

Men's Violence, Victim Advocacy, and Feminist Redress

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Stuart Scheingold, Toska Olson, and Jana Pershing (1994) draw from interviews with 15 people, including 5 leaders of victim advocacy organizations and 7 members of the state legislature, to show how a punitive ethos played itself out in legislation to control sexual violence. The lesson learned from Washington State's Community Protection Act (CPA) of 1989 is that members of victim advocacy organizations and grassroots social movements may practice a conservative law-and-order politics toward crime and justice. Scheingold et al. place their study within the terms of a debate, which they say has two sides. On one side are "republican and some feminist criminologists," who "are sympathetic to victim advocacy because they see victims as natural spokespersons for republican/feminist values and policies" (p. 730). The other side contains liberals of various types, "including civil libertarians, just desert theorists, and others not readily identifiable with any general theory" (p. 734), "who see victim advocacy and/or republican criminology as a threat to the integrity of the criminal process" (p. 730). The authors conclude that while the Washington State victim advocates were both active players and pawns of politicians, "the net effect of victim advocacy is . . . substantially problematic for republican/feminist values and for sound crime control policy as well" (p. 731).

I will defer to Professors Braithwaite and Pettit to defend and clarify elements of republican criminology.¹ My comment fo-

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¹ Drawing on selected portions of Braithwaite and Pettit's (1990) arguments, Scheingold et al. analyze victim advocates' "search for dominion" and problems of imagining the reintegration of convicted offenders, but they overlook other key elements of republican criminology such as parsimony and the checking of powers. In a paper by Braithwaite (1991) cited by Scheingold et al., Braithwaite anticipates the authors' concerns with the conservative role of citizen groups in the formation of crime and justice policy. He noted that the "truly difficult part of the republican criminologist's political agenda is to find or build social movements to mobilize against the excesses of the criminal justice system. . . . [T]he symbolic power of the criminal law makes mobilization against criminal justice neglect comparatively easy, [but] this symbolic power makes mobilization against criminal justice excess difficult" (Braithwaite 1991:25-26). The crux of the

cuses on the role Scheingold et al. assign to feminism and feminist politics. Because they are primarily interested in calling attention to several idealistic assumptions of republican criminology, which are “likely to make a bad situation even worse” (p. 761), they do not address feminist arguments and debates on violence against women and children. Instead, republican and feminist are treated as identical when the authors are describing “values and policies.” This attributed identity is unfortunate for several reasons. First, I am uncertain how much support exists for republican criminology by academic feminists. While I have collaborated with Braithwaite in a work that describes a strategy of responding less punitively but more effectively (we think) to violence against women (Braithwaite & Daly 1994), I am one feminist scholar among many with diverse positions on the matter. Second, feminist analyses and activism concerning violence against women and children have a long and varied history, one independent from the recent emergence of republican criminology (Dobash & Dobash 1992; Gordon 1988; Pleck 1987; Schechter 1982). In developing republican criminology, Braithwaite and Pettit (1990) have tried to incorporate this feminist scholarship, and they have also attempted to respond to their feminist critics in criminology. Therefore, while Scheingold et al. use republican criminology as their conceptual foil, feminist research and debates on violence against women may have offered even greater reach. I shall elaborate on my claim by discussing how, with a wider appreciation of feminist theory and research, I would have interpreted the CPA case study differently. I examine three areas: the importance of distinguishing between victim and victim-centered advocacy, the political-historical contexts of activism and reform, and varied feminist analyses of men's violence.

Victim Advocacy versus Victim-centered Advocacy

Scheingold et al. emphasize that advocates were not driven by vindictiveness but by the republican goal of dominion: “to promote policies that provided a sense of security to victims and potential victims” (p. 759). Theirs was a *victim-centered* advocacy, not victim advocacy. This distinction is crucial for appreciating the positive role that advocacy groups have played in the United States over the past 20 years.

During the 1970s and 1980s major legal change took place in police and prosecutorial responses to rape (Bienen 1983; Horney & Spohn 1991; Spohn & Horney 1992), spouse assault (Dobash & Dobash 1992), and child abuse and neglect (Myers 1992). It is

matter is that the Washington State leaders of victim advocacy organizations were intent on mobilizing against criminal justice neglect, not criminal justice excess.

beyond the scope of this comment to describe the character of these reforms and their impact,² but it is possible to characterize the visions of those women (and male allies) seeking change. Although diverse, movement activists viewed violence against women as integral to male domination and power in intimate relations; while the immediate effort was to create safe spaces for women and children (e.g., shelters for battered women) and to change individual men's behaviors, the long-term goal was social change. The impetus for activists working with state institutions to reform rape law and to change responses to intimate violence was to challenge men's entitlement to control or "own" women and their bodies. It was a victim advocacy that said women should not suffer men's abuse or sexual violence because they are women or because they are wives or partners of abusive men. Although feminist analyses of the causes of men's violence toward women were (and are) varied, the structural sources of men's power and entitlement over individual women was prominently featured.

I want to distinguish this form of advocacy from that chronicled by Scheingold et al. of the Washington State advocates. The named advocates—Trish Tobias, Ida Ballasiotes, and Helen Harlow—spoke of a *victim-centered* advocacy. By this I refer to a sole focus on individual victims' rights of redress without a relational or social structural understanding of the societal conditions conducive to violence. Further, the advocates did not address (nor were the politicians apparently interested in) the far more prevalent "garden variety" forms of sexual violence, especially those incidents between men and women, or men and children who know each other. Rather, the advocates believed that men convicted of crimes of sexual violence and pedophilia in particular were "predators—a breed apart, destined to recidivate and almost certainly beyond redemption" (p. 759). Although no information was supplied on the female advocates' class locations or racial identities, my assumption is that because they were middle class and white, they were especially blind to the dilemmas of using the criminal justice system. They seemed unable to imagine that potential offenders might include their own family members and kin, they trusted the criminal justice system to produce outcomes in their interest, and they divided the world into the "good" (law-abiding and conventional people "like us") and "evil" (a predatory, pathological Other not like us). Victim-centered advocacy is easily amenable to punitive, law-and-order responses to crime that center on more punishment, longer periods of incapacitation, and with little hope of reforming and reintegrating offenders. Victim-centered strategies tend to

² To simplify my discussion, I focus on men's physical and sexual abuse of women. Women's violence, especially toward children, presents important problems for feminist theory and activism, which I do not address here (but see Kelly 1991).

pathologize and individualize crime and to demonize offenders. This was the legislative script for the CPA.³

Victim advocacy, on the other hand, can be positive and progressive. Such advocacy can bring the suffering and injustice of victims to light, see victimization in social and relational terms, and work toward changing relations of power, privilege, and dependency. It is capable of imagining a just response to crime that has both victims and victimizers in view, a position I have endorsed for some time (Daly 1989, 1990). I would take issue, then, with Scheingold et al.'s assertion that "victims [are] natural spokespersons for republican/feminist values and policies" (p. 730). Spokespersons would be members of socially subordinated groups or those whose experiences are not registered in law or political life. Victim-centered advocacy, on the other hand, may attend to a segment of socially subordinated groups but not see the totality. A key question is whether victim advocacy as a vision of bottom-up social transformation of law and social institutions will inevitably fall victim to a more conservative law-and-order victim-centered advocacy.

The Political-Historical Context of Activism and Reform

The CPA should be placed in historical context: it was passed in 1989, prompted largely by sensational cases of sexual violence toward children. It was part of a broader political turn in the United States toward conservatism in criminal justice policy that was consolidated in the 1980s. On this shift in politics and priorities, Dobash and Dobash (1992:175) suggest, with reference to domestic violence, that the "early efforts of the [battered women's] movement to change practice in the justice system occurred in the context of the waning of the old progressive order [in the 1970s] and the beginning of the new" law-and-order societies of the 1980s and 1990s. While domestic violence advocacy focused on ways of bringing intimate violence to light and on ensuring women's and children's safety from violent men, rape law reform centered on methods of assisting victims in reporting rape and in prosecuting rape complaints without revictimizing rape victims. Both called for changes in police and prosecutorial procedures to make the criminal justice system more responsive to formerly unrecognized crimes. Such responsiveness did not, however, translate to decreased rates of intimate violence or rape or to a groundswell of noticeable change in men's violence.

³ The CPA's legislative script is based on what Ross (1992) refers to as the dominant paradigm in responding to drunk driving, where "killer drunks" are the focus of criminal law and individualist, punishment-oriented strategies. Reinerman (1988) shows how this dominant paradigm, supported by organizations such as Mothers Against Drunk Driving, resonated with the conservative politics of the 1980s.

The law-and-order politics of the 1980s in the United States were a reaction, in part, to the perceived failure of an expanding, responsive criminal justice system (for more in-depth analyses, see Chambliss 1994; Savelsberg 1994). As the criminal justice system appeared increasingly unable to do anything about reducing crime, the public's reaction, which was abetted and amplified by media sensationalism, was that more justice system resources (more police, more prisons) were required to fight crime and that more "get tough" approaches were necessary to deter potential lawbreakers (Surette 1992:13–14).⁴ Whether the perceived danger lay in big-time drug dealers or in sexual violence by strangers, crime became personified: particular stories, both local and national, of evil men (and some women) entered the public's consciousness and imagination of crime. The CPA's major elements embody a media-constructed view of predator criminals (Surette 1994) and the responses deemed appropriate toward them: capture the dangerous, sentence them for a long time, incarcerate them even longer with a civil procedure, and alert the community to where they plan to live after release from prison. The interpretive problem is how to untangle two events that occurred during the 1970s and 1980s: a shift in emphasis from a responsive, reformist justice system to a repressive, law-and-order system; and a shift from a largely voluntaristic and autonomous victim-advocacy movement to one that increasingly relied on state supports and the machinery of criminal justice.

These two events, which have distinctive if somewhat shared histories, are merged in Scheingold et al.'s analysis when they conclude that "victim advocacy is rooted in, and dependent on, an overheated and fear-ridden political climate" (p. 760). They also suggest that "victim advocacy may be as much a reflection of

⁴ The two U.S. national sources of crime data, the Federal Bureau of Investigation's Uniform Crime Reports (UCR) and the Bureau of Justice Statistics' National Crime Victimization Survey (NCVS), give different pictures of crime trends. The UCR-derived "crime rate," which is based on crimes reported to the police for seven index offenses (murder and nonnegligent manslaughter, aggravated assault, rape, robbery [the violent crimes, which are about 12% of crimes reported], burglary, larceny-theft, and motor vehicle theft [the property crimes]) peaked in 1980, dipped in the mid-1980s, nearly reached 1980 levels in 1990, and decreased somewhat in 1992. From 1972 to 1992, the UCR violent crime rate has increased faster than the property crime rate (Federal Bureau of investigation 1992:58; 1993), having nearly doubled. By contrast, the NCVS, which is based on a sample survey of 50,000 households and estimates the rate of victimization of households and of individuals 12 years of age and older, shows sharp decreases in theft and burglary from households and theft from individuals, and no change in the level of all the violent crimes measured (all assaults, robbery, and rape) from 1973 to 1992 (see Maguire & Pastore 1994:247–48, 258). The NCVS data do not bear out the media-generated perception of an "epidemic of violence." The UCR-derived homicide rate is about the same today as it was in the first part of the 1930s (Reiss & Roth 1993:50–51), and it is somewhat lower than it was in 1980 (Federal Bureau of investigation 1992:58; 1993). Increases in the UCR violent crime rate, which are primarily caused by increases in aggravated assault, may reflect greater police professionalism in responding to crime and a somewhat changed mix of circumstances and offense characteristics that make it more likely that citizens are now reporting these offenses.

the punitive political climate as it is a policy force in its own right" (p. 747). Should we assume, then, that when victim advocacy emerges, punitiveness is likely to follow? Or do we conclude that both victim-centered advocacy and a punitive political climate emerged together, even though we cannot be sure of the underlying causes? Some historical evidence may help: We know that second-wave women's movement activism around violence against women began a decade before the punitive ethos was consolidated in the 1980s. We do not learn from Scheingold et al.'s study whether any of the Washington State victim advocates were associated with feminist movement work in the previous decade, although we learn that whatever preventive goals the advocates had, it was "more expedient for politicians to respond to the victims' punitive . . . impulses" (p. 731). Therefore, to the question of whether it is inevitable that victim advocacy will devolve into victim-centered advocacy, we may add another: Is it inevitable (or even likely) that politicians will be more responsive to punitive than preventive goals of criminal justice? I came away from Scheingold et al.'s study wishing that they had considered how broader historical and political contexts may render victim advocacy progressive in one time period and regressive (or more victim-centered) in another.

Varieties of Feminist Thought and Activism

The ferment and debate among feminist academics and activists on methods of responding to men's violence toward women and children is absent from Scheingold et al.'s analysis. For over a decade, the "pro" and "anti" pornography debates have divided feminists (Vance 1984; Russell 1993); these debates are intimately connected to methods of controlling men's violence. Within criminology, the debate has more than two sides: Some wish to work toward eliminating the criminal justice system (for statements by abolitionists see Beijerse & Kool 1990; Finstad 1990; Meima 1990); others wish to join feminist advocacy with effective state responses (for discussion of an "enabling state," see Dobash & Dobash 1992); and still others are wary of criminal justice reforms because they may act to reinforce rather than challenge sexism, racism, classism, and heterosexism (see Mama 1989; Smart 1989). Feminists of color have drawn attention to the multiple influences of gender, race, and class in describing and controlling men's sexual violence; they show how white women's and women of color's perceptions may not be shared (hooks 1990; Smith 1991). We have learned that rape crisis centers may be more effective when they are racially specific (Matthews 1989). While some feminists have been building on Carol Gilligan's (1982) identification of different male and female moral voices in arguing for a justice system based on an ethic of

care (Kellough 1992), others remain skeptical of such gendered dichotomies (Daly 1989) or argue that they are forged in the context of male domination (MacKinnon 1987). There have been longstanding debates over how spouse abuse is counted and whether women's violence toward their mates is a problem (compare Dobash et al. 1992 with Straus 1993). There are major questions about how to conceptualize and define sexual violence (Kelly 1988) and how to explain women's acts of physical and sexual violence toward children and women (Kelly 1991). My review merely scratches the surface (see Daly & Chesney-Lind 1988 for elucidation and other examples).

There are many among us who are deeply concerned with civil liberties and the protection of individuals from state abuses of power. Despite Scheingold et al.'s characterization, feminists in criminology do agree that "[v]ictims and their advocates tend to mobilize around incidents that are both horrifying and aberrational" and the "climate of opinion generated by such events . . . is likely to be conducive to punitive policy responses" (p. 734). It is crucial here to distinguish between grassroots advocates and academic feminists who are familiar with research on criminal law and justice system practices. Many in the former group may be moved by sensational stories and not see how such stories may play into a law-and-order politics, but few in the latter could be characterized this way. And in a related matter, while the state as a site of activism and social change is typically viewed with ambivalence by feminists, particularly academic feminists, this does not mean that we wish to throw out a democratic state with the patriarchal, racist (etc.) bathwater. At issue is not that the state should have little or nothing to do with the control of crime or the administration of justice, but that other socializing institutions and other public policies may be more effective in reducing crime.

Scheingold et al.'s construction of a debate with republican and feminist criminologists on one side and civil libertarians (among others) on the other is thus incomplete and inaccurate. It is incomplete in caricaturing a segment of feminist thought on men's violence without considering a wider set of feminist debates, and it is inaccurate in positing sharp differences among feminists in criminology, republican criminologists, and civil libertarians (among others) when I see far more agreement.

Aren't We on the Same Side?

Scheingold et al. suggest that the "results of victim advocacy in Washington lend more credence to the fears of its opponents than to the hopes of its republican and feminist supporters" (p. 735). I wondered, Which feminist supporters? And which feminist supporters at the local level? Surely, my hopes were not with the passage of the CPA legislation, and I wondered how many

other feminists in Washington State, who have participated in movement politics around violence against women, were, in fact, for the CPA. At a time when politicians—even apparently liberal Democrats in the United States—are using baseball metaphors (“three strikes and you’re out”) or gambling talk (“I’ll see your five years’ mandatory minimum and raise you five”) to fashion criminal justice policy, we all should have great cause to worry. I see in Scheingold et al.’s case study far more reason for civil libertarians, liberals, feminists, and republican criminologists to be allied than to view us as being on either side of a debate. Aren’t we roughly on the same side? If not, then a third contender ought to be brought in: the punitive, conservative, get-tough impulses of citizens and opportunistic politicians. Meanwhile, I would hope that civil libertarians and a loose collection of others who worry about the integrity of the criminal justice system might consider what role the state ought to have in crime and justice policy. Can state institutions and actions ever be enablers of progressive social change and social movements? What, more precisely, constitutes Scheingold et al.’s notion of “enlightened political leadership” (p. 760) in this area? Libertarian defenses against the abuses of state power are surely necessary but not sufficient for achieving a less violent and more just society.

References

- Beijerse, Jolande uit, & Renée Kool (1990) “The Traitorous Temptation of Criminal Justice: Deceptive Appearances? The Dutch Women’s Movement, Violence against Women and the Criminal Justice System,” in Rolston & Tomlinson 1990.
- Bienen, Leigh (1983) “Rape Reform Legislation in the United States: A Look at Some Practical Effects,” 8 *Victimology* 139.
- Braithwaite, John (1991) “Inequality and Republican Criminology.” Presented at American Society of Criminology Annual Meeting, San Francisco, Nov.
- Braithwaite, John, & Kathleen Daly (1994) “Masculinities, Violence, and Communitarian Control,” in T. Newburn & B. Stanko, eds., *Just Boys Doing Business: Men, Masculinities and Crime*. London: Routledge.
- Braithwaite, John, & Philip Pettit (1990) *Not Just Deserts: A Republican Theory of Criminal Justice*. New York: Oxford Univ. Press.
- Chambliss, William J. (1994) “Policing the Ghetto Underclass: The Politics of Law and Law Enforcement,” 41 *Social Problems* 177.
- Daly, Kathleen (1989) “Criminal Justice Ideologies and Practices in Different Voices: Some Feminist Questions about Justice,” 17 *International J. of the Sociology of Law* 1.
- (1990) “New Feminist Definitions of Justice,” in *Proceedings of the First Annual Women’s Policy Research Conference*. Washington, DC: Institute for Women’s Policy Research.
- Daly, Kathleen, & Meda Chesney-Lind (1988) “Feminism and Criminology,” 5 *Justice Q.* 497.
- Dobash, R. Emerson, & Russell P. Dobash (1992) *Women, Violence and Social Change*. New York: Routledge.
- Dobash, Russell P., R. Emerson Dobosh, Margo Wilson, & Martin Daly (1992) “The Myth of Sexual Symmetry in Marital Violence,” 39 *Social Problems* 71.

- Federal Bureau of Investigation (1992) *Uniform Crime Reports for the United States, 1991*. Washington, DC: Government Printing Office.
- (1993) *Uniform Crime Reports for the United States, 1992*. Washington, DC (microfiche)
- Finstad, Liv (1990) "Sexual Offenders Out of Prison: Principles for a Realistic Utopia," 18 *International J. of the Sociology of Law* 157.
- Gilligan, Carol (1982) *In a Different Voice*. Cambridge, MA: Harvard Univ. Press.
- Gordon, Linda (1988) *Heroes of Their Own Lives: The Politics and History of Family Violence, Boston, 1880–1960*. New York: Viking Press.
- hooks, bell (1990) "Reflections on Race and Sex," in b. hooks, *Yearning: Race, Gender, and Cultural Politics*. Boston: South End Press.
- Horney, Julie, & Cassia Spohn (1991) "Rape Law Reform and Instrumental Change in Six Urban Jurisdictions," 25 *Law & Society Rev.* 117.
- Kellough, Gail (1992) "Women in Law: Hegemonic Discourse and the Alienation of Power." Presented at American Society of Criminology Annual Meeting, New Orleans, 4–7 Nov.
- Kelly, Liz (1988) *Surviving Sexual Violence*. Minneapolis: Univ. of Minnesota Press.
- (1991) "Unspeakable Acts," 21 *Trouble & Strife* 339.
- MacKinnon, Catharine A. (1987) *Feminism Unmodified: Discourses on Life and Law*. Cambridge, MA: Harvard Univ. Press.
- Maguire, Kathleen, & Ann L. Pastore (1994) *Sourcebook of Criminal Justice Statistics 1993*. Washington, DC: Government Printing Office.
- Mama, Amina (1989) *The Hidden Struggle: Statutory and Voluntary Sector Responses to Violence against Black Women in the Home*. London: London Race & Housing Research Unit.
- Matthews, Nancy A. (1989) "Surmounting a Legacy: The Expansion of Racial Diversity in a Local Anti-Rape Movement," 3 *Gender & Society* 518.
- Meima, Marijke (1990) "Sexual Violence, Criminal Law and Abolitionism," in Rolston & Tomlinson (1990).
- Myers, John E. B. (1992) *Legal Issues in Child Abuse and Neglect*. Newbury Park, CA: Sage Publications.
- Pleck, Elizabeth (1987) *Domestic Tyranny: The Making of Social Policy against Family Violence from Colonial Times to the Present*. New York: Oxford Univ. Press.
- Reinarman, Craig (1988) "The Social Construction of an Alcohol Problem: The Case of Mothers against Drunk Drivers and Social Control in the 1980s," 17 *Theory & Society* 91.
- Reiss, Albert J., Jr., & Jeffrey A. Roth, eds. (1993) *Understanding and Preventing Violence*. Washington, DC: National Academy Press.
- Rolston, Bill, & Mike Tomlinson, eds. (1990) *Gender, Sexuality, and Social Control*. Bristol, Eng.: European Group for the Study of Deviance and Social Control.
- Ross, H. Laurence (1992) *Confronting Drunk Driving: Social Policy for Saving Lives*. New Haven, CT: Yale Univ. Press.
- Russell, Diane E. H., ed. (1993) *Making Violence Sexy: Feminist Views on Pornography*. New York: Teachers College Press.
- Savelsberg, Joachim J. (1994) "Knowledge, Domination, and Criminal Punishment," 99 *American J. of Sociology* 911.
- Schechter, Susan (1982) *Women and Male Violence: The Vision and Struggle of the Battered Women's Movement*. Boston: South End Press.
- Scheingold, Stuart A., Toska Olson, & Jana Pershing, "Sexual Violence, Victim Advocacy, and Republican Criminology: Washington State's Community Protection Act," 28 *Law & Society Rev.* 729.
- Smart, Carol (1989) *Feminism and the Power of Law*. New York: Routledge.
- Smith, Valerie (1991) "Split Affinities: The Case of Interracial Rape," in M. Hirsch and E. F. Keller, eds., *Conflicts in Feminism*. New York: Routledge.
- Spohn, Cassia, & Julie Horney (1992) *Rape Law Reform*. New York: Plenum.

- Straus, Murray (1993) "Physical Assaults by Wives: A Major Social Problem," in R. J. Gelles & D. R. Loseke, eds., *Current Controversies on Family Violence*. Newbury Park, CA: Sage Publications.
- Surette, Ray (1992) *Media, Crime, and Criminal Justice: Images and Realities*. Pacific Grove, CA: Brooks/Cole.
- (1994) "Predator Criminals as Media Icons," in G. Barak, ed., *Media, Process, and the Social Construction of Crime: Studies in Newsmaking Criminology*. New York: Garland Publishing.
- Vance, Carole S., ed. (1984) *Pleasure and Danger: Exploring Female Sexuality*. New York: Routledge & Kegan Paul.