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
APPRECIATION AND DISCLOSURES

• NSF/NIJ
• Workshop conveners
• Audience
• Anti-violence activists
• Academics
• Prison Abolitionists
• Timeliness of discussion
• “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
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
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
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
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
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
• 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