

WHO BENEFITS AND WHO LOSES IN THE CRIMINALIZATION OF IPV

Considering the Logic of Punishment and Impact of Legal Intervention
as a Tertiary Prevention Strategy

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GOALS AND OUTLINE OF PAPER

- Review research
 - Provide brief history
 - Discuss “punishment logic”
 - Offer recommendations
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APPRECIATION AND DISCLOSURES

- NSF/NIJ
 - Workshop conveners
 - Audience

 - Anti-violence activists
 - Academics
 - Prison Abolitionists

 - Timeliness of discussion
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- *“The disconnect between battering as it is practiced and battering as it is criminalized is vast and it is significant (Turkheimer, 2004)*
 - Shifts in public opinion
 - Political re-orientation
 - Research refuting the effectiveness
 - Sustained commitment to using the law and allocating resources to punishment
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ELEMENTS OF CRIMINALIZATION

- Efforts to control IPV the criminal and civil laws
 - Criminal punishment and deterrence of batterers
 - Treatment mandated by legal system
 - Court orders that limit contact

MORE SPECIFICALLY

- 1. development of new laws
 - 2. creation of specialized courts
 - 3. incentives to encourage state sanctions (arrest and incarceration)
 - 4. creation of victims advocacy programs in legal agencies
 - 5. pro-prosecution and advocacy collaborations
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HISTORY

1970s:

- self-help groups
- personal is political
- social justice orientation
- broad demands

1980s:

- systems advocacy
- “rights” narrative
- feminist jurisprudence
- legislative changes

- 1990s:
 - Institutionalization
 - VAWA
 - Coordinated community responses
 - Mandatory arrest
 - Pro prosecution
 - **BUILD UP OF A PRISON NATION: IPV embedded in criminal legal system and punishment logic**
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LOGIC OF CRIMINALIZATION

- 1. law is incidence-based, and most survivors do not experience IPV that way.
 - 2. law is ill-equipped to deal with social control and disenfranchisement that characterized most relationships where IPV occurs.
 - 3. law does not take context into account and IPV happens within the context of intimacy, culture, history and other variable
 - 4. law doesn't provide for intervention that helps victims heal or for violence to end within the context of a relationship
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- 5. the punishment logic stands above empirical analysis or critique

funding

politics

reputation

momentum

NEW QUESTION

- Instead of “ who benefits” we should ask “who loses the most” when we rely on too much on the criminal legal system?
 - Women of color
 - Queer people
 - People with criminal background
 - Poor women
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WHAT REALLY HAPPENS?

- Women are hurt
 - They turn to system for support
 - They are not supported
 - Violence increases
 - They don't turn to system for support
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- They are considered “non-victims”
- They are blamed
- They are actually HURT by criminalization.

Beyond not being helped as much, victims of IPV are criminalized.

RECOMMENDATIONS

- 1. consider harm caused by criminalization
 - 2. examine criminalization logic and see where it aligns (or does not align) with philosophy of prevention
 - 3. consider race and class dynamics and context
 - 4. explore alternatives, like Restorative and/or Transformative Justice
 - 5. ask different questions and do different research on what would end violence
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