It included women who responded with unfeminine emotions like anger, and who were not passive.<sup>26</sup> It included women who made a more capacious assessment of what resources it would take to be on their own (or on their own with children), and who assessed that it was riskier for them (or for the children) to leave the relationship than to stay.<sup>27</sup> Most importantly, the category of “undeserving” women often ended up describing poor women and women of color.<sup>28</sup>

In sum, the initial trajectory of feminist domestic violence advocacy, as it met and was recalibrated by the patriarchal legal system, created a unidirectional and limited decision making path. If a woman was subjected to abuse, she either could leave the relationship quietly or show that she could not because of learned helplessness. If she sought help from the legal system for protection, or sought access to support services, then she confirmed that the goal was to leave the relationship permanently. She could not fuss, complain, and had to do exactly what she was told to do by the experts in the legal system (i.e., the prosecutor, the judge, the social worker). If she did not, then she was labeled a liar, or unreliable, or unworthy of help.

Noting the limits of the learned helplessness narrative, some feminist domestic violence advocates and scholars pushed back to insist upon the appropriateness of women subjected to abuse responding in anger or by fighting back. Advocates and scholars demanded that society and the legal system acknowledge that women subjected to abuse were justified in their anger.<sup>29</sup> They noted that because society did not begrudge a man becoming

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25. See *id.* at 63-64 (stating that the passivity stereotype created serious issues for women who chose to fight back against their partners); Shalleck, *supra* note 1, at 1026 (affirming that a woman who chose not to adopt the standard abuse story was denied protection by the legal system).

26. See GOODMARK, A TROUBLED MARRIAGE, *supra* note 2, at 65; see also Margaret B. Drew, *Collaboration and Coercion*, 24 HASTINGS WOMEN'S L.J. 79, 87 (2013) (“[t]here is no uniform, predictable response to trauma [like domestic violence]. Some targets [of domestic violence] will be angry, verbally aggressive, and demanding. Some may have fought back, while others are passive and quiet.”).

27. See GOODMARK, A TROUBLED MARRIAGE, *supra* note 2, at 96 (arguing that courts' separation based remedies placed a value judgment on relationships); Littleton, *supra* note 8, at 38 (maintaining that the legal system's reliance on the cycle of violence causes does not tackle the underlying and central problems of battery and abuse: male violence, male power, and gender hierarchy).

28. See GOODMARK, A TROUBLED MARRIAGE, *supra* note 2, at 70-73 (contending that victimhood is a white norm and that service systems are not culturally competent to adequately provide for them).

29. *Id.* at 76-77 (noting that victim stereotypes only validate a small percentage of

angry if someone hit him, it should not begrudge a woman for feeling similarly. In fact, expressing anger has been seen in some therapeutic models as the best way forward through a difficult situation.<sup>30</sup>

Further, by reclaiming anger, women were asserting “rightness” along two dimensions. First, advocates righted domestic violence advocacy, which had unfortunately tilted to the patriarchal construction of women as passive and as unfeminine if expressing anger. Second, advocates asserted that it was morally appropriate for a woman subjected to abuse to feel and express anger. As legal philosopher Jeffrie Murphy might put it, there is a moral place for “retributive” hatred as a way of asserting and preserving one’s self-respect.<sup>31</sup> As is often the case, however, both of the corrections generated their own consequences in the form of a new narrative. Now, in addition to the narrative of the powerless, helpless victim in need of rescuing by the state, there was also the heroic, resistance fighter taking a stand against abuse. As Ann Shalleck noted, women subjected to abuse could go “from being stereotypical victims to stereotypical heroes.”<sup>32</sup>

The opportunity to get stuck in the dichotomy of victim or hero remains, but feminist theorizing about domestic violence has continued to expand its trajectory. Observant of the consequences of earlier strategies, several feminist scholars called on advocates and scholars to reimagine what domestic violence advocacy would look like if it took a truly woman-centric approach. For example, Leigh Goodmark has argued that a woman-centric approach would not essentialize any particular feature of being a woman or of being a woman in an abusive relationship. As she has explained:

An anti-essentialist system would be premised on the importance of giving individual women as much power as possible, to the greatest extent possible, to define the abuse they experience and decide how it should be addressed. Recognizing that women share one facet of identity but diverge among many other axes of identity, an anti-essentialist system would accept that women’s experiences of abuse vary dramatically and must be considered contextually.<sup>33</sup>

Similarly, Deborah Epstein and Lisa Goodman described the needed reforms thus:

[B]attered women’s individual voices need to be brought back to the

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women facing abuse because an angry woman is not a “good victim”).

30. See generally JOHN LEE ET AL., *FACING THE FIRE: EXPERIENCING AND EXPRESSING ANGER APPROPRIATELY* (1993) (discussing that expressing anger allows a person to become a more actualized and authentic version of his or herself).

31. JEFFRIE G. MURPHY, *Hatred: A Qualified Defense*, in *FORGIVENESS AND MERCY* 103 (1988).

32. Shalleck, *supra* note 1, at 1043.

33. GOODMARK, *A TROUBLED MARRIAGE*, *supra* note 2, at 138.

forefront of reform efforts. Those who are attempting to help battered women must honor the differences in their individual needs by creating opportunities for their voices to be heard and for them to play an active role in shaping the assistance they receive.<sup>34</sup>

The hopefulness above for improving the trajectory of domestic violence advocacy depends critically on individualness, and individual choice as the method by which women will be able to assert their own expert knowledge on how best to respond to the abuse they face. A woman might choose a range of emotional responses from hatred to forgiveness, and maybe even move through several responses.<sup>35</sup> A woman might choose to call upon law enforcement, or not; to call upon a prosecutor, or not; to seek restorative justice services, or not.<sup>36</sup> The strategy then, is to reform a current system that is too rigid by insisting that the system must defer to all choices made by a woman subjected to abuse because autonomous choices, as empowered choices, are better choices.

## II. RE-PROBLEMATIZING ANGER IN DOMESTIC VIOLENCE ADVOCACY

As part of committing to empowering individual choice, feminist domestic violence advocates have been circumspect about categorically removing any kind of choice a woman might make. The instinct to remain highly neutral about women's individual choices has been fostered in part because of the way the male-defined legal system moved quickly to rigid categorical approaches—i.e., that *all* women subjected to abuse must leave, that *all* domestic violence calls must result in an arrest, and that *no* protection orders can be dropped. But, more positively, it is a mechanism for protecting space in the decision making process for the information and perspectives of the person most at risk and most affected by those decisions. To use the language of evidence, if there is a conclusive presumption that the choices of a woman subjected to abuse set the course of action, then advocates, or the legal system, or social services have strong incentives to include the woman subjected to abuse in the decision making process. If they fail to include her, they have violated the appropriate process and their own decisions are at risk.

I strongly support the idea that a woman subjected to abuse brings important expertise to the discussion about her situation and possible solutions to her challenges. Nonetheless, I would like to suggest that in

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34. GOODMAN & EPSTEIN, *supra* note 2, at 4.

35. See GOODMARK, A TROUBLED MARRIAGE, *supra* note 2, at 139-41 (advocating that the definitions of safety and accountability become more fluid to truly help all women affected by domestic violence).

36. See *id.* at 139 (noting that an individualized framework acknowledges the complexity of women's experiences with abuse).

domestic violence there is at least one specific choice that should be understood as problematic and not deferred to. That is a choice to act in anger. I want to re-problematize anger in domestic violence, but to do so without reverting back to unhelpful notions of anger as unfeminine or anger as repressed because of learned helplessness.

I want to distinguish carefully between the fact of anger's arising or the experience of the sensations of anger, and anger as action or choice of conduct. I suggest that the practical and beneficial result of acknowledging the arising or sensations of anger, but resisting acting on anger, is that domestic violence advocates will remain alert and sensitive to the actual, lived experiences of women subjected to abuse. Advocates also will remain alert to the ways in which women subjected to abuse need protected spaces where they can articulate and deconstruct those experiences. At the same time, advocates will be clear that anger is not an effective course of action, thus, they will not shy away from frank, engaged conversations intended to dissuade women subjected to abuse from acting solely out of anger.

#### A. *Why Anger is an Ineffective Response*

As should be clear at this juncture, I am taking a pragmatic and instrumental approach to anger. I am not asking whether anger itself is morally justified along some deontological grounds. I am taking a pragmatic approach because that is the approach in large part taken by feminists. Thus, I want to consider anger on the same terms as it has been embraced.

In order to demonstrate that anger is an ineffective response to domestic violence, I first need to be clear about what is an effective response. And, to do that, I also need to be clear about the personal goals at hand when a woman subjected to abuse is seeking change. There are several goals in play at the same time, and I am going to suggest that they roughly cluster into two inter-related categories: issues related to logistics and issues related to longer term flourishing.

Logistics include issues such as planning about safety; investigating available resources to support pressing choices related to housing, care for children, transportation, emotional support and the like; and, planning for immediate needs for health care, including mental health services. Flourishing goals include building a sense of empowerment (emotionally and economically), moving towards a more steady state of emotional and physical well-being, building a sense of belonging and connectedness within some community, and determining what kind of longer term connectedness is or is not appropriate with the abuser. It is clear how closely tied the categories are, as the ease or difficulty with which a woman is able to address logistical goals directly affects her ability to lead a

flourishing life in a longer term way.

For example, if a woman subjected to abuse determines that she and her children need to live separately from her abuser, but there is no housing available near her that she can afford, then she faces some challenging choices. She might have to move to a community in which she has no ties because that is where she can find affordable housing. It may or may not be a community in which she would otherwise choose to live. Her move might mean she has to quit her current job because there is no reliable transportation to get her from her new home to her job. She likely has to disrupt her children's lives by separating them from friends, school, or family. Each of those logistical challenges impinges on a person's sense of empowerment and sense of leading a flourishing life.

I want to be clear that my two general categories of goals contain a wide range of more specific concerns that we often refer to as "goals." For example, some of the women subjected to abuse with whom I have worked have talked about having a goal of retribution against their abusers. And, some women with whom I have worked have talked about having a goal to reconcile with their abusers. I do not mean my two general categories of logistics and flourishing to squelch more-specifically described concerns articulated by women subjected to abuse, but only to organize those specific concerns in a more manageable fashion.

So, then, how does anger relate to logistical goals and longer term flourishing goals? To demonstrate how anger complicates achieving those goals, let me offer a vignette.<sup>37</sup> Imagine Allison, a woman subjected to abuse, who has two children with her husband, Nate, the abuser. Nate has been a very controlling husband. Among other actions, when Allison had their children, Nate insisted that Allison stop her work as a certified nurse assistant, even though they relied on her income. He threatened Allison with physical violence or control if she did not comply. To make up the lost income, Nate picked up overtime hours at his job as a janitor at a commercial building. Nate dictates much of Allison's daily life—telling her what she can wear, locking away the remote control for the television so she cannot watch it when he is away, checking the mileage on her car to make sure she does not drive more than he has permitted, and threatening to lock her in a room if she does not comply with his requests. While Nate shows Allison little or erratic affection, he has been an engaged and loving father to their two children. He is strict with them, but seems happy when he and the children are doing things together. The children, too, seem very happy with their father.

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37. I created the vignette from the facts of an actual case in which I represented the woman subjected to abuse. I changed the names of the parties and have kept out of the vignette some facts that might jeopardize the anonymous nature of the vignette.

Both Allison and Nate have family who live near them. For several years, Allison's sister has been telling Allison that she should leave Nate. Allison's sister has offered for Allison and her children to stay with her for as long as they need. It would be cramped at the sister's house, but Allison's children would still be able to attend the same school.

When Allison decides that she wants to end her marriage to Nate, a primary way that she feels strong enough to go through with that choice is by feeling angry at Nate. Her anger leads her to feel that Nate "should pay" for all of the degradation he has committed towards her. Allison decides that one of the best ways to make Nate pay is to leave the relationship in such a way that Nate is not able to see the children. She knows that there is a shelter across town and knows that the shelter will keep her and her children's identities secret.

One weekend when Nate is working overtime, Allison takes the children and goes to the shelter. She does not leave Nate any kind of note because she wants him to experience high anxiety like the level she feels she has experienced because of his controlling behavior. On the following Monday, Allison keeps the children from school because she knows Nate will go there to try and find them.

She goes to the local court to ask for an emergency, temporary civil protection order. She asks the court to include the children because she continues to feel like Nate should pay (although she does not say that to the court). The court grants Allison's request and the order bars Nate from contact with Allison and the children.

As the civil protection order proceedings go forward and are consolidated into a divorce proceeding, Allison makes several other choices motivated by her anger at Nate. She chooses to move into subsidized housing that is on the other side of town from where Nate works and where they used to live. The new housing is not near Allison's sister and it is in a different school district. Allison initially insists to the court that any parenting time that Nate will have with the children must be supervised by a third party. She insists that the children must spend all overnight times with her, and that parenting time must end before the children's current bedtime of 7:00 p.m., even though that means Nate effectively would not be able to have parenting time during the week because of his work schedule.

There are several ways that Allison's choices from anger make her life, and her children's lives, unnecessarily harder. For example, Allison and her children live in a shelter for a period of time instead of moving in with Allison's sister. Allison makes that choice primarily to punish Nate, and not because she is afraid for her or her children's safety. The move to the shelter disrupts the children's daily schedules in a more severe way than had Allison moved to her sister's. Further, both Allison and her children

are more disconnected from their support systems at the shelter than they would have been at her sister's house. Similarly, Allison's angry choice initially to seek a civil protection order and her later choices about parenting time between Nate and the children have the effect of putting the children in the middle of the divorce. Allison's choices also give the hyper-controlling Nate an unhelpfully heightened sense of entitlement, encouraging him to portray himself as the good parent and Allison as the bad parent (i.e., "I just want to be a father to my kids. Look at how she's trying to prevent that.") That sense of entitlement makes Nate more unwilling to think about a parenting time schedule that mutually accommodates his and Allison's needs. Simply put, Allison's angry choices make things needlessly harder.

I expect that at this point many domestic violence advocates may, themselves, be angry as they read my conclusions about Allison. To some, I have painted too simplistic a picture, as choices for most women are never made just in anger. To others, I have demeaned Allison's courageous choice to start to move beyond Nate's abuse, in whatever way she was able to get to that point. Finally, I have only talked about Allison's actions, and have not criticized Nate even though he is the abuser and he has acted out of anger as well. Let me acknowledge the criticisms, and seek forbearance.

First, I, too, am certain that few women will experience only one emotion as they work through decisions about how to respond to an abusive relationship. Allison likely would be unusual if she only felt anger. (In fact, over the course of the actual case Allison felt many emotions in addition to anger.) Nonetheless, Allison's vignette helps to tease out the difference between ineffective choices and complicated choices. A simpler vignette enables us to see decision making moments, so that we know the important points on which to focus as we add complications or nuances to the vignette. Next, I want to be clear that my assertion that anger is an ineffective response is not an assertion that a person will not experience the rising of anger and its powerful sensations and not need a way to deal with that experience. Finally, my focus on Allison is not acceptance of Nate's behavior or role, but only an acknowledgment that domestic violence advocates generally will work first and most closely with the person subjected to abuse in the relationship. Let me develop my responses to each concern more fully.

#### *B. Things Are Always More Complicated.*

To think through whether anger still matters when the setting is more complicated, consider the decision making point for Allison when she chooses not to leave Nate a note as she leaves with the children. In the vignette, Allison is angry and expresses her anger to punish Nate by not

leaving a note. Presumably, Nate does experience great anxiety, leading to anger, and possibly leading Nate to plan retributive, hurtful actions in response (like calling the police and reporting that Allison has kidnapped the children). Staying with the simple vignette, if Allison had a moment to be able to separate her sensations and experiences of anger from her actions, she might have thought about leaving some sort of note for Nate. It might have said only that she and the children had left for some safe, undisclosed place, that she had not left the state, and that she would contact Nate shortly to start to work through a divorce. While Nate may very well still have been angry, the note helps to protect Allison from Nate making unfounded charges that she had kidnapped the children. (In fact, Nate argued to the court that Allison should not continue to be the primary caretaker for the children because her actions suggested that she was thinking about fleeing permanently.)

Complicate the vignette and add the fact that while Allison generally was not worried about Nate responding with physical violence, she was worried that he would do so if she ever actually left the relationship, especially if she left with the kids. With that complication, her choice not to leave a note was motivated by anger and safety concerns. However, Allison's anger may have prevented her from thinking through more fully whether leaving a note actually helped her safety concerns. As noted above, Allison may be at greater risk of triggering Nate by leaving him with absolutely no information about her and the children compared with leaving him a note with minimal information.

Similarly, consider Allison's choice to go across town to the local shelter and stay there initially with her children. That choice means that the children move into an unfamiliar space with people they do not know and with the additional consequence of disrupting their daily school routine. Those are notable consequences for the children that result from Allison expressing her anger at Nate. Those consequences may well have been able to be reduced had Allison instead chosen to stay initially with her sister. If the children inquire why they have to stay at the shelter, Allison will either have to tell the truth that she acted out of anger, likely an uncomfortable admission, or lie to the children, also uncomfortable and maybe unconvincing.

Again, complicate the vignette and add that Allison is worried about the possibility that Nate will respond volatily. Allison is concerned it will be too risky for her sister if she goes there as Nate will likely come over. So, Allison chooses the shelter because it will better protect her and her sister. Or, add the fact that at the time Allison decides to leave, it turns out that her sister's children have come down with chicken pox and are still contagious. With either of those facts, Allison's choice to go to the shelter might be the only one available to her initially. While that choice still



might be very disruptive for the children, Allison will be able to talk genuinely with her children about it being a temporary step—until her sister’s children are no longer contagious, or until Nate has some time to move beyond his own initial reactions, and the like.

Further, by removing anger, Allison may be able to think through other options that would navigate the risk of Nate’s volatility while also reducing the disruption in her children’s lives. For example, if Allison believes that Nate would lash out at her, but not the children, then maybe Allison’s sister could step in for a short time to drop off and pick up the children from their regular school. Allison could alert school personnel to her situation and her sister’s role so that they would be aware of reasons that the children might be behaving differently.

I am certain that every advocate reading about Allison is able to recount working with a woman similar to Allison who made choices like Allison’s, but who did not have any other alternatives at the time, and, thus, had no choice but to bear the negative consequences I have described. Again, I am not offering Allison’s story to prove that a woman just needs to think hard enough about options—a very demeaning perspective, assuredly. Instead, I am offering Allison’s story as a way to illustrate that when one is at a decision making point at which one option is anger and another option is not, taking the non-anger option is more effective.

Again, I am proposing that non-anger is more effective in terms of navigating logistical challenges and in terms of leading to longer term flourishing. However, for a woman subjected to abuse, like Allison, who wishes to act out of anger, it may be that her sense of efficacy is tied to expressing anger. So, let me now explore further the concern that my approach is demeaning or dismissive of the personal experiences of women subjected to abuse.

*C. Any Emotion That Helps a Woman Start to Respond to Abuse is Good.*

As I noted earlier, feminist domestic violence advocates insisted that the relevant perspective for the legal system to understand and respond to is the perspective of the woman subjected to abuse, not some artificial “average reasonable person,” nor some stereotypical, “feminine” woman. Advocates assert that to effectuate that commitment, one must understand that a woman subjected to abuse is what she is—scared, angry, committed, sad, or any other of a myriad responses. From the given fact that a woman reports her specific response, whether anger or otherwise, advocates insist that the only normative choice is to accept the response. To do otherwise, such as dismiss or disagree with the response, would be disempowering, disrespectful, and arrogant. Further, implied in the prescription that one should encourage whatever response arises for a woman subjected to abuse is that expressing any response ultimately helps a woman lead a more

flourishing life. Or, to put it another way, the first step to moving towards a flourishing life is to express the actual experience one is having.

The crux move above is to tie completely together experience/sensation/emotion with action, and to say an experience/sensation/emotion is not valid until it is acted upon. I am suggesting that we think through more thoroughly the consequences of coupling experience and its action, especially as it relates to anger. I am also suggesting that there is a way to decouple experience and its action so that it is empowering, respectful, and encouraging of the move towards a flourishing life.

Interestingly, the key first step to usefully decoupling experience and its action is to insist that feminists are right that the experience of a woman subjected to abuse must be taken on its own terms as descriptively and factually true. The phrase “it is what it is” captures well what needs to happen in the first step. For example, if a woman reports that she is angry, one needs to hear that as a statement of a descriptive, actual fact, full stop. There is no reply such as “Well, don’t you really mean you are scared?” Or, “But, you’re not an angry person.” Or, “You’re going to have to get past that for the sake of the children.” Anger is what it is.

Acknowledging the fact or existence of a particular response is empowering for the woman who is experiencing it. It is empowering because it confirms and validates for a woman that she has agency. In fact, her response is a kind of action in that she has permitted herself to feel and to acknowledge the arising of the emotion. Acknowledging the fact of the emotion is also empowering because it encourages a woman to see the possibility of finding a supportive community—that someone is listening to the response and taking it as factually true must mean that there are others who have had similar experiences.

In other words, the experience of anger (or any other response/emotion) itself provides a critical opportunity for advocates working with women subjected to abuse not to rush past the moment. Instead, advocates can expand the moment and use it to reflect back to the woman who was subjected to abuse, respect for the lived fact of her specific experience, to acknowledge the agency connoted by the woman’s response, and to reaffirm to the woman that she is not alone or isolated in her experience. Further, it is critical to remember that emotions arise constantly and repeatedly. Thus, a woman subjected to abuse will not feel one key moment in which anger arises. She likely will experience anger arising many times, sometimes exceedingly strongly and sometimes weakly. Each moment of anger’s arising provides an important and useful opportunity to pause and offer respect for a woman’s lived experience.

Additionally, insisting on stopping to take time to acknowledge the arising of emotion reminds us that we cannot eliminate the fact of emotions, but we can reflect upon and control what actions we take in

response to the emotion. The pause usefully disrupts the habituated connection between the experience of an emotion and the action associated with the emotion. The arising of the emotion itself provides a woman with crucial information about her situation, particularly strong negative emotions like anger or fear. When the situation triggers a strong negative emotion, it alerts a person that something is seriously wrong about the setting. When a person experiences a strong negative emotion, it is hard to brush the sensations aside, whether those sensations are physical, like rapid breathing and a pounding pulse, or mental, like an internal voice one is hearing at an intense and insistent pitch. While those intense experiences beneficially ensure that a person is alert to the potential hazards of her setting, those experiences often do not contain enough information from which a person can discern the range of choices she has about what actions to take, and what the consequences might be of different choices about actions. Creating a disruptive moment between the arising of emotion and acting upon it is the key second step in the decoupling of experience and action, which, in turn, leads to better decision making. I will return shortly to how one might create a productive disruptive moment, but let me first consider the final concern that Allison's vignette might pose—that it puts the burden of conduct entirely on Allison and allows Nate to continue to be a bad actor.

*D. A Woman Subjected to Abuse Should Not Bear the Entire Burden of Conduct.*

As I noted earlier, part of the reluctance and nervousness of feminist domestic violence advocates about categorically removing any particular choice made by a woman subjected to abuse is that it puts women at risk of other hostile categorical assumptions. So, the worry is that it will be acceptable to assess Allison's situation as follows: Allison should not act on her anger because women are not supposed to get angry, not because acting on anger leads to ineffective solutions for Allison. Further, Nate recedes from the story, and his behavior is not scrutinized to the same degree as is Allison's behavior. Thus, Allison bears the entire burden of conduct. To that reasonable concern, I think the answer is exceedingly pragmatic. Domestic violence advocates work most often with those subjected to abuse not those perpetrating abuse. Thus, the opportunities to assist more likely will come on the disempowered side of the abusive relationship.

That being said, it is crucial that the conversation about categorically discouraging action out of anger be framed as discouraging *all* participants' actions out of anger—the woman subjected to abuse, the abuser, other family members involved, other professionals involved, and advocates themselves. Such a framing makes clear that each participant is expected

and obligated to make good choices about conduct.

The framing also subtly signals another important feature about domestic violence work—that it inherently involves a web of relationships. The conduct of each person in that web affects every other person in the web. Nate’s actions affect Allison as she reacts to him. Then affect the children as they react both to Nate and to their mother. Then affect the children’s schoolmates as those schoolmates react to the changes in the children, and so on. Acknowledging the interconnectedness of each person rebuts the idea that the conduct of only one person in the web is relevant. It also illuminates the potential for activating the web of relationships positively as well as negatively. One’s conduct can create positive ripples through the web or negative ripples. Of course, one’s positive or negative ripples can be met in kind or in opposition. In other words, the web of relationships puts everyone’s conduct in the mix, but one has full control only over one’s own actions.

Let me now consider how advocates and the women with whom they are working can find the positive potential in the fact that they are in a web of relationships and the positive potential of the fact that there is a disruptive moment that can be created between the experience of emotion/response and resulting conduct.

### III. TAKING ADVANTAGE OF DISRUPTION

As I noted, taking advantage of the disruptive moment means first acknowledging it, including acknowledging the fact that emotions like anger always will arise, and then reinforcing that there is a difference between the fact that an emotion like anger has arisen and the choice to express the emotion through action. It means taking the micro moment when an emotion occurs and expanding it so as to break the conditioned, rushed move from sensation to action. That then creates the space in which one has time to acknowledge overtly the disruptive moment. As I already suggested, that space between sensation and action is the place at which one can effectively and supportively affirm the fact of the emotion so that the lesson one is teaching is not that emotions inherently are bad or good, they just “are what they are.”

Instrumentally, however, when the emotion is anger, the affirmation should be followed by an overtly normative conversation about the consequences of acting in anger. The *fact* of anger “is what it is,” but *acting out* anger is bad/good, helpful/unhelpful, or destructive/protective. At this point, I hear a sharp intake of breathe from some readers who decry my move into normativity as exactly the wrong move. I expect my move is upsetting because the usual language that feminist advocates have used to talk about working with women subjected to abuse is that an advocate’s job is to create a safe and open space in which women can talk without being

told that they are bad, abnormal, or immoral. For example, on a blog for and by women subjected to abuse, a writer talked about how angry she was at her family because she was not feeling supported by them as she dealt with the emotional turmoil of leaving her abuser.<sup>38</sup> She received some very candid and direct advice from the blogger: “immediately stop worry[ing] about what others think . . . . If the person isn’t supporting you . . . don’t even talk to them at all.”<sup>39</sup> If that advice is typical, my prescription to overtly talk about actions as good or bad, helpful or unhelpful, appears to go squarely against what a supportive person is supposed to do if she is working within a feminist framework in which she is trying to enhance the autonomous choices of a woman subjected to abuse.

Framing the discourse as about autonomous choice tends to cause us to talk about good decision making as meaning that the only relevant person in the decision making is the woman subjected to abuse. That then causes us to describe the relevant way to frame an autonomy-enhancing question to the woman subjected to abuse as, “What do *you* want”? We then describe the autonomy-enhancing frame as requiring us to accept the woman’s answer without further inquiry.

But, my experience working with feminist domestic violence advocates, and my own experience as a feminist domestic violence advocate say that how we actually do our work is more nuanced and complicated than the discourse we have created to describe it. More particularly, advocates *are* able to create space for a woman subjected to abuse to be affirmed as she recounts her experiences, while then expanding the conversation to include pragmatic and normative choices. Part of why we have not understood what we are doing as two different and separate stages, is that we have described what we are doing as one action—we are *listening*.

For example, advocates learn that they need to use “active” listening, which has been described as “a range of approaches through which a lawyer can create connections with her client by withholding judgment and expressly acknowledging facts, emotions and/or positive qualities of character expressed by the client.”<sup>40</sup> With active listening, an advocate first

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38. The blog is called “The Last Straw,” and the entry I am describing is one of the most frequently viewed. Rebecca Burns, *Aftermath of Abuse: Dealing with Anger After Domestic Abuse*, THE LAST STRAW (July 8, 2007), <https://thelaststraw.wordpress.com/2007/07/08/aftermath-of-abuse-dealing-with-anger-after-domestic-abuse/>.

39. *Id.*

40. STEPHEN ELLMAN ET. AL., LAWYERS AND CLIENTS: CRITICAL ISSUES IN INTERVIEWING AND COUNSELING 27 (2009); *see also* Leigh Goodmark, *Clinical Cognitive Dissonance: The Values and Goals of Domestic Violence Clinics, the Legal System, and the Students Caught in the Middle*, 2 J.L. & POL’Y 301, 307 (2013) (noting that the credo of one particular domestic violence clinic is “less lawyering and more listening”).

affirms what she has heard to underscore to her conversation partner that the advocate is listening thoroughly and empathetically. However, the advocate then asks open-ended clarifying and expanding questions so as to understand the factual situation more expansively, as well as the emotional situation. It is in the expanding and clarifying “listening” stage that an advocate often starts to explore pragmatic and normative choices in a gentle and non-confrontational manner. An advocate working with Allison from the earlier hypothetical might ask questions like: “Tell me about the range of choices you think you might have about where to stay when you move out, from the easiest choice to the hardest,” or “What do you think are the best characteristics about the kind of relationship that Nate has with the children,” or “What are your biggest worries about this situation and what your children are experiencing?”

One purpose of the expanding and clarifying questions assuredly is to elicit more information. Importantly, the questions also generally expand the range of viewpoints that are being considered, but in a way that does not make the talker feel unsupported, or put her in a defensive posture. The non-directed approach still solicits information from the talker’s vantage point, although the talker is asked to report about what she thinks someone else’s point of view might be.

Further, the advocate is not a silent partner in the conversation. At some point, the advocate’s own expertise and information will be offered up. Thinking about Allison again, at some point she might ask what the court hearing looks like if she wants to seek a protection order. Or, she might disclose that Nate has been in charge of making the payment on the auto loan related to her car. She might ask whether there would be a way to make sure he continues to make those payments during the time she is trying to sort out how to proceed related to their marriage. At some point, it is highly likely that Allison will ask what her advocate thinks about Allison’s proposed course of conduct, or ask her advocate more generally what the advocate thinks Allison should do. No matter what the advocate’s answer, it will express a normative point of view. Even if the advocate declines to answer, that expresses the advocate’s normative choice that silence is “better” for the client—likely because the advocate wants to protect Allison’s autonomy and worries that expressing any opinion at all would cause Allison to defer to the advocate in a disempowering way.

I have thoroughly argued elsewhere that for normative conversations to be truly mutual, respectful, and empowering, they must be overt and transparent.<sup>41</sup> It is only by overtly surfacing the normative issues in play

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41. See Deborah J. Cantrell, *What’s Love Got to Do With It?: Contemporary Lessons on Lawyerly Advocacy From the Preacher Martin Luther King, Jr.*, 22 ST. THOMAS L. REV. 296, 332 (2010) [hereinafter Cantrell, “*What’s Love Got to Do With It?*”] (discussing that lawyers must express their commitment to respect others to

that both parties to the conversation can be sure that they are being heard. Additionally, it is only through overt normative conversations that each side can bring forward assumptions that they are making about what the other side wants for herself, or what they think the other side wants from them. Taking Allison and her advocate again as an example, if there is no expanded conversation between them, then both Allison and her advocate likely make unhelpful, unstated assumptions. Perhaps Allison's advocate assumes that Allison's interest in the shelter is because Allison thinks that is the safest, or only, option for her and the children. Maybe Allison assumes that her advocate's willingness to seek a protection order on her behalf means that the family law system supports some kind of retribution against an abusive spouse or parent. Whatever the assumptions are, they are not helpful unless they are surfaced, discussed and checked with the other person.

Further, bringing normative choices into the mix is the only true way to allow a woman subjected to abuse to explore and consider whether and when her own normative choices match up to the normative choices contained in the law and legal system that she is engaging. Allison may feel very strongly that Nate has acted immorally. Thus, she may be very upset to learn that the relevant law about whether parents will be permitted to spend time with their children does not focus on the morality of a parent's past conduct toward the other parent, but on whether that conduct presents a physical or emotional safety issue for the children.<sup>42</sup> Using and expanding the disruptive moment between the arising of the emotion/thought/sensation and acting upon it creates the most productive space possible in which a woman can experience being supported and heard, but also experience a frank, engaged exploration of the fullest range of options for action and the respective set of consequences. Importantly, the expanded disruptive moment provides a woman subjected to abuse with protected space to try out changing her mind (including changing her mind many times) without worrying that it will be held against her.

Now, I want to put a finer point on using the disruptive moment particularly to discourage action out of anger. I want to offer two possible frames that I believe are consonant with a feminist commitment to creating space for a woman subjected to abuse to feel fully expressed, while also

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clients); see also Robert K. Vischer, *Moral Engagement Without the "Moral Law": A Post-Canons View of Attorneys' Moral Accountability*, J. PROF. LAW. 213, 219 (2008) (describing that lawyers operate under multiple moral norms and must speak truth to power).

42. See, e.g., COLO. REV. STAT. ANN. § 14-10-124(1.5)(a) (2010) (noting the presumption that both parents should have frequent and continuing contact with their children so long as a time with a parent does not "endanger the child's physical health or significantly impair the child's emotional development").

creating space for multiple viewpoints to be considered and investigated before action occurs. I also want to be clear again that I am approaching this from an instrumental position—conduct that comes from anger more likely than not leads to a result that does not help a woman subjected to abuse move towards a logistically-secure life nor towards a flourishing life. Therefore, the two frames I offer also are pragmatically focused.<sup>43</sup> Further, both frames already are part of common discourse, so they should feel accessible both to advocates and to women subjected to abuse. Thus, they are frames that, once introduced, can be used readily—between advocate and client, between advocates, and between women subjected to abuse. The first frame is a therapeutic or “healing” frame, and the second frame is cognitive processing.

A therapeutic or healing frame that could be posed to a woman subjected to abuse might look something like:

You have had the experience of abuse, as well as the experience of many emotions as you take steps to figure out what is best for you. As you think about what could help you heal from the experience, you will need to examine each of your emotions and explore what role it is playing for you. All of your emotional experiences are truthful and valid for you, and they also each offer up several different choices about how to act. You will want to have a safe space in which to talk through the choices you have about how to act so that your choices help you heal.

The healing frame settles emotions and actions into a larger setting of well-being. That frame is welcoming because it acknowledges actual experiences as well as a hope or desire to “feel better.”

The initial frame, which is silent about any particular emotion, then would be refined to explore anger explicitly, as well as to explore other emotions. The language of a therapeutic frame might include statements about anger such as: “Anger is something we feel. It exists for a reason and always deserves our respect.”<sup>44</sup> Or, “Anger is a signal, and one worth listening to.”<sup>45</sup> Such statements validate the experience of anger’s arising, without validating action out of anger. Then, the therapeutic frame can introduce the idea of actions from anger as ineffective. An exemplary

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43. Of course, there are frames available in which the approach is a moral one. See, e.g., MURPHY, *supra* note 31, at 103 (arguing that lessons of moral humility cannot be ignored in the face of anger); Cantrell, *What’s Love Got to Do With It?*, *supra* note 41, at 340 (expressing that a lawyer can accept that a client has a capacity for moral conversation and lawyer accordingly); Deborah J. Cantrell, *Can Compassionate Practice Also Be Good Legal Practice?: Answers From the Lives of Buddhist Lawyers*, 12 RUTGERS J.L. & RELIGION 1, 4-5 (2011) (noting that Buddhist values can inform ethical legal practice).

44. HARRIET LERNER, *THE DANCE OF ANGER: A WOMAN’S GUIDE TO CHANGING THE PATTERNS OF INTIMATE RELATIONSHIPS* 4 (1985).

45. *Id.* at 1.



statement might be: “If feeling anger signals a problem, venting anger does not solve it. Venting anger may serve to maintain, and even rigidify, the old rules and patterns in a relationship . . . .”<sup>46</sup> In other words, the frame helps to signal that expressing anger does not help someone feel better.

The point of the therapeutic frame is not to turn the advocate-client relationship into a therapist-client relationship. The point is to pick up on a possible mindset of a woman subjected to abuse and to use that existing mindset as a way of introducing the idea of separating the arising of emotion/anger from action, and to introduce the idea that actions out of anger generally do not improve the situation (e.g., in the therapeutic frame, do not make one feel better). It certainly may be the case that a woman subjected to abuse might also want to explore “healing” with a therapist, and that such exploration will assist her as she determines her actions with her advocate. However, I do not think the usefulness of the frame is contingent on a woman participating in therapy or counseling. Again, the usefulness of the frame in the advocacy setting is that it provides a supportive and welcoming way to create thoughtful space between arising and action.

A cognitive processing frame might look something like:

As you know from your own experiences, our bodies physically react to the emotions that we are seeing displayed by another person. Our minds react, too. Scientific studies show that emotions are “contagious.”<sup>47</sup> You have described how your abuser’s bad emotions affect you negatively and powerfully. Scientific studies also have helped us understand that one part of our brain reacts very quickly to situations, especially stressful ones, and pushes us to make snap decisions such as whether to be afraid or whether to fight back.<sup>48</sup> But, another part of our brain works more slowly and lets us take more time to consider our responses and actions. We want to create a setting in which you can see what the fast part of your brain is telling you, but let the slow part of your brain help you make the best decision.

The cognitive processing frame helps situate the arising of emotions and actions into a setting about instincts and decision making. For a woman who describes herself as trying to make good choices, or trying to make decisions that will be good for herself and her children, the cognitive processing frame may resonate.

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46. *Id.* at 4.

47. DANIEL GOLEMAN, *SOCIAL INTELLIGENCE: THE NEW SCIENCE OF HUMAN RELATIONSHIPS* 14 (2006) (stating that tacit personal transactions between people amounts to the emotional economy).

48. *Id.* at 65 (finding that first impressions often predict that actual course of a person’s relationship with another person); *see also* DANIEL KANHEMAN, *THINKING, FAST AND SLOW* 13 (2011) (stating that the brain often searches spontaneously for an intuitive solution).

Once the general frame for cognitive processing is in place, it, too, can be used to consider anger more specifically. For example, anger is an emotion that easily can trigger fast brain responses of “flight or fight.” A woman subjected to abuse likely can recount her own fast brain responses to her abuser’s anger. It also will likely make sense to her that one role of fast brain responses is to do work such as protecting safety. Then, the frame introduces the other part of the brain—the slow brain—where more detailed and nuanced thinking takes place, but only with some time and space. The frame validates the woman’s experience of anger and the way in which it triggers the part of the brain designed for rapid response, while introducing the productive potential of the part of the brain that works best when it differentiates between the arising of emotion and action. The frame creates a place for a woman to locate her anger and to label it as a “fast” response, while then picking up on her goal to make better decisions by locating considered decision making in a different part of the brain.

Just as the purpose of the healing frame was not to create a therapist-patient relationship, the purpose of the cognitive frame is not to prompt a woman to see herself as part of a cognitive psychology experiment. The point is to take advantage of an existing motivation (to make good decisions), and use the frame to reorient how one thinks about achieving that goal. More specifically, the frame reorients in a way that breaks productively the conditioned link between anger and quick action.

While both frames sound in arenas other than the law, neither frame requires an advocate to become an expert in another field. An advocate does need to understand certain core concepts from other fields, like the idea of a decision making heuristic from cognitive psychology, and must be able to describe those core concepts to another non-expert. But, the advocate does not need to be more of an expert than that. Being fluent about areas in addition to the law is exactly the kind of competency that we routinely expect from almost every lawyer. For example, lawyers who assist businesses with mergers and acquisitions must have a basic level of competency related to financial recordkeeping and disclosures. Similarly, a lawyer who handles medical malpractice cases must have a basic level of competency about medical techniques at issue in her cases. Just as the mergers and acquisitions or medical malpractice lawyers will supplement their core knowledge with expert knowledge, so, too, will domestic violence advocates supplement their core knowledge with expert advice.

It certainly may be the case that there are other frames available that will take advantage of the disruptive moment between anger’s arising and action on anger, while also taking care to be supportive of the actual experiences of a woman subjected to abuse. I have offered two frames that I suggest accomplish those two goals particularly well. However, one of the benefits of feminist domestic violence advocacy’s recognition that each

woman's particular experience is the place from which any action must be grounded is that advocates can be attentive to crafting disruptive frames that resonate most helpfully for each woman. Some other possible sources of frames might include a woman's religious tradition,<sup>49</sup> or other cultural traditions. The critical feature that the frame must have is that it separates an emotion's arising from immediate conduct, which then can lead to an exploration of anger as an emotion compared to anger as a course of conduct.

#### CONCLUSION

One of the most important contributions of feminism has been its insistence that women's actual lived experiences must be the basis from which social change is derived. More particularly for domestic violence advocacy, feminism (and feminist advocacy) broke down inaccurate belief systems and unhelpful law-related structures that had hidden the fact of most domestic violence and had prevented women subjected to abuse from seeking useful and supportive services. As is always the case with social change advocacy, as advocates succeeded, they then discovered that their advocacy efforts brought unintended consequences. That has been true for feminist domestic violence advocates. They have seen their efforts to prompt law enforcement to respond at all to domestic violence calls turn into law enforcement policies that often now respond too vigorously or rigidly. Similarly, feminist domestic violence advocates have seen their development of a "learned helplessness" justification for why a woman subjected to abuse might not leave an abusive relationship be recaptured by patriarchal ideas of femininity. Fortunately, feminist domestic violence advocates have been attentive to those unintended consequences and have adjusted appropriately.

However, feminist domestic violence advocates and theorists have not attended appropriately to the unintended consequences of how feminist discourse has treated anger. Feminist discourse has relied heavily upon individual autonomy, described as a woman's power to make her own choices, as its animating normative principle. In its vigorous use of autonomy, feminism has created the unintended consequence of exalting anger. However, taking action out of anger often does not lead a woman to make choices that help her move towards a more flourishing life. There is a way that feminist domestic violence advocates can discourage actions out of anger while still protecting and supporting a woman's ability to make individualized, autonomous choices.

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49. See generally DEBORAH J. CANTRELL, *With Compassion and Lovingkindness: One Feminist Buddhist's Exploration of Feminist Domestic Violence Advocacy*, in *FEMINISM, LAW AND RELIGION* (M. Failing et al., eds., forthcoming 2013).

Feminist domestic violence advocates can more distinctly separate the experience of an emotion arising from the actions that one takes because of an emotion. When one is able to create a disruptive moment between an emotion's arising and conduct caused by the emotion, one creates space to take two important steps. First, one can affirm the fact that an emotion has arisen—it is what it is. The fact of its arising does not dictate conduct. Once the habituated rush from an emotion's arising to conduct is broken, one then has time to reflect more thoroughly on choices about action. Through reflection, one more likely is able to attend to multiple perspectives, to be able truly to hear advice and guidance, and, thus, to reach choices about conduct that is better designed to lead to flourishing.

In this Article, I have offered two possible ways to take advantage of the disruptive moment. Undoubtedly feminist domestic violence advocates and women subjected to abuse themselves will find other techniques. However, I urge all participants to remain mindful of the central premise of this Article—that the ardency with which feminist discourse embraced autonomy has created some unhelpful unintended consequences. More particularly for domestic violence, the ardent approach to autonomy means that feminist discourse talks about protecting any kind of choice, even unhelpful choices like those made out of anger. Fortunately, while feminist discourse at times can be rigid, the actions of feminist domestic violence advocates already have been more nuanced. This Article seeks to illuminate and advance those opportunities for nuance, and, thus, to create greater possibilities for women subjected to abuse to move more fully into flourishing lives.