From Dollars to Sense: A Critique of Government Funding for the Battered Women's Shelter Movement

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> The shelter movement is sometimes viewed as the answer to problems of violence and not as a step in the social change needed to end violence.[1]

This article examines the battered women's shelter movement and its funding. It criticizes the movement's reliance on government funding and argues that the movement must strive toward self-sufficiency. It also examines and critiques non-government funding sources and suggests which ones offer the best interim measures. Whether self-sufficiency or alternative sources of funding can substitute for government money represents an empirical question for each shelter. This article recognizes the theo-

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* LL.M., Cambridge University, 1988; J.D., Harvard Law School, 1990. The author is currently clerking for Chief Justice Rabinowitz on the Alaska Supreme Court. This article is based on an eclectic mix of empirical data, personal testimony, and philosophical ideas. The empirical data comes both from surveys sent out by others, and a survey sent out by this author to 250 shelters across the country. Five shelters in each state were selected on a random basis to receive the survey. Seventy-two surveys were completed and returned, comprising sixty-six shelters and six safehome programs.

The personal testimony comes essentially from three sources: archival research, movement literature, and the popular press. Archival research was conducted from three sources: the Battered Women's Directory Project in the Schlesinger Library at Radcliffe College, the Women Center for Policy Studies Collection at the Schlesinger Library, and the National Coalition Against Domestic Violence's vertical files at its headquarters in Washington, D.C.

The philosophical ideas stem primarily from various women in the movement and feminist theorists. The core of this argument emerges from some original thinking about feminism, funding, and the future.

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1. Sandy Barnett, Volunteer Coordinator, The Crisis Center, Inc., Manhattan, Kansas (responding to the survey question, "In your opinion, what has been the effect of the battered women's shelter movement for society and what have been its shortcomings, if any?").

retical possibility of alternatives and argues that even if shelters could not replace government funds totally, shelters should still reject government money. This article argues that government funding causes dependency, autonomy loss, a low level of government commitment, co-optation, hierarchy, professionalization, homophobia, and bureaucracy. After examining the disadvantages of foregoing government money, it concludes that long-term gain for the movement and for women outweighs any disadvantages that such a proposal imposes.

Section One exposes the premises and methodology which support this argument against shelter reliance on government funding. This section argues that an evaluation of the battered women's shelter movement requires isolating sheltering from the rest of the battered women's movement, giving the funding issue particular attention, and establishing criteria by which to judge the movement's success. It sets the analysis and methodology squarely within a feminist tradition.

Section One: The Basics

A Focus on Sheltering

Today, society acknowledges, discusses, and studies woman battering.[2] A movement against woman battering exists; it involves both legal reform efforts[3] and the sheltering of battered women. This article focuses on the latter. Lenore Walker, most widely noted for her work on the battered woman's syndrome, called sheltering "the cornerstone of battered women's programs."[4] While the individuals and issues involved in both aspects

2. "Woman battering" has been deliberately chosen for the purposes of this article. "Domestic violence" diverts attention away from the gendered reality of the victimization.

This most recent interest in woman battering as a social phenomenon, began approximately twenty years ago. No article on woman abuse appeared in the *Journal of Marriage and the Family* from its founding in 1939 until 1969. *See* John O'Brien, *Violence in Divorce Prone Families*, 33 J. Marriage & Fam. 692 (1971). Yet, american interest in women abuse began when the Puritans of colonial Massachusetts enacted the first laws against woman battering. A second reform movement, which lasted from 1874 to about 1890, established societies for the prevention of cruelty to women. However, the scale of the present efforts are greater than ever before. Elizabeth Hapkin Pleck, Domestic Tyranny: The Making of Social Policy Against Family Violence from Colonial Times to the Present 3-4 (1987).

3. "During the last decade, forty-nine states and the District of Columbia have enacted new legislation to provide legal remedies to victims of domestic violence." Lisa G. Lerman, *A Model State Act: Remedies for Domestic Abuse*, 21 Harv. J. on Legis. 61 (1984). See *infra* Section Three for a critique of the law reform efforts to date.

4. Lenore Walker, The Battered Woman 203 (1979).

of the movement overlap, sheltering deserves its own analysis.

Most obviously, shelters offer women safety. Rampant and overwhelming battering of women exists, much of it severe. In 1986, thirty percent of all women killed were killed by their husbands or boyfriends.[5] That amounts to approximately 4000 dead women.[6] Many more women suffer pain short of death. "One in six relationships is marred by violence."[7] Often shelters present the only means of escape for women.[8] As Wendy Gourdeau, a formerly battered woman, testified before the House Subcommittee on Criminal Justice:

> If there were no shelter, I wouldn't have left home because there was nowhere else for me to go. Both my parents are dead and I have no other family. My friends fear my husband .... Without the Shelter, I know that I would be dead now. My husband would have beaten me to death or would have shot me.[9]

Women who seek refuge in a battered women's shelter generally lack the financial resources to obtain a hotel room or a new place to live.[10] Traditional social services remain insufficient op-

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5. George H. Colt, *Stop! For God's Sake Stop!*, Life, Oct. 1988, at 129 (citing Uniform Crime Reports, FBI, 1987).

6. *Women, Violence, and the Law: Hearings Before the House Select Comm. on Children, Youth, and Families*, 100th Cong., 1st Sess. 37 (1987) (statement of Elizabeth Holtzman, District Attorney, Kings County, New York) [hereinafter *Women, Violence, and the Law*].

7. Colt, *supra* note 5, at 123.

8. The following statements, by an abused woman, shows the total lack of support she faced:

> I have been kicked in the abdomen when I was visibly pregnant .... I have been slapped, kicked, and thrown, picked up again and thrown down again. I have been punched and kicked in the head, chest, face, and abdomen more times than I can count. Early in our marriage I went to a clergyman who, after a few visits, told me that my husband meant no real harm .... I was encouraged to be more tolerant and understanding. Next time [that my husband abused me], I turned to a doctor. I was given little pills to relax me and told to take things easier. I turned to a professional family guidance agency. ... I had to defend myself against the suspicion that I wanted to be hit, that I invited the beatings. I called the police one time. They not only did not respond to the call, they called several hours later to ask if things had "settled down." I could have been dead by then! I have nowhere to go if it happens again .... Everyone I have gone to for help has somehow wanted to blame me and vindicate my husband. ... I have learned that no one believes me and that I cannot depend upon any outside help.

Del Martin, *Battered Wives* 1-5 (1975), *reprinted in* Claudette McShane, *Community Services for Battered Women*, 24 Soc. Work 34, 35 (1979).

9. *Victims of Crime: Hearings on J.R. 2786, H.R. 3352, and H.R. 3678 Before the Subcomm. on Criminal Justice of the House Comm. on the Judiciary*, 100th Cong., 1st Sess. 52-53 (1987) (testimony of Wendy Gourdeau) [hereinafter *Victims of Crime*].

10. *Refuge for Battered Wives*, 106 Intellect 353 (1978).

tions for most battered women. "For every 100 beds available in Los Angeles for homeless men, there are five beds for women, but only one bed for women with children."[11]

A safe space allows a woman to take control of her life. The shelter often awakens women to the unacceptability of woman battering.[12] Battered women will be "unable to arrive at realistic decisions or act upon them unless they have this safety."[13]

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11. *See* Nancy Rubin, *America's New Homeless*, McCalls, Nov. 1988, at 118, 119. Often activists report that women have only $20 when they leave their batterer. For example, after her husband abused her and her children for more than six years, Robin Elson finally left: "when Jack passed out in his chair, Robin packed two shopping bags with clothes and took $20 she had taped under a table. Hiding with the children in the back room of an auto parts store, she spent four hours on the phone hunting for a battered women's shelter." Faye Fiore, *A Battered Wife Wins Acquittal in Murder Case*, L.A. Times, Dec. 26, 1989, at B1, B3. Even if a woman had a rental allotment through the state under current public assistance, the amount often proves inadequate given the tight market in low income housing. *See* Robert Hirschfield, *Homeless Families: A Women's Issue*, Christian Century, Aug. 13-20, 1986, at 703. Various factors cause a tight housing market including inner-city gentrification, decreased construction, condominium conversion, and the elimination of federal support for public housing. Rubin, *supra*, at 119. Battering has been linked as a significant cause of homelessness for women and children. Jan Hagan, *Gender and Homelessness*, 32 Soc. Work 312 (1987) (woman battering is the cause of homelessness for 11.1% of the homeless women).

12. This article makes a distinction between feminist shelters and others. When referring to the movement's potential for changing society, reference is to feminist shelters. The importance of feminist shelter from a historical perspective was explained by Betsy Warrior. While refuges for women in crisis have existed for hundreds of years, they did not "address (let alone try to solve) the problem of battered women as a flaw in the social fabric that highlighted the generally brutal and degrading treatment women received." Betsy Warrior, Battered Women's Directory 1 (9th ed. 1985). She criticizes these convents, hospitals, asylums, charitable institutions, poor houses and the like, for putting the interest of men, the family or community above women's interests. These institutions heal a women's wounds, give her advice on how to cope, and send her back or keep her locked up forever. *Id.* at 1. She concludes "it does seem to make all the difference when a shelter is being set up for women with a feminist consciousness." *Id.* at 3. Patricia Price, a formerly battered woman acknowledged the importance of staying at a feminist shelter. She reports,

> I truly believe that I would be dead today without having access to services that directly focused on my needs as a victim of domestic violence, and I am here as a very fortunate person. There are, in fact, many victims who have died believing that it was their fault and that there was no way out.

Reauthorization of the Adoption Reform Act of 1978 and the Family Violence Prevention and Services Act of 1984: Hearings Before the Subcomm. on Children, Family, Drugs, and Alcoholism of the Senate Comm. on Labor and Human Resources, 100th Cong., 1st Sess. 94 (1987) (testimony of Patricia Price, Iowa Children and Family Services, Des Moines, Iowa) [hereinafter *Adoption Reform Act Reauthorization*].

13. Walker, *supra* note 4, at 189. One survey asked 1000 battered women to judge the effectiveness of legal and other services in terms of their satisfaction with the procedures and process and how those results improved their circumstances as a whole. Battered women's shelters received higher effectiveness ratings than phy-

Shelters try to help women see their options and reach decisions.[14] For example, Women's Advocates, in Minneapolis, does

> whatever possible to help a battered woman reassert control over her life: accompany her to the hospital or help her find a new apartment, apply for welfare or get a court order for protection. . . . [T]he shelter often provides child care so women can meet with their attorneys or attend classes and support groups.[15]

Women shelter residents also lend valuable support. "They discuss the importance of getting an apartment above the ground floor, so he won't come through the window; of the best kind of window bars; of varying their routes to work each day."[16] Summing up the importance of women shelters, Mary McKenzie, a shelter resident, said, "I had no self-confidence when I got to the shelter . . . I was scared of anything and everything. By the time I left, I had some of my self-confidence back."[17] A resident at Haven House said, "I've only been gone a few days, but for the first time in years I've been able to walk outside and feel free. Do you know what that really means? To feel good when you thought you never would again. To feel the sun shining on you when you've felt no warmth for years."[18]

Most importantly, shelters offer a mechanism to end violence

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sicians, nurses, clergy, district attorneys, police, social service and counseling agencies and lawyers.

Effectiveness of Formal Help-Sources used by Battered Wives

Formal help-sources	Very or somewhat efffective %	Caused increased violence %	Number of subjects reporting
Physicians, nurses	31	9	330
Clergy	34	7	333
District attorney	38	17	119
Police	39	19	537
Social services & couns. agencies	47	8	537
Lawyers	50	11	473
Battered Women's Shelters	56	7	212
Women's groups	60	5	244

Lee H. Bowker, *Battered Women as Consumers of Legal Services: Reports From a National Survey*, Response to the Victimization of Women and Children, Issue 1, 1987, at 10, 13 (citing Alice Lake, *New Hope for Battered Wives*, Women's Day, Mar. 9, 1982, at 120-23); *see also* Lee H. Bowker, *The Effect of Methodology on Subjective Estimates of the Differential Effectiveness of Personal Strategies and Help-Sources Used by Battered Women* (Aug. 1984) (paper presented at the Second National Family Violence Research Conference, Durham, New Hampshire).

14. *See* Walker, *supra* note 4, at 203.

15. Colt, *supra* note 5, at 125.

16. *Id.* at 125.

17. *Id.* at 130.

18. Joseph N. Bell, *New Hope for The Battered Wife*, Good Housekeeping, Aug. 1976, at 94, 138.

by eradicating patriarchy. That mission guided early shelters, which emerged from the grass roots feminist activism of the 1970s:

> The first Boston shelter, Transition House, was . . . influenced by women's liberation ideas. Although the two women who started the shelter were former battered women, they were soon joined by two former members of Cell 16, one of Boston's earliest radical feminist groups. Women using the house were encouraged to explore their personal lives, learning the political parameters of "private" problems. For the activists at Transition House, physical abuse was not an isolated fact of daily existence. Battering was an integral part of women's oppression; women's liberation its solution.[19]

Shelters provide a sisterhood community for battered women. Most shelters are women-only environments.[20] This environment fosters bonding between women. Cheryl Beardsley, a psychologist and founder of Women's Advocates in Minneapolis, said "For many of them, bonding with other women is a novelty; abused women are often isolated by their abusive partners and taught to be jealous of other women."[21]

This environment encourages empowerment and sets the stage for dramatic change. "Sheltering strikes at the very heart of the batterer's isolation strategy by suddenly immersing his wife in communal living. This radical . . . change in the social life of the battered wife sets the stage for a major reorientation of her approach to life."[22] This unique coming together of women in time of adversity, helping each other, can provide a catalyst to recognizing and challenging oppression, moving women forward in their quest to eliminate it.[23]

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19. Susan Schechter, *Building Bridges Between Activists, Professionals, and Researchers*, in Feminist Perspectives on Wife Abuse 302 (Kersti Yllö & Michelle Bograd eds. 1988).

20. However, the shelters do house the male children of battered women. While debate exists as to the proper role of male shelter workers, *see, e.g.*, Susan Schechter, Woman and Male Violence: The Visions and Struggles of the Battered Women's Movement 258 (1982), currently 90% of the shelters have 100% female staffs and another 8% have a staff composed of 75% to 99% females. Only 2% of shelters surveyed responded that their staff was comprised of less than 75% women. These statistics have remained relatively constant since the inception of most shelters. One year after operation, 89% of the shelters had 100% female staff. Another 9% reported that 75-99% of their staff was female. Only 2% responded that their staff had less than 75% women. Survey by Merle Weiner (1989).

21. Colt, *supra* note 5, at 125.

22. Lee H. Bowker & Lorie Maurer, *The Importance of Sheltering in the Lives of Battered Women*, Response to the Victimization of Women & Children, Winter 1985, at 2, 7.

23. *See* Micheline Beaudry, *Battered Women* 88 (Lorne Huston & Margaret Heap trans. 1985). Also, "[t]he experiences of feminist women's shelters have an effect outside the feminist movement. Women from all walks of life with different backgrounds and values work out their own alternatives and discuss their own

However, shelters must do more than patch women up and send them back to a violent and sexist society. Women must be free from violence and the patriarchy that keeps them oppressed. The sisterhood embedded within the battered women's shelter movement can give women the strength, the ideology, and the infrastructure to revolutionize the status quo.[24] Women need to be reawakened to this possibility.[25]

Shelters must foster a message that patriarchy is wrong and that change is possible. They must demand that violence against women cease and that the abuser be severely punished.[26] The

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ideas and hopes in relation to the model put forth by the radical feminists." *Id.* Sheltering has raised the visibility of the issue. Peter H. Heidig, *Women's Shelters, Men's Collectives and Other Issues in the Field of Spouse Abuse*, 9 Victimology 464, 469 (1984). It conveys a message to society of the strength of women working together.

24. Here sisterhood connotes a truly colorful movement, free from both classism and racism. While many women view "sisterhood" as a white, middle-class movement, *see, e.g.*, bell hooks, Ain't I A Woman: Black Women and Feminism 188 (1981), this criticism includes all women in formulating and reaching utopia.

25. As a battered woman wrote,

RISE UP ANGRY

we have been sleeping bears
and we have been roused
we will not sleep again
until our world is no longer
at war with itself.

and the bear is angry
we will raise havoc with injustice
as we see now clearer and clearer
with eyes that are no longer sleepy
we will call upon the goddesses
we will react with the rage of the
mother bear and will protect
the victim, the innocent, the young and the old

those who are responsible will shudder
from the wrath of this mother bear
and will change their ways

we are not vulnerable
we are strong
we are not divided
we are together
we are not alone
we are united
we are not
we are not one mother bear
we are a herd of bear
we are strong
we are invincible
and we rise up angry.

Mary Marecek, Say, "No!" to Violence: Voices of Women Who Experience Violence 47 (1983) (emphasis added).

26. This is discussed at greater length at *infra* notes 222-234 and accompanying text. This article does not advocate treatment of the abuser. Theories of treatment

movement must strive for its own extinction. Women must feel free to leave a batterer immediately, finding refuge in a women-centered self-help community, composed primarily of volunteers. This environment should provide the women with safety, friendship, and advice. It should welcome and support her in her life decisions, and help her explore the full range of alternatives available. It should raise her consciousness to the orthodoxy and advocate methods for her to challenge, change or destroy the system. She will feel connected to the shelter and the people in it; she will return both to help other women and to maintain the relationships she established there. Each woman will become connected to this community so it grows and grows. The ideology is liberation. Women will support each other in every aspect of their lives. Children will grow up knowing this community and its values and seeing its importance. The ideology multiplies and women find that society begins to reflect it. Society responds by incorporating the ideology into its institutions, or by destroying them to make way for a better order. Over time, society transforms into a violence-free environment where each individual respects the importance of individuality and the community.

A Focus on Funding

A shelter requires a lot of money to operate. The average shelter's operating budget is $225,973, with annual budgets ranging from $40,000 a year to $700,000 a year.[27] Achieving adequate funding for shelters concerns women in the movement. As one activist said, "While the new laws are helping battered women to fight back, the first step toward adequately protecting victims of violence is funding for shelters."[28] Shelters require funding for rent, upkeep, daily staffing and services. Adequate funding means more

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have been analyzed as "perpetuat[ing] the misogynist hegemony which frequently inhabits social science discourse." Suzanne Hatty, *On the Reproduction of Misogyny: The Therapeutic Management of Violence Against Women*, in National Conference on Domestic Violence 323 (Suzanne Hatty ed. 1985). Moreover, non-criminal sanctions signal that such activities do not warrant punishment; diversionary schemes help to trivialize the crimes against women. *Id.* at 333. *See generally* Liane V. Davis, *Battered Women: The Transformation of a Social Problem*, 32 Soc. Work 306 (1987); *see also* 135 Cong. Rec. H4030 (daily ed. July 20, 1989) (statement of Rep. Morella) ("Why does battering occur? There are many theories explaining this behavior . . . . The truth is that batterers choose to abuse their partners because the choice is there to make, and there has been no consequence for these actions.").

27. Survey by Merle Weiner (1989). Fifty-six shelters responded to this question.

28. Seth Kaberon, *How Battered Women are Winning Their Battles*, Student Law., Mar. 1985, at 30, 34 (representing views of Ms. Kolbert).

than meeting the monthly bills; reserve money must be available for exigencies.[29]

While women in the movement share practical strategies for raising money,[30] rarely do they analyze the impact of funding sources on the movement.[31] For example, Susan Schechter's renowned book *Women and Male Violence: The Visions and Struggles of the Battered Women's Movement*, spends only six pages out of her three-hundred seventy page book discussing funding.[32] While Schechter marvelously chronicles the building of the movement, she unfortunately misses the transformative role that funding has played in the movement. She fails to specify the shelter's initial or current funding sources. She implies that most funding comes from the government, and warns that "in the rough times ahead, money and programs will be lost."[33] Yet, without questioning whether shelters should rely on government money, she advocates continued reliance on government funds. "Making public demands for services is the only way to place the burden upon those responsible for the institutional and economic discrimination battered women face."[34] Schechter only offers some general suggestions for protecting services before government funding cutbacks occur, such as developing temporary funding alliances,[35] funding diversification,[36] and reconceptualizing about "quality services" and the providers of such services.[37]

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29. Sojourn House in Springfield, Illinois, indicated the importance of reserve funds. Funded primarily through private donations and pledges, they explained, "Our rent is going up $50 a month and our coffers are being rapidly depleted. We get tired of requesting moneys. . . . We need your support to keep the house financially solvent and open." Letter from Linda Golaszewski, Sojourn House, Springfield, Illinois, to Betsy Warrior (Nov. 23, 1977) (available from the Battered Women's Directory Project in Schlesinger Library, Radcliffe College).

30. *See, e.g.*, Barbara Shaw & Margaret L. Fenley, Creative Uses of Title XX Funds for Services to Victims of Domestic Violence 2 (1980) (a manual produced by the Illinois Coalition Against Domestic Violence and "offered to sister organizations as a tool for use in efforts to secure public funding . . . .").

31. *But see* Sojourner Truth House, Resource Development for Domestic Violence Programs (1981); Julie E. Hamos, State Domestic Violence Laws and How to Pass Them: A Manual for Lobbyists (1980) (available from the National Coalition Against Domestic Violence).

32. Schechter, *supra* note 20, at 294-300.

33. *Id.* at 300.

34. *Id.* at 297. Schechter, in a later article, clarifies how this occurs: with new funding, "the shelter received external support and validation. Police, judges, and welfare workers were forced to listen more carefully because shelters now asserted a reinforced claim as legitimate community institutions." Schechter, *supra* note 19, at 305.

35. Schechter, *supra* note 20, at 295.

36. *Id.*

37. *Id.* at 296-97. She acknowledges that government money may cause a loss of autonomy, but in 1982 that was still speculative: "Many activists suggest that it is

Success Challenged

By some standards, the battered women's shelter movement represents a success. The number of shelters has risen dramatically in the last fifteen years. In 1976, at the beginning of the movement, "only a handful" of shelters existed in the United States.[38] In 1988, a popular news magazine reported, "For women who escape, an abundance of support is available. The prevalence of the problem has spawned a network of shelters, as many as 1000 nationwide, offering services from counseling to legal advocacy to children's programs."[39]

The movement's success must be evaluated on more than the number of shelters. At a minimum, almost all in the movement strive to eliminate battery; some seek to eliminate all violence.[40] Yet, rampant battering still occurs. "Between three and four million women are battered each year. More than one million of them seek medical care, making battery the single largest cause of injury to women in the U.S."[41] Some estimate that the numbers are even greater.[42] Woman battering may even be increasing. In

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just a matter of time before states will impose standards and the movement should at least have alternatives available." *Id.* at 298.

38. Linda Bird Francke, *Battered Women*, Newsweek, Feb. 2, 1976, at 48.

39. David Gelman & Regina Elam, *Prisoners of Pain*, Newsweek, Dec. 12, 1988, at 65.

40. The following poem found in *Say "No!" to Violence: Voices of Women Who Experience Violence* expresses that goal.

POEM OF CELEBRATION

Let's have a celebration
Let's have a party in the street

Let's dance and sing and laugh a lot

And say good-bye to grief.

We lived a life of fearfulness
A life of broken dreams
It's time to put away the past
of lies and cheats and schemes.

Our future is before us
A path of work and peace
Women helping women:
So war and crime will cease.

We are women in a movement
Saying no to power and might
Singing a celebration
Sharing our delight.

Mary Marecek, *supra* note 25, at 48 (emphasis added).

41. Colt, *supra* note 5, at 123.

42. Some authors estimate that as many as six million women are victims of physical abuse. *See, e.g.*, Patricia Skalka, *At Last We Have Hope*, McCalls, July 1985, at 25, 129. Researchers generally agree that the extent of woman battering is

1978, "an incident of wife-beating occur[red] every 30 seconds."[43] In 1987, "a woman is beaten every 18 seconds."[44] In Massachusetts alone, there were 58,000 hot line phone calls from battered women in 1988, compared to 54,000 in 1987.[45] Society today is just as violent towards women as it was twenty years ago at the movement's inception.

Following a long line of feminist writers, this article assumes that patriarchy[46] causes violence against women and that to eliminate violence, one must eliminate patriarchy.[47] The shelter move-

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seriously underestimated. U.S. Comm'n on Civil Rights, Under the Rule of Thumb: Battered Women and the Administration of Justice 1-3 (1982).

43. *Refuge for Battered Wives*, *supra* note 10, at 353.

44. *Women, Violence, and the Law*, *supra* note 6, at 1 (statement of Rep. Miller).

45. Alexander Reid, *Fewer Abused Women Served As State Aid to Shelters Drops*, Boston Globe, Oct. 27, 1989, at 1 (quoting Joan Stile, Director, Massachusetts Coalition for Battered Women Service Groups). Of course, successful outreach may be responsible for the increase in calls.

46. Patriarchy is a system and a theory and is not easily defined. Patriarchy has been defined by one scholar to be

> a system in which women are rendered invisible (and consequently less powerful) and in which the overwhelming power is unequivocally held in Western societies by aging white men . . . .
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> . . . .
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> . . . and being rendered invisible has occurred in many ways for women in Western societies. A few of the more obvious include: losing one's name on marriage, being defined as a non-worker in a capitalist society . . . , being written out of history, having no real say in the decisions which affect and shape our lives, our bodies, ourselves; being burned or locked away if we object and express our power and being relegated to a sphere designated the private sphere . . . , the sphere of household and family, as opposed to the sphere of government, finance, law and business, the public sphere, or as it is often called, the real world. We must regard this public/private dichotomy as one constructed by men in order to maintain capitalist, patriarchal relations of power.

Sabine Erika, *Patriarchy and the State*, 3 Austl. J.L. & Soc. 53, 54 (1986).

47. *See, e.g.*, R. Emerson Dobash & Russell Dobash, Violence Against Wives: A Case Against the Patriarchy (1979) [hereinafter *Violence Against Wives*]; Erika, *supra* note 46, at 55 ("Criminal assault on women . . . is the cutting (or killing) edge of patriarchy as many of us experience it."); *see also* Lisa Leghorn, Social Responses to Battered Women 3, 16 (Oct. 2, 1976) (address given at the Wisconsin Conference on Battered Women) ("[T]he problem stems from our entire social, economic, political and cultural organization of society, whereby women as a group are viewed as dependent, child-like and capable of less—though castrating amazons if we strive for more . . . . [U]ntil we change the conditions that breed and sustain the violence, efforts to aid the victims will tumble down a bottomless pit of continuously expanding needs.").

On patriarchy causing other types of violence against women, see Adrienne Rich, On Lies, Secrets, and Silences (1980); Take Back the Night: Women on Pornography (Laura Lederer ed. 1980); Andrea Dworkin, Pornography: Men Possessing Women (1981); Susan Griffin, Rape, the Politics of Consciousness (1986); Barbara Mehrhof & Pamela Kearon, *Rape: An Act of Terror*, in Notes from the Third Year (1972); Susan Brownmiller, Against Our Will: Men, Women, and Rape (1975). See, for example, bell hooks, *Feminist Movement to End Violence*, in Femi-

ment today, however, has not eliminated patriarchy. This larger goal has not been legitimized, nor has society's consciousness on this issue been truly changed. No large-scale public or private redistribution of power has occurred.[48] Rather, shelters today, in fact, are less able to challenge patriarchy. Most shelters are no longer environments conducive to radical societal change. Shelters today indirectly contribute to battering in our society. The shelter movement now exists as part of the patriarchy, legitimizing it by gladly depending upon its institutions. As bell hooks said:

> A feminist ideology that mouths radical rhetoric about resistance and revolution while actively seeking to establish itself within the capitalist patriarchal system is essentially corrupt. . . . Establishing houses for battered women does not change the psyches of the men who batter them, nor does it change the culture that promotes and condones their brutality.[49]

A Vision of the Future: Feminism, Not Conservatism

This article argues that shelters can only change society if they forego their dependence on government money and strive to become self-sufficient.[50] Lest it be misunderstood, this argument grounds itself in strands of feminist ideology and explicitly rejects

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nist Theory: From Margin to Center 117-31 (1984) ("Battery is caused by the belief permeating this culture that hierarchical rule and coercive authority are natural . . . ."); Murray A. Straus, *Sexual Inequality, Cultural Norms, and Wife Beating*, in Victims and Society 555-56 (Emilio C. Viano ed. 1976) (family inequality must be eliminated to reduce the level of woman battering).

The explanations for how patriarchy works to encourage and sustain battering are many. Not only do socio-political and economic institutions condone men's use of violence against women, but they keep women in a position unable to escape the abuse. *See* George Walker & Fran Baum, *Preventing Domestic Violence: The Role of Community Services*, in 1 National Conference on Domestic Violence 280 (Suzanne Hatty ed. 1985).

Of course, other explanations for battering exist. Some estimate that at least twenty distinct theories of woman battering exist. Lewis Okun, Woman Abuse: Facts Replacing Myths 78 (1986). For example, some theorists see violent men as deviant. *See, e.g.*, Rosemary Reynolds & Else Siegle, *A Study of Casework with Sado-Masochistic Marriage Partners*, 40 Soc. Casework 545-51 (1959); P.D. Scott, *Battered Wives*, 125 Brit. J. Psychiatry 433-41 (1974). For a critique of these various approaches, see Okun, *supra*, at 78-138; *see also* Hatty, *supra* note 26, at 323-39.

48. *See* Joyce Gelb, *Social Movement "Success": A Comparative Analysis of Feminism in the United States and the United Kingdom*, in The Women's Movements of the United States and Western Europe 283 (Mary Fainsod Katzenstein & Carol McClurg Muller eds. 1987) (suggesting that one may measure a group's success for women by the legitimization of its goals, changes in individual or groups consciousness, and/or change in public policy outcomes involving redistribution of social goals and changes in power relations).

49. hooks, *supra* note 24, at 191.

50. While some may criticize this revolutionary vision as being elitist, women in the movement express these same ideas.

any conservative justification for self-sufficiency. The various strands of feminist ideology underpinning this argument emerge from a long line of feminist scholarship. To briefly summarize these strands,[51] this section pigeonholes them into somewhat arbitrary categories.[52] This caveat notwithstanding, the categorization clarifies which type of feminism constitutes the pretextual background to the funding argument.

A "cultural feminism" perspective dominates this argument and its development.[53] Cultural feminism comports closely with the visions of the movement's founders. Its adherents envision a violence-free world existing within a women's culture. Politics alone cannot achieve this end. It necessitates a wide cultural change, including changing basic institutions, such as the government and the family.

Margaret Fuller, Charlotte Perkins Gilman, and Emma Goldman espoused cultural feminism. Although their visions differed somewhat, several common themes emerge. First, these women shared a romantic concept of individualism. They saw anything that impeded an individual's growth, including the government, as evil.[54] Similarly, this article contends that government funding impedes the shelter movement and is evil.

These feminist women saw a decentralized community as key to an individual's development. Fuller and Gilman placed special importance on a women-centered community. Margaret Fuller, in *Women in the Nineteenth Century*, stressed the importance of "self-reliance" for women; it made women stronger in their encounters with the world.[55] Fuller recommended separatism as a means of self-reliance: "I believe that, at present, women are the best helpers of one another."[56] She said,

> Women must leave off asking [men] and being influenced by them, but retire within themselves, and explore the groundwork of life till they find their peculiar secret. Then, when they come forth again, renovated and baptized, they will know how to turn all dross to gold.[57]

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51. This article does not address the theories of the psychoanalytic feminists such as Juliet Mitchell, Gayle Rubin, and Nancy Chodorow, or those of the existentialist feminists such as Simone de Beauvoir and Mary Daly.

52. See Rosemarie Tong, *Feminist Thought* 7, 8 (1989), who suggests this categorization may even be obsolete.

53. See generally Josephine Donovan, Feminist Theory: The Intellectual Traditions of American Feminism 31-63 (1985), from where much of this material is drawn.

54. *Id.* at 32.

55. Margaret Fuller, Women in the Nineteenth Century 40 (1971).

56. *Id.* at 172.

57. *Id.* at 121.

This paper envisions individual and social empowerment from the women-centered battered women's shelters.

These cultural feminists ultimately envisioned a violence-free world. Fuller saw the influx of the feminine as radically changing society by either producing a cultural androgyny or a feminization of the culture.[58] The feminization of the culture would lead to a "plant-like gentleness," ending violence in all areas.[59] Gilman believed that the powers of maternal energy were a socially cohesive force, allowing women "to make and to save rather than to spend and to destroy."[60] A world governed by maternal ideology would entail "[g]overnment by women . . . influenced by motherhood; and that would mean care, nurture, provision, education."[61]

In Gilman's utopian novel, *Herland*, the traditional private sphere totally breaks apart.[62] The women

> live collectively, are peaceful and harmonic, vegetarian, physically strong, and competent. There are no "homes" as we know them; child rearing is a profession, wastes are recycled, and the country is dotted with "help" temples where people may drop in for loving care and attention when in need. *Herland* reflects the matriarchal value system . . . embodying a reverence for peace and harmony and an ecological concern for all forms of life.[63]

This article envisions shelters providing similar types of healing communities which shun violence and help transform society away from patriarchy and violence.

Cultural feminists also recognize that the means are as important as the ends. Emma Goldman, imagining utopia as the establishment of decentralized organic communities, believed that the "ends must be in the means."[64] She wrote, "the great mission of revolution, of the Social Revolution is a *fundamental transvaluation of values*."[65] She continued, "Our institutions and conditions rest upon deep-seated ideas. To change those conditions and at the same time leave the underlying ideas and values intact means only a superficial transformation."[66] She relied on the idea of society

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58. Donovan, *supra* note 53, at 35.

59. Fuller, *supra* note 55, at 113.

60. C. Perkins Gilman, Women and Economics 129 (1966).

61. C. Perkins Gilman, The Man-Made World, or Our Androcentric Culture 190 (1977).

62. C. Perkins Gilman, Herland 57, 59 (1979); *see also* C. Perkins Gilman, The Home (1972).

63. Donovan, *supra* note 53, at 48.

64. *Id.* at 51.

65. Emma Goldman, Red Emma Speaks: Selected Writings and Speeches by Emma Goldman 354 (Alix Kates Shulman ed. 1972).

66. *Id.* Goldman believed that true emancipation begins in woman's soul. *Id.* at 142. She felt that legal changes would not effect freedom, for that comes from

motivated by "mutual aid."[67]

For Charlotte Perkins Gilman, economic reliance on men was an incorrect means to an end: "We are the only animal species in which the female depends upon the male for food, the only animal species in which the sex-relation is also an economic relation. With us an entire sex lives in a relation of economic dependence upon the other sex."[68] Gilman explained the social Darwin implications of such a system: women's economic dependence on men keeps women in a retarded state of development. By analogy, a shelter movement economically dependent upon the government is in a retarded state of development. The means must comport with the ends.

This article also contains strands of radical feminism within it, perhaps because radical feminism closely overlaps with cultural feminism. Radical feminism developed in the late 1960s, as a reaction to the male radicals on the left.[69] Radical feminists take the oppression of women to be the root and image of all oppression. Ti-Grace Atkinson, a radical feminist, wrote that "the oppression of women is . . . the beginning of the class system and women [were] the first exploited class."[70] Radical feminists believe that patriarchy—men controlling women—pre-exists and pervades all other forms of socioeconomic oppression. While today, feminists acknowledge multiple oppressions,[71] male violence still constitutes a reality for all women. Radical feminists also believe that collective self-help can develop individual autonomy. Radical feminism and cultural feminism differ primarily in that radical feminism believes that women's oppression is rooted primarily in psychological, not economic, factors.[72] Radical feminism also addresses

within (although she did support the right to vote). Donovan, *supra* note 53, at 51. As an anarchist, she rejected institutions like government and marriage that restricted individual freedom. *Id.*

67. Emma Goldman, The Traffic in Women (1911), *quoted in* Donovan, *supra* note 53, at 53. However, Goldman did not revere or romanticize relationships among women and she did not think that women could reform and purify politics. Donovan, *supra* note 53, at 53.

68. Gilman, *supra* note 60, at 5.

69. Donovan, *supra* note 53, at 141. *See, e.g.*, Marge Piercy, *The Grand Coolie Damn*, in Sisterhood is Powerful: An Anthology of Writings from the Women's Liberation Movement 421 (Robin Morgan ed. 1970).

70. Ti-Grace Atkinson, Amazon Odyssey 30 (1974).

71. Today radical feminism includes race and class as variables leading to multiple oppressions. *See, e.g.*, The Bridge Called My Back: Writings by Radical Women of Color (Cherrie Moraga & Gloria Anzaldua eds. 1981).

72. Donovan, *supra* note 53, at 143. *See, e.g.*, Kate Millett, *Sexual Politics*, *reprinted in* Women's Liberation and Literature 289-326 (Elaine Showalter ed. 1971).

openly the oppressiveness of reproduction[73] and heterosexual sex.[74]

This article acknowledges the multiple manifestations of oppression against women in society, including, but not limited to, economic, psychological, reproductive, and sexual oppression. The pervasiveness and insidiousness of the forms of oppression demand a strong and separate women's network by which these factors can be recognized and attacked.

Sociologist feminist thought,[75] although persuasive, does not figure into this argument, primarily because this article's solutions rely on the capitalist system. This article recognizes that the recommendations herein may still oppress on another level. This article sees itself as a beginning in the quest to end oppression, a step in the right direction, not as the embodiment of an all encompassing solution. It hopes that its means afford a basis from which to start attacking all oppression. Similarly, while post-modernist feminism is enlightening,[76] pragmatic reasons dictate not pinning the article's argument on it. Radical deconstruction fails to acknowledge the absolute truth of evil in unwanted violence against women. Post-modernism can also obscure the real, thereby hin-

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73. *See* Shulasmith Firestone, Dialectic of Sex: The Case for Feminist Revolution (1971).

74. *See, e.g.*, Elsa Gidlow, *Lesbianism as a Liberating Force, reprinted in* Lillian Faderman, Surpassing the Love of Men: Romantic Friendship and Love Between Women from the Renaissance to the Present 385 (1981).

75. Socialist feminist thought is Marxism modified primarily by radical feminism. Donovan, *supra* note 53, at 66; *see, e.g.*, Capitalist Patriarchy and the Case for Socialist Feminism (Zillah Eisenstein ed. 1979). Socialist feminists use feminist and socialist insights to understand the world. They believe eliminating the capitalist system is necessary to women's freedom. They set their goals within the context of a socialist agenda. However, they tend to be critical of traditional Marxist orthodoxy. *See generally* Rosalind Coward, Patriarchal Precedents: Sexuality and Social Relations (1983). Marxist feminists, in contrast, feel that class is the only important determinant of oppression for women.

76. Particularly, post-modernists have usefully pointed out the fallacy of seeing one true feminist reality:

> For post-modernists, such a synthesis is neither feasible nor desirable. It is not feasible because women's experiences differ across class, racial, and cultural lines. It is not desirable because the One and the True are philosophical myths that have have been used to club into submission the differences that, in point of empirical fact, best describe the human condition. That feminism is many and not one is to be expected because women are many and not one .... By refusing to center, congeal, and cement their separate thoughts into a unified truth too inflexible to change, feminists resist patriarchal dogma.

Tong, *supra* note 52, at 7. This article acknowledges differences and sees the advantages in being the other. In particular, rather than transcending the dominant culture, women can criticize its practices, norms, and values. *Id.* at 219. This position allows women to develop a culture which allows for plurality, diversity, and peace. *Id.*

dering a criticism of the status quo, thwarting a real strategy involving real action, and diminishing an argument's persuasiveness.

Liberal feminism's view of funding comes into direct conflict with the tenets of the argument in this article. Liberal feminists have been the primary advocates of government funding for shelters;[77] they see the government as a shield protecting the individual. This article, without attacking the liberal feminist beliefs in equality, personal liberty, representative democracy, and individual rights, challenges its method for achieving those ends. Government funding of shelters, when one weighs the benefits against the disadvantages, undermines shelters' ability to empower women and change society to meet even those goals. As this article acknowledges an interim role for government (e.g., condemning battering through the criminal justice system), and strives to set forth a means to end battery (a goal liberal feminists have as well), liberal feminists should not feel totally alienated by the argument.[78]

This article flatly rejects any conservative justification for diminishing shelters' reliance on government funding. Conservatism represents a reluctance to change society to redress the oppressive orthodoxy.[79] Consequently, any correspondence between con-

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77. All references herein to liberal feminists are to welfare liberal feminists. Adhering to the tenets of the constitution, "classical liberal feminists believe that after discriminatory laws are removed from the books, . . . not much else can be done." *Id.* at 29. Welfare liberal feminists want government action to help women, whether through affirmative action or traditional welfare state measures. *Id.* Both heavily rely on legal remedies and see the government as instrumental in removing their inequality.

Liberal feminists in the United States are represented by such groups as the National Organization for Women, the Women's Legal Defense Fund, and the National Women's Law Center, as well as more traditional groups which put equality on their agendas. Liberal feminism has been criticized for being a bourgeois, white movement. *See* Ellen Willis, *The Conservatism of Ms.*, in Feminist Revolution 170 (Redstockings ed. 1975).

78. Although this article hopes to persuade even the liberal feminists, for they represent the core of the movement, many of the liberal feminist's assumptions are open to criticism. For example, by suggesting that men also are victims of sex-role conditioning, they trivialize the importance of men in the oppression of women. Moreover, the ends liberal feminists strive to achieve may reflect inherently male values (such as individual freedom as opposed to more communal values). Finally, liberal feminists leave the family and government intact by their methods. They minimize the need to change these institutions to eliminate violence. Instead, they believe that violence can be eradicated by equal protection achieved by equal access to the ballot box and legislature.

79. *See* Andrea Dworkin, Right-Wing Women (1983). Some women choose to be conservative because male violence teaches women to conform in order to survive. *Id.* at 15. "Most women, holding on for dear life, do not dare abandon blind faith. From father's house to husband's house to a grave that still might not be her own, a woman acquiesces to male authority in order to gain some protection from male violence." *Id.* at 14. In a similar vein, women in the movement extol government funding's virtues because of a rationale calculation that this best protects the

servative and feminist means meets with disjuncture at the ends. The arguments conservatives used to oppose government funding initially for shelters demonstrate the inherent incompatibility and counter-productivity of using conservative arguments to foster feminist ends. Gordon Humphrey, a conservative Republican senator from New Hampshire, demonstrates this incompatibility in his argument against money for battered women: "what kinds of values and ideas . . . [would] these homes advance? The federal government should not fund missionaries who would war on the traditional family or on local values."[80]

Conservatives see the family as a private institution to be preserved and kept apart from the public sphere. Feminists dispute the dichotomy between public and private spheres,[81] and believe that the illusion of a dichotomy has been instrumental to keeping women subservient.[82] Many feminists would advocate changing or destroying the family institution.[83] Moreover, this article rejects the conservative laissez-faire approach. This approach assumes that social and economic inequality stem from natural causes. It rejects any affirmative state role for addressing inequality.[84]

Most importantly, this article tries to persuade shelters that

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movement and women. As extensive dependency exists, this immediate self-interest makes sense. Yet this decision is counterproductive for any long-term change.

80. Pleck, *supra* note 2, at 196.

81. *See, e.g.*, Frances E. Olsen, *The Family and the Market: A Study of Ideology and Legal Reform*, 96 Harv. L. Rev. 1497 (1983).

82. *See id.* at 1510.

> [T]he assertion that family affairs should be private has been made by men to prevent women and children from using state power to improve the conditions of their lives. By insisting that the family should not be subject to state regulation, men have been able to retain their excessive power. Furthermore, men in fact use the coercive power of the state to reinforce and consolidate their authority over wives and children.

Id.

83. *See generally* Barrie Thorne & Marilyn Yalom, Rethinking the Family: Some Feminist Questions (1982); *Violence Against Wives*, *supra* note 47. Some feminists, however, might agree with Humphrey. *See, e.g.*, Walker, The Battered Woman Syndrome 120-21 (1984) ("The arbitrary dichotomy of family versus feminist orientation is one which is unnecessary although understandable given the fear that women's demands for equality have engendered. Most shelters need to provide family support services and can still do this within a feminist ideology.").

84. Laissez-faire theory both assumes and asserts that it makes sense to advocate state neutrality with respect to the market. Economic and social inequalities that persist after the institution of the liberal state (that is, the institution of "political equality") are deemed to be natural and beyond the proper scope of state activity. Thus . . . [they] characterize the domination and subordination that accompany economic and social inequality in civil society as private matters that do not implicate the political state.

Olsen, *supra* note 81, at 1502.

they should choose to forego government funds. It does *not* advocate that the government cut any funds before shelters voluntarily relinquish them. While shelters should act, they do not need or want to be acted upon. The reasons presented herein for change only make sense coming from the shelters. The government becomes grossly paternalistic if it cuts off funding because it is not in the movement's long term interest.

Methodology of Approach

This article takes a distinctly feminist methodological approach.[85] Such a methodology is essential to challenge existing structures of power and not just to recreate them.[86] First, this article denies being "objective" or "scientific."[87] To claim that this article represents the truth, other than about the evil of unwanted violence against women, ignores the author's own fallibilities and also the silences and omissions of the sources. To pretend that the author has a neutrality denies the author's gender, race, class, experience, and training. Moreover, it would require the author to separate herself from her feelings, emotions, personal interests, motives, and politics. It would require the author to obtain a universal perspective in a movement filled with personal experiences and various opinions. It would require institutionalizing an epistemology that is itself patriarchal.

Second, this article can be characterized as "a *strategy*, a local, specific, concrete, intervention with definite political, even if provisional, aims and goals."[88] It instrumentally picks and chooses its forms of expression with this goal in mind. It reflects "practical reasoning," an inextricable integration of its means and ends.[89] The author weighed the benefits of including, for example, the "scientific" survey research. While implying an objective reality which helps uphold patriarchy, the outright acknowledgement that this article is not objective should mitigate this inference.

85. Of course, feminist methodology, like feminism, cannot be lumped together. However, this article reflects some of the common strands of feminist methodology.

86. *See* Katharine T. Bartlett, *Feminist Legal Methods*, 103 Harv. L. Rev. 829, 830-31 (1990).

87. *See generally* Ann C. Scales, *The Emergence of Feminist Jurisprudence: An Essay*, 95 Yale L.J. 1373, 1385 (1985) ("Feminism does not claim to be objective, because objectivity is the basis for inequality. Feminism is not abstract, because abstraction when institutionalized shields the status quo from critique.").

88. Elizabeth Gross, *Conclusion: What is Feminist Theory*, in Feminist Challenges: Social and Political Theory 196 (Carole Pateman & Elizabeth Gross eds. 1986).

89. *See* Bartlett, *supra* note 86, at 850 (citing Amelie Rorty, Mind in Action 272 (1988)).

This article deliberately includes an abundance of personal testimony in order to make the women involved in the movement the subjects of the paper, and not its objects. It often brings their names into the text, trying to avoid the marginalization that footnoting connotes. This article also draws heavily and deliberately on the popular press; it captures women's stories and, more importantly, it mitigates some of the elitism inherent in any academic article.

Third, this article's analysis is particularly feminist, as it involves a dialectic between theory and practice. While many feminist theorists see the necessity of practice influencing theory,[90] so too must feminists step back and critically measure practice against theory. This article continues the dialectic by recognizing the reality, reflecting on it and evaluating it. It then tries to push the practice more towards the radical theory: "Without extraordinary subterranean vigilance, the radical potential of feminism will be undermined. Like other movements that presage revolutionary change, feminism faces a constant threat of deradicalization."[91]

Section Two: The Dominance of Government Funding

The Extent of Government Funding for Shelters

Because all government funding is problematic for shelters, this article treats all government funding as a unit. Separating the levels of government funding from each other misses the interconnected aspect of funding. States administer federal government money and federal funds are often matched by state and local funds. "There is far more intergovernmental activity today than ever before, and not just between the states and the federal government, but also among states and between state and local governments."[92] However, when the unit of government makes a difference for the argument against government funding, it will be acknowledged.[93]

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90. *See* Elizabeth M. Schneider, *The Dialectic of Rights and Politics: Perspectives from the Women's Movement*, 61 N.Y.U. L. Rev. 589 (1986); *see also* Bartlett, *supra* note 86, at 864 (referring to the "centrality of consciousness-raising to the dialectical relationship of theory and practice").

91. Scales, *supra* note 87, at 1380.

92. John Carlin, *The United States Constitution and New Federalism*, 1986 Det. C.L. Rev. 1079, 1085.

93. Local units of government have been upheld as more conducive to democracy in general, and for feminists in particular. *See, e.g.*, DeTocqueville, 1 *Democracy in America* 76 (Francis Bowen ed. 1863) ("[Local institutions] are to liberty what primary schools are to science; they bring it within people's reach, they teach [people] how to use and how to enjoy it."); *see also* Diana H. Coole, *Women in Political Theory* 254 (1988) ("For a more specifically feminist politics, local rather

There was a time when all levels of government refused to fund shelters. One author wrote, "[Battered women's] shelters have difficulty finding adequate funding . . . they are almost entirely private or voluntary organizations, and . . . they are castigated as hotbeds of man-hating and marriage wreckers."[94] Even when the government promised funding, the money often was delayed. "Though the city and township have initially recognized our importance, we have not seen any of our revenue sharing moneys."[95]

Once federal, state, and local levels started funding shelters, new shelters emerged—many relying heavily on the government money. In fact, in the survey conducted by the author, sixty-nine percent of the shelters received some government money when they opened, and thirty-one percent depended entirely upon government funds.[96] Today government funding constitutes the main source of funding for most of the shelters responding to the author's survey. Ninety-six percent of these shelters receive some sort of government money. Sixty-nine percent of these shelters rely on government money for over half of their operating budgets. Thirty percent of the shelters receive over three-fourths of their funds from a government source.[97]

The high percentage of shelters relying on government funding and the depth of that dependence was confirmed by Susan Kelly-Dreiss, Executive Director of the Pennsylvania Coalition

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than central government has seemed a more conducive area for women since it allows a more personal style of participation and involvement in areas directly affecting their lives . . . ."). However, individual shelters engaged in local politics may be exposed to the most direct co-optation. *See* Mary Capps, *The Co-optive and Repressive State Versus the Battered Women's Movement*, in End Violence in the Lives of Women VI-42-43 (Aug. 3-7, 1982) (conference manual for the second national conference and national meetings, National Coalition Against Domestic Violence) ("This level [local] is the most vulnerable to state pressure and, therefore, has the least autonomy for political action.").

94. Jean Grossholtz, Battered Women's Shelters and Political Economy of Sexual Violence 21 (unpublished manuscript) (available from the National Coalition Against Domestic Violence).

95. Letter from Linda Golaszewski, Sojourn House, Springfield, Ill. to Betsy Warrior (Nov. 23, 1977) (available from the Battered Women's Directory Project in Schlesinger Library, Radcliffe College).

96. Survey by Merle Weiner (1989).

Initial Sources of Funding

Percentage of Govt $	(0)	(1-24)	(25-49)	(50-74)	(75-99)	(100)
# of shelters(39)	12	1	0	7	7	12
% of shelters	31	2	0	18	18	31

97. *Current Sources of Funding*

Percentage of Govt $	(0)	(1-24)	(25-49)	(50-74)	(75-99)	(100)
# of shelters(39)	2	2	11	19	12	3
% of shelters	4	4	22	39	24	6

Against Domestic Violence. According to statistics she provided to Congress on the amount each Pennsylvania shelter received from Title XX/Act 157 State money,[98] Family Violence Money,[99] and Local Match Money,[100] 100% of the programs in Pennsylvania (56/56) receive federal money.[101] The shelters receive from 18%[102] to 94%[103] of their funds from the federal and state governments. Overall, 79% of the shelters receive over 50% of their funds from the government.[104] Forty-six percent of the shelters receive over 70% of their funds from the government.[105] Only two out of fifty-six shelters (4%) receive over 70% of their funding from non-governmental sources, such as the United Way, foundations, corporations, small fund raising efforts, and individual donations.[106]

A shelter is even more likely to receive government funds after it begins operation. While 69% of the shelters surveyed by the author received some sort of government monies at their inception, 96% of the shelters currently receive government money.[107] The number of shelters dependent on government funding for at least half their money has remained constant and substantial.[108]

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98. Title XX is part of the Social Security Block Grant program. *See infra* notes 111-115 and accompanying text. Act 157, now called Act 44, levies a $10 fine on people found guilty of a crime, except for traffic violations, which goes into a fund for battered women's programs. Poor Person and Public Welfare Act, 62 Pa. Cons. Stat. § 1201 (1987).

99. Family Violence Prevention and Services Act of 1984, 42 U.S.C. § 10401 (1984).

100. *Reauthorization of the Child Abuse Prevention and Treatment Act and the Family Violence Prevention and Services Act: Hearings Before the Subcomm. on Select Education of the House Comm. on Education and Labor*, 100th Cong., 1st Sess. 79-82 (1987) (testimony of Susan Kelly-Dreiss) [hereinafter *Child Abuse Prevention Reauthorization*].

101. Twenty-three programs receive both Title XX moneys and Family Violence money, thirty receive only Title XX moneys, and three receive Family Violence money only. *See id.*

102. Women Against Abuse in Philadelphia. *Id.* at 81.

103. Hospitality House in Erie, Pennsylvania. *Id.* at 80.

104. *See id.* at 79-82.

105. *See id.*

106. *See id.*

107. Survey by Merle Weiner (1989).

108. Initially 67% of shelters were dependent on government funds for more than half of their money; currently the figure stands at sixty-nine percent. However, within this group, the amount of absolute dependence has decreased. While 31% of the shelters were totally dependent on government money at their inception, that number has fallen to six percent. Survey by Merle Weiner (1989). Cuts in government funding and its often "grant-like" nature probably explains this drop. *See, e.g., infra* note 113 and accompanying text.

Types of Federal Funding

The Family Violence Prevention and Services Act of 1984[109]

The Family Violence Protection and Services Act of 1984 authorizes, among other things, state demonstration grants to provide shelter and related services and establishes a National Clearinghouse on Family Violence.[110] The program gives

> special emphasis to support of community-based projects of demonstrated effectiveness which are carried out by non-profit organizations, particularly those whose primary purpose is to operate shelters for victims of family violence and their dependents and those which provide counseling, alcohol and drug abuse treatment and self help services to victims and abusers.[111]

The Federal Government distributes funds according to a state's population, although the Act guarantees a minimum of $50,000 per state.[112] States are limited to 5% of funds for administration, cannot impose income eligibility standards, and must spend at least 60% of funds on immediate shelter and related assistance.[113]

The Victims of Crimes Act of 1984[114]

The Victims of Crimes Act of 1984 (VOCA) establishes up to a $110 million Crime Victims Fund to compensate and assist victims. The money comes from fines and special penalty assessments collected from convicted federal defendants. In 1987, the fund contained $85 million in revenues.[115] Forty-five percent of the fund can go to states for aiding programs that provide services to crime victim programs, such as battered women's shelters.[116] Currently, programs providing assistance to victims of sexual assault, spouse abuse, or child abuse have priority for crime victim

109. Family Violence Prevention and Services Act of 1984, 42 U.S.C. § 10401 (1984).

110. 42 U.S.C. § 10407 (1984).

111. *Departments of Labor, Health and Human Services, Education and Related Agencies. Appropriations for 1989: Hearings Before the Subcomm. of the House Comm. on Appropriations*, 100th Cong., 2nd Sess. 403 (1988) [hereinafter *Appropriations for 1989*] (Department of Health and Human Services, Office of Human Development Services).

112. 42 U.S.C. § 10403(a)(1) (1984).

113. *Appropriations for 1989*, *supra* note 111, at 404.

114. Victims of Crime Act of 1984, 42 U.S.C.S. § 10603 (Law. Co-op. 1989).

115. *Victims of Crime*, *supra* note 9, at 1 (statement of Rep. Conyers).

116. *See id.* The other uses of the fund include compensating crime victims, helping victims of child abuse, and enhancing services to assist victims of crime that exclusively occur within federal jurisdiction. *Id.*

assistance awards.[117] The Executive Branch, however, has recommended eliminating the priority areas.[118] "Eligible services provided by crime victim assistance programs are crisis intervention services, including a telephone hotline; temporary shelter and other emergency services; support services, including follow-up counseling; court-related services, including transportation, child care and escort services; and payment for forensic medical exams."[119] Most states do allocate VOCA money to battered women's services, although the amount going to shelters varies tremendously by state.[120]

Social Services Block Grant[121]

The Department of Health and Human Services administers Title XX of the Social Security Act, the Social Services Block Grant (SSBG). The Act provides formula grants to states to help provide social services to public assistance recipients and other low-income persons. The states determine eligibilty and service provision as it is the program's philosophy that state and local governments are best able to determine and prioritize the needs of their citizens and implement programs. Because the program seeks to reduce the need for social services, it encourages states to meet both its citizens social and economic needs.[122] A state receives funds on the basis of its population; no state matching requirements exist.[123]

The extent to which Title XX money funds battered women's shelters is questionable. Estimates indicate that only twenty-one states actually use the funding for shelters.[124] Often states spend negligible amounts on shelters when compared to their total Title

117. *Women, Violence, and the Law*, *supra* note 6, at 179 (statement of Rep. Coats).

118. *Victims of Crime*, *supra* note 9, at 161 (statement of Richard Abell, Assistant Attorney General, Office of Justice Programs).

119. *Women, Violence, and the Law*, *supra* note 6, at 179 (statement of Rep. Coats).

120. National Coalition Against Domestic Violence, Survey of State Coalitions Against Domestic Violence 39 (1986) [hereinafter *Survey of State Coalitions*]. For example, Hawaii only gives 12% of its $286,000 VOCA money to shelters, whereas Alabama gives 64% of its $700,000 VOCA money to shelters. *Id.* at 48-50.

121. Social Security Act, tit. 20, 42 U.S.C.S. § 1397 (Law. Co-op. 1989).

122. *Appropriations for 1989*, *supra* note 111, at 343 (Department of Health and Human Services, Office of Human Development Services).

123. *Id.* at 346.

124. *Adoption Reform Act Reauthorization*, *supra* note 12, at 37 (statement of Sen. Dodd). These are Arizona, Connecticut, Illinois, Indiana, Kansas, Louisiana, Maine, Maryland, Mississippi, Nevada, New Jersey, New Mexico, New York, Ohio, Pennsylvania, Rhode Island, Texas, Utah, Virginia, Washington, and West Virginia. *Id.*

XX budget. For example, Connecticut received $35.8 million in Title XX funds in fiscal year 1987, yet the eighteen battered women's programs received only $402,644 of that amount, or about one percent of the total SSBG funds available.[125]

Community Development Block Grants[126]

The Department of Housing and Urban Development administers the Community Development Block Grants (CDBG). The grants provide cities and counties with funds for community development activities. A 1978 amendment to the regulations made battered women's shelters specifically eligible for these funds to buy or improve a building.[127] Marilynne Brandon Hampton, founding president of Riverside California Coalition for Alternatives to Domestic Violence, wrote in 1979 that a CDBG Grant of $112,500 "enabled us to buy the shelter, . . . bring it up to code, and even expand facilities . . . ."[128] A shelter may apply for funds to acquire property, or to rehabilitate housing.

Community Services Block Grant[129]

The Community Services Block Grant (CSBG) is administered by the Office of Community Services within the Department of Health and Human Services. Approximately $19 million, or 14.2% of the total CSBG expenditures, are used for emergency services.[130] Emergency services include battered women's intervention services.[131]

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125. *Id.* at 113 (testimony of Anne Menard, Executive Director Connecticut Coalition Against Domestic Violence); *see generally Survey of State Coalitions*, *supra* note 120, at 48-50.

126. Housing Community Development Act of 1974, 42 U.S.C.S. § 5301 (Law. Co-op. 1989).

127. The amendment can be found in 24 C.F.R. § 570.202 (1978). "Eligible Rehabilitation and Preservation Activities," reads: "Residential facilities, including group homes, halfway houses, and emergency shelters. For example, a group home for the handicapped or a temporary shelter for battered women—may be provided through acquisition and rehabilitation of properties for those purposes."

128. Letter from Marilynne Brandon Hampton to Betsy Warrior (June 30, 1979) (available from the Battered Women's Directory Project in Schlesinger Library, Radcliffe College).

129. Community Services Block Grant Act, 42 U.S.C. § 9901 (1981).

130. This figure based on data provided by thirty-seven states that responded to the National Association of State Community Service Programs survey regarding fiscal year 1984. *Women, Violence, and the Law*, *supra* note 6, at 179 (statement of Rep. Coats).

131. *Id.*

FHA Mortgage Insurance Program[132]

The FHA Mortgage Insurance Program, administered by the Department of Housing and Urban Development, insures private lenders against loss on mortgage loans to finance the purchase, construction or rehabilitation on low-cost, single family housing. Section 221(d)(3) makes this available to nonprofit organizations. The FHA Multifamily Mortgage Insurance Program[133] provides mortgage insurance to finance rental or cooperative multifamily housing.[134]

Miscellaneous Federal Funding Programs

Other miscellaneous federal sources of money or "in kind" benefits include donations of surplus property from the General Services Administration, donations of food from the United States Department of Agriculture, and legal services through the Legal Services Corporation. VISTA, a project of America's domestic volunteer program ACTION provides shelters with staff.[135] Finally, some funding exists through the Child Abuse and Prevention Treatment Act.[136] It provides technical assistance to nonprofit agencies to assist them "in planning, improving, developing, and carrying out programs and activities relating to the prevention, identification and treatment of child abuse and neglect."[137] The appropriation level had increased over the years,[138] although the amount of money actually getting to battered women's shelters is dubious.[139]

Types of State and Local Funding

State funding also exists in various forms. State funding can be through categorical programs in domestic violence legislation, categorical programs within agency budgets, marriage license fees

132. *Id.* National Housing Act, 12 U.S.C.S. § 1715(b) (Law. Co-op. 1989); *see also* Interdepartmental Committee on Domestic Violence, *Handbook of Federal Resources on Domestic Violence* 171 (Dec. 1980) (available from the National Clearinghouse on Domestic Violence).

133. National Housing Act, 12 U.S.C.S. § 1715(l) (Law. Co-op. 1989).

134. Interdepartmental Committee on Domestic Violence, *supra* note 132, at 174.

135. Domestic Volunteer Service Act of 1973, 42 U.S.C. § 4951 (1984).

136. The Child Abuse and Prevention Treatment Act, 42 U.S.C. 5101 (1988).

137. 42 U.S.C. § 5101(b)(4) (1988).

138. Pleck, *supra* note 2, at 198 ($6 million appropriated in 1984); 42 U.S.C. § 5101, *as amended by* P.L. 98-457 § 104(a) ($43 million appropriated in 1987).

139. Ms. Lopez-DeFede from South Carolina has "not seen any correlation in terms of funding that has been allocated to the State of South Carolina for child abuse services going into the area of family violence." *Adoption Reform Act Reauthorization*, *supra* note 12, at 94.

and other surcharges.[140] States vary greatly in the amount of money they provide for shelters.[141]

Marriage license fees and dissolution surcharges are forms of state revenue raised specifically for battered women's shelters. The number of states that have adopted such a system has increased steadily over the years. In 1978, Florida was the first state to pass a five dollar tax on marriage licenses.[142] By 1986, at least twenty-four states had passed marriage license or dissolution surcharge laws.[143] The fees range from five dollars to twenty-five dollars.[144] The amount of revenue produced varies greatly by state. Nevada raises $500,000 a year for its three shelters.[145] California raises about $4 million from a $19 marriage surcharge,[146] up from $2.8 million in fiscal year 1982 from a $13 surcharge.[147] North Dakota, however, only collected $114,000 from its $19 marriage license fee.[148] Litigants have challenged these fees in several states with varying success.[149]

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140. *See* Hamos, *supra* note 31.

141. In 1986, the vast majority of the states appropriated funds specifically for services to battered women and their children. *See Survey of State Coalitions*, *supra* note 120, at 35. Out of thirty-six state coalitions responding to the survey, thirty-one answered that their state appropriated such funds. This ranged from $150,000 in Rhode Island (fiscal year 1985) to $5,145,900 (fiscal year 1986) in Minnesota. *Id.* at 42.

142. Schechter, *supra* note 20, at 124.

143. *See* Hamos, *supra* note 31, at 38. Only thirty-six coalitions responded to the NCADV survey. *See, e.g.*, Ala. Code § 30-6-11 (Supp. 1982); Nev. Rev. Stat. § 122.060(4) (1981).

144. *Survey of State Coalitions*, *supra* note 120, at 45-46. *See also* Schechter, *supra* note 20, at 124.

145. Zak Mettger, *More than A Shoestring Budge: Survival and Growth for Family Violence Programs*, Response to Family Violence and Sexual Assault, May/June 1982, at 1, 15.

146. *Survey of State Coalitions*, *supra* note 120, at 44.

147. Kaberon, *supra* note 28, at 30.

148. *Survey of State Coalitions*, *supra* note 120.

149. For example, in Crocker v. Finley, 99 Ill.2d 444, 459 N.E.2d 1346 (Ill. 1984), the Illinois Supreme Court struck down the five dollar filing fee for marriage dissolution. The court held that the five dollar fee constituted a tax on litigation in violation of the Illinois Constitution in that the fee was not implemented for court related purposes. *Id.* at 452, 459 N.E.2d at 1350. The court found the link between the moral and emotional support provided by shelters and the enhanced ability to obtain relief in court "too remote." *Id.* at 455, 459 N.E.2d at 1351. The court also held that the fee violated the State's constitutional due process provision. *Id.* at 456, 459 N.E.2d at 1352. Although the tax was nominal, the statute arbitrarily imposed the funding of a general welfare program on a narrow group of matrimonial litigants. *Id.* at 457, 459 N.E.2d at 1352. *But see* Boynton v. Kusper, 112 Ill.2d 356, 374, 494 N.E.2d 135, 143 (Ill. 1986) (Miller, J., dissenting) ("For purposes of a due process, as opposed to an equal protection analysis there need be no relation between the class of taxpayers and the purpose of the appropriation." *Id.* at 374, 494 N.E.2d at 143 (citing New York Rapid Transit Corp. v. City of New York, 303 U.S. 573, 586 (1938)).

Two years later, in Boynton v. Kusper, 112 Ill.2d 356, 494 N.E. 2d 135 (Ill. 1986),

Some states deposit criminal fines into a fund for battered women's shelters.[150] For example, the Wisconsin legislature enacted a woman battering assessment: a ten percent surcharge on all fines where the defendant is convicted of criminal conduct involving woman battering.[151] This raises approximately $4,000 a year for the shelters.[152] Pennsylvania imposes a flat $15 criminal fine and raises $1,500,000 per year.[153] Two states' income tax returns contain voluntary check-offs that allow taxpayers to donate money to a battered women's fund.[154]

Local funding exists as well, at the county, city, and municipal level. Survey respondents mentioned a variety of programs from which they received support including energy conservation funds, township revenue sharing, and leasing of shelter facilities from local governments for one dollar a year.[155]

Section Three: The Problems With Government Funding

Federal, state, and local funding present both practical and theoretical problems for battered women's shelters.[156] The following analysis examines why government funding hinders the movement's ability to challenge patriarchy and eliminate battering.

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the Illinois Supreme Court applied Crocker v. Finley, 99 Ill.2d 444, 459 N.E.2d 1346 (Ill. 1984), to strike down the imposition of a ten dollar marriage license fee to fund the Illinois Domestic Violence Shelter and Service Fund. In *Boynton*, the court applied strict scrutiny after the plaintiffs successfully argued that the freedom to marry was a fundamental right. *Id.* at 368, 494 N.E.2d at 140 (citing Loving v. Virginia, 388 U.S. 1, 12 (1967)). The court found that the tax "imposes a *direct* impediment to the exercise of the fundamental right to marry." *Id.* at 369, 494 N.E.2d at 141.

The court rejected the argument that the ten dollar tax was nominal. It felt that once the state's power to tax marriage was acknowledged, no limit on the taxation amount would exist. *Id.* at 369-70, 494 N.E.2d at 141. The dissent felt that the court could intervene if the tax ever became burdensome, but the fee had not reached that level. *Id.* at 373, 494 N.E.2d at 142 (Miller, J., dissenting). The court also specifically rejected a cause and effect relationship between marriage and woman battering which the state offered to meet the rational-relation test of due process. *Id.* at 366, 494 N.E.2d at 139.

150. Of thirty-six state coalitions responding in 1986, only three states imposed fines on people convicted of domestic violence related crimes to fund domestic violence programs. *Survey of State Coalitions*, *supra* note 120, at 39.

151. Hamos, *supra* note 31, at 62.

152. *Survey of State Coalitions*, *supra* note 120, at 47.

153. *Id.* at 46.

154. Both of these states, Alabama and Michigan, restrict the money for child abuse only. *Id.* at 44.

155. Survey by Merle Weiner (1989).

156. *See* Hamos, *supra* note 31, at 53; *see generally* Sojourner Truth House, *supra* note 31, at 17.

Dependence on Unreliable Funds

Government funding breeds dependency.[157] This undermines the movement's goal by subliminally and symbolically condoning dependence. Shelters strive to make women more independent, yet shelters simultaneously tie themselves to the government. This dependency is ironic as the idea of the government itself is male. Catherine MacKinnon, a prominent feminist jurisprudent, explains that

> the state is male in the feminist sense: the law sees and treats women the way men see and treat women. The liberal state coercively and authoritatively constitutes the social order in the interest of men as a gender—through its legitimizing norms, forms, relation to society, and substantive policies.[158]

In referring to the "state," MacKinnon speaks of all levels of government.[159] MacKinnon writes: "Male power is systemic. Coercive, legitimated, and epistemic, it *is* the regime."[160]

According to MacKinnon, the law's foundation of neutrality falsely presupposes sex equality in society.[161] This neutrality hides the definition and distribution of power itself and only allows women to extract entitlements under an established system of power by blurring the lines between them and everyone else.[162] While MacKinnon expresses the idea of a male state primarily in terms of the common law,[163] her analysis is applicable to the statutorily authorized funding of shelters.

When women seek funding for battered women shelters from the state, they compete with other groups for funds, appearing

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157. "There is a tendency to become more and more reliant on terminal State dollars without developing a community base or searching elsewhere for funds." Hamos, supra note 31, at 70.

158. Catharine MacKinnon, *Toward a Feminist Theory of the State* 161-62 (1989) (footnote omitted). *Cf.* Capps, *supra* note 93, at VI-39. Capps sees an "inherent and inevitable conflict" between the state and the movement. *Id.* The state's function, structure, legitimacy, resources and tactics all contribute to this tension. *Id.* Marxist feminist analysis also provides insights on the relationship between the state and patriarchy. *See, e.g.*, Coole, *supra* note 93, at 252 (1988) ("if the state functions to sustain capitalism, and if capitalism benefits from patriarchy (whether intrinsically or via a historical collusion that is entirely contingent), then it follows that one purpose of the state will be to support patriarchy."); Mary McIntosh, *The State and the Oppression of Women*, in The Woman Question (Mary Evans ed. 1982), *quoted in* D. Coole, *supra* note 93, at 252 (arguing that "the state contributes to women's oppression to the benefit of capital: it sustains the family-household and it manipulates the supply of wage labor").

159. *See* MacKinnon, *supra* note 158, at 161-62.

160. *Id.* at 170.

161. *Id.* at 163.

162. *Id.* at 167.

163. See, for example, MacKinnon's description of "the government of laws" and "law's neutrality." *Id.* at 162.

only equally entitled to receive funding for a social service. This premise of equal entitlement ignores the inequality compelling women to seek funds. It hides the economic position of women in society compared to men. It ignores the gross inequalities in state protection of women from battery.[164] This premise of equal enti-

164. Although legal reform has occurred recently, it still affords insufficient protection for battered women.

> Many civil and criminal statutes designed to protect the victims of domestic violence and to deter batterers from future violence have been adopted over the course of the last decade. Although they have provided relief and protection to millions of women and children, it cannot be said that these laws have achieved the promise of protection and deterrence for which they were promulgated.

Women, Violence, and the Law, *supra* note 6, at 76 (testimony of Barbara J. Hart, Esq., Staff Counsel, Pennsylvania Coalition Against Domestic Violence).

Specifically, civil restraining or protection-order legislation has drafting and enforcement problems. Most of the statutes define the class of abused persons eligible for relief too narrowly; some require, for example, that the woman be married to the abuser or be currently cohabitating with him. The definitions of abuse exclude those who are held prisoners in their home, those who are sexually coerced, and those who suffer property destruction or psychological abuse. *Id.* at 76-77. The duration of protection orders is often too short. Often the relief does not include eviction or temporary custody orders, and statutes are often silent about confiscation of weapons used by batterers. *Id.* at 77.

At court, women are often forced into mediation, the inappropriateness which has been well documented. *See, e.g.*, Lisa G. Lerman, *Mediation of Wife Abuse Cases: The Adverse Impact of Informal Dispute Resolution on Women* 7 Harv. Women's L.J. 57-98 (1984); *see also Women, Violence, and the Law*, *supra* note 6, at 140 (testimony of Lenore Walker, Ed.D.).

The criminal law also affords woman little protection. For example, bail statutes do not attend to the special safety needs of battered women who are complaining witnesses. *Women, Violence, and the Law*, *supra* note 6, at 78 (testimony of Barbara J. Hart, Esq. Staff Counsel, Pennsylvania Coalition Against Domestic Violence). Police do not enforce the law. *See infra* notes 225 - 230 and accompanying text. "They rarely arrest anyone, and if they separate the couple at all, it is most often for a brief time only; for example, they will talk to the man and the woman in separate rooms or will have the man take a walk around the block." Trova Hutchins & Vel Baxter, *Battered Women*, in Alternative Social Services for Women 202 (Naomi Gottlieb ed. 1980) [hereinafter *Social Services*]. Police training programs are still inadequate. For example, in New York, the Department of Criminal Justice Services mandated that new police officers go through a training program on battering. However, there is no mandate for inservice training for veteran officers. *Child Abuse Prevention Reauthorization*, *supra* note 100, at 77 (statement of Gwendolyn Wright, Director, Community Education, New York Coalition Against Domestic Violence). Apart from poor implementation and enforcement of the statutes by legal actors, a class/race bias exists in enforcement. "Women viewed as 'worthy' receive greater assistance. Women deemed worthy are most likely to be white, middle-or upper-class . . . ." Woman, Violence, and the Law, *supra* note 6, at 78.

The battered women's defense has gained some acceptance, *see, e.g.*, State v. Wanrow, 559 P.2d. 548 (Wash. 1978) (en banc), but remains an unreliable defense for women charged with killing their batterers. *See Women, Violence, and the Law*, *supra* note 6, at 112, 142.

Other aspects of the law help trap women in relationships. For example, the trend toward a presumption of joint custody "holds a battered woman hostage in the same community as the batterer . . . ." *Id.* at 133. Of course, men may seek

tlement also ignores the particular insidiousness of male on female violence that the state has permitted to flourish.[165]

By requiring that women compete for funds, the government undercuts women's true entitlement. It allows the government to justify low expenditures by blaming the vagaries of the political process. The money eventually allocated helps mask the male power inherent in government, a reality represented by the composition of the legislature and the male nature of electoral politics.[166] Most importantly, state funding of shelters allows the state to patch women up without addressing the men's battering. It creates a constituency so dependent on its resources that criticism is stifled. Symbolically and literally, women remain at the mercy of men for their very survival. If the government cuts its funds abruptly, it literally cuts off women's lives.[167] This permits the male state, in its own way, to abuse women yet again.

> The way the male point of view frames an experience is the way it is framed by state policy. Over and over again, the state

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custody and be awarded it. This traps the woman if she desires visitation. *Id.* at 135. Alternatively, she may be forced by court order to see the abuser to facilitate his visitation arrangement. *Id.* at 135.

165. The common law originally gave "a man . . . a legal right to beat his wife provided he did not do so to excess." Steele v. Steele, 65 F. Supp. 329, 329 (D.C. 1946); *see* 1 William Blackstone, Commentaries *444, *445 ("The Husband also, by the old law, might give his wife moderate correction."). This, however, was only for "the lower rank of the people . . . ." Fulgham v. State, 46 Ala. 143 (1871); *see also* State v. Rhodes, 61 N.C. 453 (1868) (a husband was not subject to criminal prosecution for beating his wife if he did not do so to excess); State v. Oliver, 70 N.C. 60 (1874) (old doctrine that a husband had a right to whip his wife provided that he used a switch no larger than his thumb was no longer law; however, to preserve the sanctity of the domestic circle, the court would not listen to trivial complaints); Bradley v. State, 1 Miss. (1 Walker) 156, 158 (1824) ("To screen from public reproach those who may be thus unhappily situated, let the husband be permitted to exercise the right of moderate chastisement, in cases of great emergency, and use salutary restraints in every case of misbehavior, without being subjected to vexatious prosecutions, resulting in the mutual discredit and shame of all parties concerned."). *But see* Fulgham v. State, 46 Ala. 143, 146-47 (1871):

> [A] rod which may be drawn through the wedding ring is not now deemed necessary to teach the wife her duty and subjection to the husband. The husband is therefore not justified or allowed by law to use such a weapon, or any other, for her moderate correction. The wife is not to be considered as the husband's slave. And the privilege, ancient though it be, to beat her with a stick, to pull her hair, choke her, spit in her face or kick her about the floor, or to inflict upon her like indignities, is not now acknowledged by our law.

166. Electoral politics is characterized by requirements for office that hamper most women: high finances and a separation from the family while campaigning and serving.

167. Feminist science fiction lends a plausible, yet perverse, rationale for an intentional cut in funds. For example, Margaret Atwood's *The Handmaid's Tale* (1985), tells of a time when the new right takes control of society to ensure its own repopulation. Closing shelters would be a logical step in such a scenario, although Atwood herself omits it in the terrifying account she presents.

> protects male power through embodying and ensuring existing male control over women at every level—cushioning, qualifying, or *de jure* appearing to prohibit its excesses when necessary to its normalization.[168]

The harms of the dependency are compounded by the unreliability of government funding. The federal government routinely eliminates funding programs that support shelters. In 1980, for example, Congress terminated the Law Enforcement Assistance Administration (LEAA), a program of the U.S. Department of Justice, by not renewing its enabling legislation. It provided money to develop model intervention programs to improve the criminal justice's response to battered women. In its discretionary budget for 1977, LEAA devoted about $700,000 to battered women's projects; spending quadrupled by 1980.[169] All aid ceased by September 30, 1982.[170] The Office on Domestic Violence (ODV), established in 1979 and housed in the Department of Health and Human Services, provided technical assistance, supported research, and funded a National Clearinghouse on Domestic Violence. In 1980, the Office's budget was $900,000.[171] ODV was closed in January 1981.[172] The Comprehensive Employment Training Act (CETA) provided shelters with workers.[173] CETA was terminated in 1982.[174]

> Congress has enacted the Job Training Partnership Act (JTPA) to replace CETA beginning in FY 1984. Nothing in the new act, however, with its heavy emphasis on job training and placement in the private sector, is comparable to the [former programs which] subsidized domestic violence workers'

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168. MacKinnon, *supra* note 158, at 167. Not all feminists view the male state similarly. Liberal feminists deny that dependency is a problem. They advocate seeking more funding. To combat fears about dependency, they recommend women run for office to ensure a stable and abundant source of funds. This would require an inordinate number of feminists to infiltrate the legislative, executive, administrative, and judicial branches to combat dependency. Moreover, participation in the state may co-opt feminists. For example, in establishing the Office of Domestic Violence during the Carter administration, "[w]omen in federal agencies and on the White House staff who had successfully lobbied for the creation of this office overcame the fear of male officials that it would be too controversial and excessively feminist." Pleck, *supra* note 2, at 196. Liberal feminists, uncritical of the state, might be complacent in their protection of women's long-term interests.

169. Pleck, *supra* note 2, at 194.

170. *Federal Budget Cuts Jeopardize Domestic Violence Programs: A National Survey Report*, Response to Family Violence and Sexual Assault, May/June 1983, at 1, 2 [hereinafter *Federal Budget Cuts*].

171. Pleck, *supra* note 2, at 196.

172. *Federal Budget Cuts*, *supra* note 170, at 2.

173. Battered women often fell under Titles II and VI which provided job training and employment for economically disadvantaged, unemployed and underemployed persons in the public service.

174. *Federal Budget Cuts*, *supra* note 170, at 3.

> salaries. While individual battered women may be able to get some training assistance under the JTPA, there will be no subsidized workers for domestic violence projects.[175]

The federal government also cuts back programs or maintains them at funding levels unable to match inflation. For example, Congress authorized the Family Violence Prevention and Services Act of 1984 at $11 million for fiscal year 1985 and $26 million for each of fiscal year 1986 and fiscal year 1987.[176] The Administration asked that it not be reauthorized in fiscal year 1987 because it duplicated other federal programs and produced more administrative bureaucracy than it was worth.[177] It was ultimately funded, but only at $8.5 million, and reduced by the Gramm-Rudman-Hollings legislation to $8.3 million.[178] The Administration then delayed the release of the funds to the states.[179] In 1988, the appropriation dropped to $8.138 million.[180] In 1989, the Administration requested $8.138 million,[181] although at first it did not even seek re-authorization.[182]

The Victims of Crime Act of 1984 also experienced cutbacks. In its first funding cycle, $13 million went to battered women's programs.[183] "[Ninety-four percent] of the funds went to enhance or expand existing assistance programs; six percent was used to in-

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175. *Id.*

176. *Women, Violence, and the Law*, *supra* note 6, at 179 (statement of Rep. Coats).

177. *Adoption Reform Act Reauthorization*, *supra* note 12 (testimony of Dr. Jean Elder, Assistant Secretary of Human Development Services, Department of Health and Human Services).

178. *Id.* at 6.

179. *Child Abuse Prevention Reauthorization*, *supra* note 100, at 11 (statement of Rep. Miller). Funding delays also plagued the Family Violence Act. Although the Act was enacted in October 1984, Congress only appropriated funds in August 1985. Even then, it took until well into 1986 for the money to be released to the states. *Adoption Reform Act Reauthorization*, *supra* note 12, at 131 (testimony of Cynthia Grove, Member, Board of Directors and Public Policy Committee, The Association of Junior Leagues, Inc.).

180. *Appropriations for 1989*, *supra* note 111, at 310 (testimony from the Office of Human Development Services, Department of Health and Human Services).

181. *Id.*

182. *Child Abuse Prevention Reauthorization*, *supra* note 100, at 4 (statement of Major R. Owens). Ironically, the Administration gives as its rationale for the budget proposal the "maintenance and expansion" of family violence and shelter programs. *Appropriations for 1989*, *supra* note 111, at 404.

183. This statistic is based on calculations using the following information. "Approximately 75% of the 1986 victim assistance funding went to programs whose primary mission is to provide service in one or more of the areas; of that amount an estimated 43% went to support services for spouse abuse . . . ." *Victims of Crime*, *supra* note 9 at 155 (testimony of Richard Abell, Assistant Attorney General, Office of Justice Programs). "In its first funding cycle, which represents FY 1985 Crime Victims Fund revenue and FY 1986 grant awards, $41,270,000 was made available to States to support State and local victim assistance programs." *Id.* at 151.

itiate new programs. The vast majority of these subgrant awards (84%) were to community-based, nonprofit organizations."[184] In fiscal year 1987, the award of victim assistance grants to the states dropped by $11 million.[185] Assuming the same ratios of distribution as in fiscal year 1986, battered women's programs received only $9.9 million.

"VISTA's funding has been significantly reduced since fiscal year 1981. VISTA's funding was slashed from $33 million in fiscal year 1981 to $10 million in fiscal year 1982 and the number of volunteers fell from 4,718 in fiscal year 1980 to 2,418 in fiscal year 1982."[186] In fiscal year 1983, the Administration requested zero funding for VISTA, but Congress voted the program $11.8 million.[187] In fiscal year 1990, funds requested by the Administration would provide 2,600 volunteer service years in fiscal year 1990,[188] almost half the fiscal year 1980 level. The appropriations have climbed steadily since fiscal year 1985, yet they still do not reach the fiscal year 1981 level.[189]

Likewise, Title XX[190] has experienced cuts.

> Before fiscal year 1982, Title XX funds were used to reimburse the states for 75% of the costs of providing social services to eligible clients, with the states expected to contribute the remaining twenty-five percent. President Reagan's Budget Reconciliation Act of 1981 amended Title XX by creating a social services block grant and dropping the matching requirement. Although federal funding levels for Title XX have remained relatively stable in recent years . . . it is clear that states have less to spend on social services when inflation and the elimination of a matching requirement are considered.[191]

The program started in 1977 with a budget of $2.629 billion and hit $3.271 billion in its heyday in 1980. However, in 1982, the budget request was $1 billion lower than the prior year's appropriation. The next year it was $500 million less. Since then, the appropriations and requests have been constant,[192] $2.7 billion since 1985.[193]

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184. *Id.* at 155.

185. The total award was $30 million. *Id.* at 156.

186. *Federal Budget Cuts*, *supra* note 170, at 3.

187. *Id.*

188. Budget of the United States 5-114 (1990) [hereinafter *Budget*].

189. Appropriations have gone from $17 million in fiscal year 1985, to $18.2 million in fiscal year 1986, to $19 million in fiscal year 1987, to $19.8 million in fiscal year 1988, to $21.6 million in fiscal year 1989, and to $25.62 million in fiscal year 1990. Telephone interview with Diane London, VISTA Headquarters, Washington, D.C. (Apr. 10, 1990).

190. Social Security Act, tit. 20, 42 U.S.C.S. § 1397 (Law. Co-op. 1989).

191. *Federal Budget Cuts*, *supra* note 170, at 4.

192. *Appropriations for 1989*, *supra* note 111, at 341 (Office of Human Development Services, Department of Health and Human Services).

193. *Id.* at 342.

Considering inflation adjusted dollars, the Administration's request of $2.7 billion is $1 billion less than its fiscal year 1981 funding level.[194]

The Community Development Block Grant funding also dropped, from approximately $3.7 billion in fiscal year 1981 to approximately $3.5 billion in fiscal year 1982 and 1983.[195] In 1990, the Administration only requested $2.9 billion, below the 1989 program level of $3 billion.[196] Only $2.8 million was appropriated.[197]

The Community Services Block Grant experienced even more severe cuts.

> During the 1981 session, Congress passed the Community Services Block Grant program (CSBG) . . . and cut . . . the program's funding by 25%. CSBG's fiscal year 1982 funding slid to $365.8 million and $359.9 million in fiscal year 1983. The Reagan administration's budget request for fiscal year 1984 [was] approximately $3 million for close-out money . . . .[198]

In 1988, the actual budget stood at $3.8 million. In 1990, the Administration again proposed to end federal funding of CSBG. No budget authority was requested.[199]

Even if money is authorized, political considerations may stop its distribution. For instance, Jack Kemp, Secretary of Housing and Urban Development (HUD), announced that he was refusing to spend the $91.7 million that was allocated for thirty-eight programs that President Bush never requested in the appropriations bill. Affected was $500,000 earmarked for acquiring land and planning a shelter for battered women in Redlands, California.[200]

Widespread reliance by shelters on federal money makes the entire movement, as well as individual shelters, particularly vulnerable to budget cuts. A national survey reported that "of the respondents that once received federal funds, 95% reported cutbacks in or elimination of those funds."[201] Cultivating dependence and

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194. *Child Abuse Prevention Reauthorization*, *supra* note 100, at 5 (testimony of Major R. Owens).

195. *Federal Budget Cuts*, *supra* note 170, at 4. According to HUD, it last had information on how CDBG supported shelters in 1980. Through fiscal year 1980, 521 shelters used CDBG funds to acquire buildings, for a total of about $3.56 million.

196. *Budget*, *supra* note 188, at 5-92.

197. Telephone interview with Margie Siegel, Data Systems and Statistics, Community Planning and Development, Department of Housing and Urban Development, Washington, D.C. (Apr. 10, 1990).

198. *Federal Budget Cuts*, *supra* note 170, at 4.

199. *Budget*, *supra* note 188, at 5-113.

200. William S. Eaton, *Kemp to Bar Funds for Pet Projects*, L.A. Times, Dec. 5, 1989, at A26.

201. *Federal Budget Cuts*, *supra* note 170, at 1. (1,182 questionnaires were sent to

then cutting money abruptly can force shelters to close[202] or to accept otherwise unacceptable conditions. Inadequately cultivated funding alternatives fail to compensate for abrupt cuts. Of those 95% of the shelters that experienced cuts, the same number reported that "non-federal funding sources have not made up the difference. Only 16% of those who indicated cutbacks in federal funds stated that those losses were being offset by money from other sources—private or state and local governments."[203]

State money is equally susceptible to cutbacks. In 1986, the South Carolina Department of Social Services, eliminated funding for battered women throughout the state. Organizers had to fight to have the funding reinstated—yet it was only reinstated to the 1983 allocation level.[204] Just recently, state budget cuts in Massachusetts forced shelters to layoff workers and cut services when the amount set aside for shelters was cut by $600,000.[205] Appropriated state funds may also prove unreliable. In West Virginia, the State Division of Health and Human Services owed $200,000 to thirteen programs and the state coalition.[206] While the Coalition Against Domestic Violence initially contemplated a lawsuit, they instead helped the agency get the back payments from the legislature.[207]

To be clear, the argument that shelters should decrease their dependence on government funding does not mean that all demands on the state should be forsaken.

> It is simplistic to the point of being incorrect to say that we want to avoid using the state at all costs to fight our battles. The use of the state in fighting feminist battles has been a mixed bag. That bag has contained some very good things. Feminists have fought very hard for laws that protect battered women and a number of other things. . . . It would be incorrect for us all to abandon the state, as it would be for us to totally embrace the state. There are times that it helps us and times that it hurts us.[208]

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battered women's projects across the country by the Center for Women Policy Studies. Of the projects responding, 72% provided shelter to battered women.).

202. *See infra* note 533 and accompanying text.

203. *Federal Budget Cuts*, *supra* note 170, at 1.

204. *Adoption Reform Act Reauthorization*, *supra* note 12, at 114 (testimony of Elise Mullins Evans, Board President, Sistercare Shelter, Columbia, South Carolina).

205. Reid, *supra* note 45, at 7.

206. *West Virginia News Briefs*, United Press International, Jan. 9, 1990 (NEXIS).

207. *Id.*

208. Carrie Menkel-Meadow, *Feminist Discourse, Moral Values, and the Law—A Conversation*, 34 Buffalo L. Rev. 11, 86 (1985), *quoted in* Elizabeth M. Schneider, *supra* note 90, at 630 n.204. Apart from punishing batterers, the government might usefully limit insurance premiums for shelters. *See generally* David E. Nathan, *In-*

But government funding hurts more than it helps and is an area of state involvement that must be foregone.

Lost Autonomy

Funding eligibilty guidelines, utilized at all government levels, impose external standards on the shelters. For example, to receive Texas state funds, a shelter must obtain the endorsement and involvement of local law enforcement officials; demonstrate support for the shelter through volunteer work, especially by prior battered women; demonstrate that shelter services encourage rehabilitation and decreases the victim's dependence on other public and private social service agencies; and document community support for the shelter through financial contributions from civic organizations, local governments, and individuals. Most significantly, Texas requires shelters to provide services to violent family members and to encourage family reconciliation if rehabilitation occurs.[209]

The state of Texas is not the only governmental unit imposing standards. "Mary" described New York City's imposition of standards when it became fiscally involved:

> Work on the women's house came to a grand standstill as soon as we got the money from the state. The city then proceeded to step in, put their people in control of the program (H.R.A. people rather than the feminists who had been working on the house), established 6,000 rules and regulations which halted the opening of the house; in any case we are now trying to struggle with the city to maintain control of the program. . . . I really don't know when I'm ever going to learn, and I certainly should have by now—that one should never, never, never get involved with the city in any sort of program geared at helping women specifically and people in general. It winds up becoming a Social Service project with the interests of the city rather than the interest of whatever group is involved being primary.[210]

Other states regulate the composition of the board of directors or the staff; others monitor the operation of the shelter home and annually evaluate its effectiveness.[211] In Maryland, for example, the State Department of Social Services Administration establishes

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surance Crunch Facing Non-Profit Groups, United Press International, Dec. 16, 1985 (NEXIS) (Insurance premiums jump more than 500% in one year for some non-profit agencies, including some shelters; groups ask the legislature to contain the costs.).

209. Hamos, *supra* note 31, at 65-66.

210. Letter from Mary to Betsy Warrior (Oct. 14, 1976) (available from the Battered Women's Directory Project in Schlesinger Library, Radcliffe College).

211. Hamos, *supra* note 31, at 66-68.

standards of care and admission policies and monitors for compliance.[212]

A recent survey by the National Coalition Against Domestic Violence (NCADV) sought information about shelter standards and found that state control is widespread.[213] Thirty-six state coalitions responded; nineteen stated that standards were mandated within the state.[214] Although the survey indicated that shelters participate in developing the standards, neither the extent of involvement nor its influence on the outcome was documented.[215] Six state coalitions sponsor voluntary guidelines,[216] often developing standards in order to stop the state from instituting them.[217] Standards mostly cover program services (20), physical plant (19), financial procedures and policies (18), personnel policies (17), administrative procedures (16), confidentiality of shelter records (15) and Board of Director policies (14).[218]

The standards and policies accompanying government funding can be oppressive. While some standards appear facially benevolent, the requirements can overburden a shelter, especially if the shelter is low on staff and funding. For instance, the state of Nebraska requires that shelters provide emergency medical serv-

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212. *Id.* at 67-68.

213. *Survey of State Coalitions*, *supra* note 120.

214. *Id.* at 20.

215. *Id.*

216. *Id.*

217. *Id.* at 26-28 (*see, e.g.*, Maine, Missouri, North Dakota, Pennsylvania). Where shelter standards were not mandated by the state or the state coalition, several coalitions offered a set of standards for shelters to use as a voluntary guideline. Four other coalitions were developing such voluntary guidelines. Only eight coalition mentioned that there was no standards whatsoever. *Id.* at 23, 29-30.

218. *Id.* at 20. Only a few shelters mentioned standards governing volunteer policies (4), public education (2), evaluation components (2), mandatory reporting of suspected abuse and neglect (2), staff training and qualifications (2), eligibility (1) and cooperation with law enforcement (1). *Id.*

Not only do standards interfere with autonomy, but so can the method of monitoring compliance and the type of sanction imposed. Out of twenty-two states responding to the NCADV survey, over half (13) said that the state agency monitors compliance. Seven reported that the coalition monitors it, while two states said no monitoring occurs. Out of twenty-five coalitions responding, eighteen said on-sight monitoring occurred.

Sixteen out of twenty-five states with standards said that sanctions are used for non-complying shelters. Loss of state funding represents the most common type of sanction (13/25). Other sanctions included closing the shelter (3), loss of membership in state coalition (1), disclosure of information to other shelters (1), service improvement plant negotiated (1), and revocation of permit (1). However, only fourteen of the states indicated that a process for bringing shelters into compliance existed. Six states lack such a process and two states failed to answer. However, most of the states did report "that every effort would be made to assist the shelter to comply with the standards *prior* to the imposition of a sanction for failure to comply." *Id.* at 21-22.

ices or first aid; emergency legal counseling and referral; emergency financial aid; child counseling for trauma; child care; and batterers' services.[219] These types of impositions can drain energy and hamper vision.

Moreover, standards can misallocate resources away from an area a shelter or its residents find crucial.[220] Additionally, imposing social service requirements on shelters shifts the burden of providing these services from the government.

> A shelter should deiberately put limitations on the services it is willing to provide. Instead of allowing communities to shift the burden of providing medical, legal, economic assistance, and housing onto the meager resources of shelters, communities should be expected to provide these services for all who need them. Since everyone in the community has need for these services, the local government should be responsible for their widespread availability and financing. A woman shouldn't have to wait until she is battered before being able to utilize a good welfare program, legal aid service, etc. There would be far fewer women in need of shelter if these services were adequately provided for all. When a shelter tries to provide these services, money that could have gone more directly to battered women through the shelter channels starts being given to doctors, lawyers, and other professionals. Also, shelters have more than enough work to do in keeping the house, hotline and support groups functioning without taking on "professional" services.[221]

Band-Aid Solutions

Government funding of shelters allows the government to control violence's manifestations without controlling violence. By providing shelters, the government can morally claim it condemns violence without stopping the violence against women. Instead of adopting harsh penalties to redress the systemic violence, the government throws shelters a little money to patch up the victims. Instead of severely penalizing the man who batters a woman, the government trivializes or ignores the crime itself. A member of Congress noted, "[If] you had as many males being injured and killed by any process as is occurring in this situation, I assure you it would be high on the political agenda and something would be done about it."[222] By funding shelters for women, the government focuses on women's need for protection, rather than on men's in-

219. Hamos, *supra* note 31, at 63-64.

220. Walker, *supra* note 4, at 201.

221. Betsy Warrior, *supra* note 12, at 158.

222. *Child Abuse Prevention Reauthorization*, *supra* note 100, at 74 (statement of Major Owens).

appropriate behavior.[223] Most opponents of violence against women realize that mere sheltering is not the answer to battering. Pat Murphy, director of the Minneapolis Department of Corrections' battered women's unit said, "Violence against women is a wide-spread cultural phenomenon and shelters are needed. But more shelters are not the solution . . . . Solutions have been sought in advocacy and intervention projects that coincide with tighter arrest policies by police."[224]

Today many activists focus on mandatory arrest as one of the necessary responses to batterers.[225] Historically, police lacked the power to arrest for a misdemeanor they did not witness. While the law is changing, few states have a mandatory arrest policy.[226] Even states with mandatory arrest laws must deal with attitudes which prevent the laws from having a real impact.[227] When push-

223. State funding also allows the state to ignore the other forms of sex discrimination which often keep a woman in need of shelter. The government doesn't have to confront the poor economic situation of women or the lack of housing if it provides temporary shelters.

224. *Assault*, United Press International, June 18, 1984 (NEXIS).

225. Mandatory arrest means police must arrest in a domestic assault case if they have probable cause to believe a felony or misdemeanor has occurred. *See, e.g.*, Sarah Mansolff Buel, *Mandatory Arrest for Domestic Violence*, 11 Harv. Women's L.J. 213 (1988). One activist in 1978 reported that she "liked very much the idea . . . [of] public humiliation of batterers." Letter from Missouri to Betsy Warrior (Mar. 10, 1978) (author redacted) (available from the Battered Women's Directory Project in Schlesinger Library, Radcliffe College).

226. In 1975, only California and Texas made it an automatic felony, and thus arrestable, for a husband to beat his wife. Marj Levin, *The Wife Beaters*, McCalls, June 1975, at 37. Today, twenty-eight states have laws which allow police to arrest without warrant if an officer has probable cause to believe that an abuser committed a misdemeanor. Of those, six states actually require an arrest in those cases. Judith Levine, *Crimes Against Women*, Glamour, Feb. 1986, at 210, 211-12. Nineteen states allow the police to make warrantless arrests if there is probable cause to suggest that a protection order has been violated. *Id.* at 212. Some cities have enacted such a policy, while waiting for their states to act. *See* Buel, *supra* note 225, at 215 (referring to Concord, New Hampshire; Newport News, Virginia; Duluth, Minnesota; Pittsburgh, Pennsylvania; and Charleston, South Carolina).

227. First, police attitudes pose an obstacle to the law's effective implementation. For example, in Washington, D.C., police admit that they always had authority to arrest for misdemeanors they didn't witness. "They simply don't—sometimes not even when they can see blood streaming down a woman's face." Joan Meier, *Battered Justice*, Wash. Monthly, May 1977, at 37, 38. This hands-off approach gained credence when alternatives to punishment were popular for offenders in the early seventies. Even adopting a new mandatory arrest policy may not force officers to arrest. Kim Blubaugh, Executive Director of The Crisis Center, Inc., said that Manhattan, Kansas, had such a law, yet "[i]t really has made no difference-it's not used/followed." Survey by Merle Weiner (1989). Saundra Brown from Casa de Esperanza in St. Paul, Minnesota said that while both the state and city have a mandatory arrest law, "Police still do not follow-thru." Survey by Merle Weiner (1989). In Minnesota, a follow-up study reported: "Police officers still are not fully informed as to the circumstances under which an arrest is not only proper, but mandatory . . . . It appears that assaulting one's spouse or partner continues to be a

ing more states to adopt a mandatory arrest policy, activists must not forget the crucial role battered women's shelters can play to promote the radical social transformation necessary to make a mandatory arrest policy work. If, as advocates suggest, mandatory arrest gives "the parties and society as a whole . . . a strong message that abuse of women will no longer be tolerated,"[228] officers must implement the law, and punishment must follow. A perverse message is sent to society if men are arrested, yet no consequence follows. While "[a]rrest can kindle the battered woman's perception that society values her and penalizes violence against her,"[229] and thereby "empower" her,[230] being battered again by a system that fails to follow through only reinforces a woman's feeling of isolation, helplessness, and subordination.

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crime that is committed with little consequence." Beverly Balos & Katie Trotzky, *Enforcement of the Domestic Abuse Act in Minnesota: A Preliminary Study*, 6 Law & Inequality 83, 106 (1988).

However, where the policy is followed, repeated documentation shows that mandatory arrest works to reduce battering. In Minneapolis, for example, a study was conducted over a sixteen-and-a-half month period, with approximately thirty-five officers. They used three tactics to deal with abusive spouses: 1) ordering a violent spouse to leave the house for eight hours; 2) mediation; 3) arrest. "Violence recurred in 16% of the mediated cases and 22% of those ordered out of the house, as opposed to 10% of those that ended in arrest." Levine, *supra* note 226, at 211; *see also* Lawrence Sherman & Richard Berk, *The Minneapolis Domestic Violence Experiment* (Police Foundation 1984); Vincent Bozz, *Arrest Deters Batterers*, Psychology Today, Aug. 1986, at 8 (study of 783 battering incidents in southern California showed that arrest made suspects 31% less likely to be reported again for violence); Brooke Masters, *Va. Killing Renews Spouse Abuse Issue; Women's Advocates Say Arresting Batterers Isn't Enough*, Wash. Post, Jan. 11, 1990, at D3 (studies in Alexandria, Virginia and Newport News, Rhode Island also indicate success).

Secondly, society needs to follow an arrest with prosecution and strong punishment. Currently prosecutors do not prosecute. *See* Meier, *supra*, at 42 ("Prosecutors in many jurisdictions are known to avoid prosecuting domestic cases. In some offices special 'cooling off' periods are imposed in the expectation that the woman will change her mind. In the rare case where a prosecutor presses charges, it is almost always as a misdemeanor rather than a felony, regardless of the severity of the assault."); *see also Women, Violence, and the Law*, *supra* note 6, at 88 (testimony of Barbara J. Hart, Esq. Staff Counsel, Pennsylvania Coalition Against Domestic Violence) ("For far too many prosecutors, these cases are low priority and therefore do not merit anything but the most cursory pre-trial preparation. They are presumed to be appropriate for diversion or plea bargaining."). Judges and juries do not convict. *See* Meier, *supra*, at 45. ("Investigations in New York, New Jersey, and Rhode Island, and other states have found widespread patterns of judicial insensitivity to women, including stereotyping, treatment of women as property, as well as a tendency to 'blame the victim' in domestic violence cases."). Even advocates often encourage staying the punishment in lieu of mandatory treatment. *Assault*, *supra* note 224. For a criticism of treatment in lieu of punishment, *see supra* note 26.

228. Buel, *supra* note 225, at 226.

229. Maria K. Pastoor, *Police Training and the Effectiveness of Minnesota "Domestic Abuse" Laws*, 2 Law & Inequality 557, 595 (1984), *quoted in* Buel, *supra* note 225, at 224.

230. *Id.*

Reliance on government funding thwarts the movement from radically challenging the system. Government funding pacifies women and even causes them to extol the government's generosity.[231] Women in the movement fear being seen as radical. Radical demands threaten the state's orthodoxy, frightens those in power, and can cause a loss of funding. But by fearing the loss of government money, the movement ironically contributes to perpetuating its own existence in a movement where going out of business should be the goal.[232] Relying on government funding co-opts the movement and undermines its ability to transform society.

Unless shelters are committed to ending battering and work vigorously to achieve this goal, the government will not address the cause of women's suffering. It will hide behind its legislative judgment that "patching women" is the best way to address the problem, substantiated by the reliance and praise from women involved in the movement. The token nature of the band-aid solution further substantiates the real level of government concern. The government does not even give enough money to demonstrate that it takes the problem seriously.[233] The movement must demand more for women, yet reluctance to bite the hand that feeds makes such demands currently impossible.

Co-Optation

Government funding co-opts the movement itself. While "[w]omen who started battered women's programs were motivated by diverse ideological and personal experiences,"[234] many were radical feminists. Del Martin's *Battered Wives*,[235] an "influential

231. *See infra* notes 218 - 252 and accompanying text. This criticism is similar to that by CLS scholars of rights discourse. Both can keep individuals passive and dependent on the state which grants them their rights. *See* Peter Gabel, *The Phenomenology of Rights-Consciousness and the Pact of the Withdrawn Selves*, 62 Tex. L. Rev. 1563 (1984); *see also* Peter Gabel & Paul Harris, *Building Power and Breaking Images: Critical Legal Theory and the Practice of Law*, 11 N.Y.U. Rev. L. & Soc. Change 369 (1982-83).

232. *See* Link Mathewson, *Women's Center Holds Biggest Function*, L.A. Times, May 13, 1986, pt. 5, at 4. A shelter director Susan Leibel said, "Prevention is the key to (solving the problem of) domestic violence . . . . Our goal, really is to go out of business." *Id.*

233. Hamos, *supra* note 31, at 66. Texas, for example, limits funding to a maximum payment of $50,000 a year, a maximum of 50% of the annual cost of the shelter for a year, and a maximum of one shelter in each county. The survey of thirty-six state coalitions found that ten states established a maximum percentage of a shelter budget that could be covered by state funds. *Survey of State Coalitions*, *supra* note 120, at 41. Four states answered that the state legislation actually set a maximum number of shelters eligible for funding. *Id.*

234. Schechter, *supra* note 20, at 43.

235. Del Martin, *Battered Wives* (1976).

practical guide to grass-roots organizing,"[236] attributed wife beating to a man's belief that the woman was his property. Historians attribute "radical feminism, most critical of the traditional family" as reawakening people to woman battering.[237] The radical feminists in the movement desired to end violence against women and the patriarchy which they believed caused it. They saw their role as more than service providers—they believed they could change society. As one activist explained in 1980,

> I've been feeling guilty because I quit the Support Project, and didn't know what to say about it. The main thing was I just felt all I was doing was service work and not really organizing to change things, and no one else in the project was interested in thinking about that, or so it seems. So I decided to stop it . . . .[238]

Another feminist reported on her fears: "I really do not want to see this shelter become only a safety valve for the community."[239] She continued

> I was worried [about A Woman's Place in Champaign-Urbana, Illinois]—who, though very committed and hardworking and having existed since 1970—really seemed to me to be ending up as just that—a safety valve. They have a very low % [sic] of women who actually leave their husbands and they've had to be very careful not to encourage that, because of heavy concerns in the community that they are "too radical" and the importance of "keeping the family together." Although they say they are very careful not to force anything on anyone, simply to offer *all* the *options*, which is OK in itself, it seemed to me this has amounted to not actively challenging the most deeply defended ideologies of the family nor affirmatively validating a woman's selfhood and rights. . . . Not that I didn't know it was possible (cause I do know it) but that consciously political feminists who have been in the same shelter for so long, could so insidiously be co-opted.[240]

This desire to change society often involved suspicion of all government institutions.[241]

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236. Pleck, *supra* note 2, at 193.

237. *Id.* at 184.

238. Letter from Missouri to Betsy Warrior (Feb. 8, 1980) (author redacted) (available from the Battered Women's Directory Project in Schlesinger Library, Radcliffe College).

239. Letter from Missouri to Betsy Warrior (Mar. 10, 1978) (author redacted) (available from the Battered Women's Directory Project in Schlesinger Library, Radcliffe College).

240. *Id.* at 2.

241. For example, one woman involved in forming a shelter wrote, "A lot of people in the group seem to have very negative feeling about working with police. That is, every time police is offhandedly mentioned, someone says 'Well, I don't want to have anything to do with the police.' " She continued, "A lot of people, in my experience, seem to think that change is all or nothing, and that being involved in *any way* with the police is selling out. . . ." Letter from Missouri to Betsy War-

Entanglement with the government over funding has managed to co-opt the movement.[242]

> We have often become more of a service provision agency rather than a social change group. I feel like [women] know that there are places to go to escape violence but we still haven't done alot of organizing for changes. We also look toward public policy changes as a panacea for change. These changes have usually backfired, i.e. [sic] mandatory arrest laws—result in many battered women being arrested.[243]

As Yolanda Bako, a battered woman's activist, reported, "Many of the pioneers who started the movement to end sexual and domestic violence were visionary women. Many of them have been injured by the constant power struggles and compromises necessary in order to develop funding mechanisms and broad-based support for the very expensive 'shelter' concept."[244]

Government funding managed to co-opt the movement in several ways. First, as government funding became available, non-feminists, and more non-radical feminists, entered to provide services. As social service workers picked up the issue, feminists had to compete with them from funding.[245] The government preferred these social service organizations to the feminists. "Most of the [LEAA's] money was distributed to the states, which in turn channeled it to local organizations . . . LEAA tended to prefer shelters established by the Salvation Army or the United Fund to those identified with feminism."[246] In fact, "[a] survey of 127 shelters in 1981 found that fewer than half developed out of a women's group or included a board of directors or staff members who defined themselves as feminists."[247] Not only did non-feminist shelters arrive on the scene, but the more radical shelters, "which often in-

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rior 2 (Mar. 29, 1977) (author redacted) (available at the Battered Women's Directory Project in Schlesinger Library, Radcliffe College).

242. *See generally* John M. Johnson, *Program Enterprise and Official Co-optation in the Battered Women's Shelter Movement*, 24 Am. Behav. Sci. 827 (1981).

243. Joyce Grover, House Coordinator, Women's Transitional Care Services, Inc., Lawrence, Kansas (response to survey sent by Merle Weiner 1989)

244. Yolanda Bako, *Ethical/Philosophical Considerations Within the Battered Women's Movement 3-4*, in Volunteers Against Violence Technical Assistance Program (paper presented at the Region II Retreat Forum, June 5, 1979).

245. Pleck, *supra* note 2, at 182.

246. *Id.* at 194.

247. *Id.* at 190-91, *citing* Kathleen Ferraro, *Processing Battered Women*, 2 J. Fam. Issues 435 (1981); *see also* Myra Marx Ferree, *Equality and Autonomy: Feminist Politics in the United States and West Germany*, in The Women's Movements of the United States and Western Europe 186 (Mary Fainsod Katzenstein & Carol McClurg Mueller eds. 1987). This statistic is confirmed today. Of fifty-six shelters and safehouses responding to the survey conducted for this article, only thirty-one identified themselves as having a feminist orientation when they started. That constitutes only fifty-five percent. Survey by Merle Weiner (1989).

cluded lesbian feminists on their staffs" tended not to survive.[248]

Second, funding competition forced feminists to tone down their rhetoric. "In the 1970s modern feminists, . . . early encounters with the political process taught them to mute their rhetoric; some feminists claimed they were helping to restore the family, and others tried to conceal or sidestep the controversy."[249] This changed the message that was being sent out to the legislators, the public, and within the shelters themselves.

Not only was rhetoric muted, but unsavory coalitions formed. "Federal legislation funding shelters for battered women finally passed because the feminist movement and its Congressional supporters formed a coalition with conservative legislators."[250] "While a grassroots women's movement still exists in the U.S., it is less visible and to a greater degree has joined forces with the more 'middle-class' reformist sector of the original movement."[251] These coalitions have actually changed the character of the shelters. "Broadening the movement diluted its feminism and altered the character of battered women's shelters."[252]

Government funding allowed the government to depoliticize woman battering. "First battered women's programs were renamed programs for spouse abuse, domestic violence . . . ."[253] But women stayed the victims. "The feminist analysis is replaced by the State's effort to support the family by emphasizing either . . . the violence culture or . . . individual character disorders of women and abusers."[254] For example, Women's Aid became the Randolph County Family Crisis Center, Inc. "in keeping with the philosophy . . . that families are our most important social unit . . . ."[255] Simply, "U.S. funders can and do exert pressure away from the original goals and political vision of the movement."[256] Government funding also increased bureaucracy,[257] professionalization,[258] and

248. Pleck, *supra* note 2, at 191.

249. *Id.* at 10. As in the nineteenth century, feminists were perceived as attacking the family and deliberately toned down their rhetoric to pass legislation. *Id.* at 183.

250. *Id.* at 10.

251. Gelb, *supra* note 48, at 274.

252. Pleck, *supra* note 2, at 200.

253. Capps, *supra* note 93, at VI-40.

254. *Id.*

255. Elaine H. Haigler, Executive Director, Randolph County Family Crisis Center, Inc., Asheboro, NC. (response to survey sent by Merle Weiner 1989).

256. Ferree, *supra* note 247, at 188. *Cf.* Capps, *supra* note 93, at VI-40 ("Certainly the shift from malign neglect to co-optation tactics was a response to the growing power and legitimacy of the movement.").

257. *See infra* notes 319 - 325 and accompanying text.

258. *See infra* notes 281 - 318 and accompanying text.

homophobia[259] in the movement, which has caused many radical feminists to leave.[260]

Finally, government funding results in negative implications for feminist theory in general. While no single ideology characterizes feminist theory, some common tenets exist.[261] Feminist theory embodies the notion that the personal is political and the political is personal. Seeking government money reinforces the false dichotomy between the personal and political. Yet, the two are interconnected.

> We can only transform ourselves by struggling to transform the social relations which define us: changing selves and changed social institutions are simply two aspects of the same process. Each aspect necessitates the other. To change oneself—if individuality is the social relation we are involved in—is to change social institutions.[262]

The power relations inherent in seeking government funding infiltrate life at the shelter. Competing for government funding reinforces the acceptability of competition and not cooperation embodied in group politics. Shelters even compete among themselves for funds.[263] Activists shift their energy from female-centered consciousness-raising[264] to persuading mostly male legislators to grant money.

Praxis—a dialectic between theory and practice—is another tenet of feminist theory.[265] Accepting government money must necessarily change feminist theory or leave it hypocritically nondescriptive. Unfortunately, as Elizabeth Pleck, in her excellent book entitled *Domestic Tyranny* suggests, theory has begun to change: "No social movement survives the process of community acceptance with all of its radical ideas intact. The battered wo-

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259. *See infra* notes 326 - 357 and accompanying text.

260. Pleck, *supra* note 2, at 191.

261. *See* Donovan, *supra* note 53.

262. Nancy Hartsock, *Feminist Theory and the Development of Revolution Strategy*, in Capitalist Patriarchy and the Case for Socialist Feminism 62 (Zillah Eisenstein ed. 1979).

263. For example, at least three states have no formula for distributing state funding to battered women's programs, rather the grant process is competitive. *Survey of State Coalitions*, *supra* note 120. Some states' coalitions have managed to end the competition for state funding. For example the Oklahoma Coalition against Domestic Violence united the various shelters in the state and ended their competition for state funding. Helen DeBolt, Jim Kenderdine, Linda Dowling, officers of the Norman Shelter, Inc., Norman, OK (response to survey sent by Merle Weiner 1989).

264. Coole, *supra* note 93, at 277.

265. *See generally* Schneider, *supra* note 90, at 245 n.58 ("The notion of a dialectical process is a critical aspect of feminist theory."). Although Schneider's discussion is in the context of rights, her more general point about the interrelatedness of feminist theory and practice applies.

men's cause had been considerably tamed by the coalitions and compromises it made in order to receive state and federal funding."[266] Yet, instead of bringing its theory in line with its practice, the battered woman's shelter movement must bring its practice into line with its theory,[267] thereby following the movement's long-term goals.

Hierarchy, Professionalization, and Bureaucracy

Part of co-optation, yet perhaps more insidious, is the imposition of hierarchy, professionalization, and bureaucracy on the movement by funding sources.[268] The changes undermine the movement's goals and makes the subordination inherent in patriarchy less noticeable and less objectionable. It also forces divisions between women which destroy sisterhood.

Hierarchization

The following story of Hegira, Inc., illustrates the hierarchization that infiltrates the movement.

> Hegira, a battered women's shelter in Westfield, MA., began life as a program administered by a large human services agency along with a number of other government funded agencies (Community Development Block grants and CETA staff positions). Within months after the women organizing Hegira began, there developed conflicts between the umbrella agency and the shelter. The shelter staff did not create a hierarchy, so it was hard to hold some one individual accountable. The shelter staff developed a collective process and a weekly support group to talk about intra-staff problems. This seemed strange, if not ludicrous, to the host agency. Issues arose over hiring and firing, over community outreach forums that limited attendance to women, over evaluations of staff performance, over what appeared to the staff to be too much paperwork. In truth, the human services agency was acting out of well established process for bureaucracies. Hegira was acting out of quite different motives. The goal had redefined the structure and the structure did not fit with the expectation of the state definition. This was an inevitable conflict, the end result of which was Hegira, Inc., a separate, non-profit corporation which runs a shelter for battered women through methods and with manners that would turn any government bureaucrat purple.[269]

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266. Pleck, *supra* note 2, at 199.

267. *Id.*

268. Hartsock, *supra* 262, at 66; *cf.* Antonio Gramsci, *Selections from the Prison Notebooks* 365 (Quentin Hoare & Geoffrey Nowell Smith trans. 1971).

269. Grossholtz, *supra* note 94, at 19-20.

Other shelters, less steadfast than Hegira, have conformed.[270]

Union organization among staff workers at battered women's shelters is one of the responses to this hierarchy.[271] In a fascinating open letter from the Women Against Abuse Organizing Committee, the women share their thoughts about unionizing. The women explain that an "us versus them" situation, contrary to the goals of the women's movement, existed before their attempt to unionize. To them, calling the few individuals with real power and control "management" just explained the situation.[272] A week after some staff members expressed their concerns over personnel issues, management sent a memorandum explaining that the shelter's structure was hierarchical and would remain so. Questioning of the decision-making process would not be "tolerated."[273] The Organizing Committee explained, "if the organizational structure was getting more traditional, then we needed more traditional protection—we couldn't rely on goodwill or a certain political viewpoint for fair treatment or protection."[274] Among other things, the letter explained how the women felt that their "labor is exploited."[275] At pay increase or job upgrading time, their "work experience is passed over when someone else has a graduate degree . . . ."[276] These women empowered themselves and unionized.[277]

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270. One worker describes her depression when her shelter switched from its consensus decision-making process:

> For a long period I've been really pessimistic about the future of our Project . . . . [O]ur decision making process . . . has come in for a lot of criticism since many people in the group now aren't familiar with consensus, are impatient with it, don't particular [sic] believe in it or think it's important . . . . However, this meeting . . . [w]e . . . decided to allow voting in difficult cases, although only with a quorum of 15 people (or 16+) and only after one meeting at least has included serious discussion of the issue, and a second meeting has not come to any consensus . . . . There's much still that's unclear and problematic.

Letter from Missouri to Betsy Warrior 1 (Apr. 10, 1979) (author redacted) (available from the Battered Women's Directory Project in Schlesinger Library, Radcliffe College).

271. Employees at Women Against Abuse in Philadelphia voted 19-7 to join District 65, U.A.W. on March 28, 1984. Women Against Abuse, Union Contract Signed at Women Against Abuse (press release). "Management" had refused to voluntarily recognize the union and the union was forced to file the cards with the Labor Board. For the Labor Board hearing on February 1, 1984, management hired an attorney who specializes in labor law from a management perspective. Women Against Abuse Organizing Committee, An Open letter From Women Against Abuse Organizing Committee 1 (Feb. 21, 1984). On November 21, 1984, the union successfully negotiated their first contract and gained a grievance procedure, the District 65 Health Plan, and an education scholarship fund.

272. Women Against Abuse Organizing Committee, *supra* note 271, at 1.

273. *Id.* at 1.

274. *Id.*

275. *Id.* at 2.

276. *Id.*

The women explained that their experience is not unique among shelters:

> We would like to say that in no way do we believe that the situation at WAA is an isolated one. Some of us have talked with staff in other programs who have expressed similar concerns. Related issues, particularly those concerning class differences, race, ex-residents, and the movement of professionals into the shelters/programs have been raised at the NCADV conferences and elsewhere. We have heard of other shelters attempting to organize in California and Massachusetts. Our particular situation is just one part of the history, growth and development of the battered women's movement.[278]

"Hierarchies and chains of command place barriers between women that continue patterns of control."[279] This destroys self esteem and self worth and poisons the atmosphere.[280] Not only is this harmful for the individuals involved, but it makes future revolutionary change less likely. All women are equally vulnerable to male violence and must work together to end it. A structure that puts some women above others works against uniting for change. Moreover, it reinforces the hegemony that some must be in control over others.

Professionalization

Professionalization can similarly undermine a shelter's goal of creating a women's community working to end violence. Susan Schechter writes, "Early in the movement, before government funding began, the primary motivation of most professionally trained women was a political or personal commitment to help battered women."[281] Initial movement members feared professionalization.[282]

Yet, despite their fears, shelters transformed from feminist non-hierarchical, community-based, self-help organizations to professional, hierarchical, social service type agencies. Government funding encouraged this transformation. For example,

> [W]hen individual shelters fought for and won welfare or Title XX reimbursements, they also had to fill out forms and account for "units of client services." Many of these "units" are credited according to the individual counseling and advocacy

277. *Id.*
278. *Id.*
279. Grossholtz, *supra* note 94, at 19.
280. *Id.* at 17.
281. Schechter, *supra* note 20, at 50; *see also* Women's Advocates, Women's Advocates: The Story of a Shelter 3 (1980).
282. Letter to Betsy Warrior (Mar. 29, 1977) (author redacted) (available from the Battered Women's Directory Project in Schlesinger Library, Radcliffe College).

> sessions provided. As a result, worker after worker has commented that she slowly and unconsciously started to call battered women "clients." Greater attention was paid to the individual woman's counseling needs and less to group sharing, peer support, and teaching battered women to advocate for one another.[283]

Government funding also brought in steady revenue to hire professionals. Even if a shelter disavowed professionalism, it had to express expertise to compete for funding and ward off competition from more traditional agencies.[284]

Professionalization gives opponents to change an opportunity to undermine a shelter's revolutionary potential. At the Family Crisis Center in Maryland, the shelter's board of trustees fired the executive director, Mary Weisenberg, for her lack of supervisory, leadership, and implementation skills.[285] Over the next several weeks the board also fired three of the nine person staff. As it turned out, those fired took a feminist approach to woman battering, whereas the board members took a more traditional approach.[286] In fact, the conflict arose when Weisenberg reduced the hours of the male clinical psychologist who ran a therapy group for abusers. The psychologist said he felt his job was to "hear the other side of the truth" and to "represent the male point of view."[287] Howard Stone, head of the shelter's personnel committee said, "It was not meant to be a women's rights facility."[288] Ellen Freeman, who was hired to replace the executive director, described herself "as a professional social worker who as a single parent has had little time or energy to devote to women's political causes."[289] She felt "the family focus had been completely lost sight of."[290] While Weisenberg believed in staff participation in management decisions, Freeman believed in clear lines of authority.[291] Freeman also wanted to hire more staff members with

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283. Schechter, *supra* note 19, at 306.

284. *Id.* at 307.

285. Eugene L. Meyer, *Women's Shelter Suffers Rift*, Wash. Post, Mar. 8, 1984, at Md. 5. The Board, composed of thirteen women and seven men, lacked a battered woman.

286. Two major philosophies guide shelters. Traditionalist shelters view abuse as a relational problem. Separation of the parties is an emergency measure until the problems in the relationship can be resolved. Reconciliation is desirable. Feminist oriented shelters see abuse as part of a larger social problem involving sexism. Women are seen as victims in need of protection and life change. *Social Services*, *supra* note 164, at 206-07. "Many shelters services have philosophies that lie somewhere between these two extremes or reflect elements of both." *Id.* at 208.

287. Meyer, *supra* note 285.

288. *Id.*

289. *Id.*

290. *Id.*

291. *Id.*

master's degrees in social work.[292]

Lois Ahrens, an original staff member at a shelter in Austin, Texas, founded in May 1977, shared another instance of professionalization. She detailed seven phases in the shelter's transformation to a professional social service institution, and explained how this removed the political message of sheltering. During the first phase, "our group was singly-focused, and functioned in a collective and task-oriented fashion,"[293] with a feminist perspective.

In phase two, a Coordinating Committee was formed to direct the center's actual workings. Two of its members became paid staff. "A division grew between members with day-to-day knowledge of shelter happenings and those who became more divorced from the daily realities faced by paid and nonpaid staff."[294] Phase three brought incorporation and the selection of a board of directors; everyone on the mailing list, even people who only expressed an interest in the issue, voted in the election. The board angered the staff when it appointed two personal friends, a white man and a white woman, to replace two minority women who left. The board also refused to participate in an eighteen hour volunteer training. "The board/staff division became sharper as fewer board members maintained contact with battered women at the shelter."[295] During phase four, the board hired an administrator. The administrator divided the workers into direct services staff and administrative staff.

> The administrator never had been a battered woman, nor had she been through the volunteer training. She had little or no contact with women residing at the Center. In response to her approach, two groups developed. One camp, composed of the direct services staff and a large number of volunteers, was collectivist and feminist; the other, made up of the board and administrator, placed greater value on those with credentials and on a hierarchical structure. Under the influence of the administrator, the board of the Center for Battered Women was beginning to push for *one* director.[296]

The board justified the changes by claiming that other agencies, with whom the shelter interacted, could better work with the shelter if it had a structure like the other agencies. Phase five involved staff disintegration. Job descriptions were rewritten to make the functions specific and fragmented. The only policy mak-

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292. *Id.*

293. Lois Ahrens, *Battered Women's Refuges. Feminist Cooperatives vs. Social Service Institutions*, Radical America, May/June 1980, at 41, 42.

294. *Id.*

295. *Id.* at 43.

296. *Id.* at 44.

ing power went to the director.[297] Phase six involved discrediting and maligning the original staff through lesbian-baiting. The director and her allies let it be known through the informal social service network that they prevented a lesbian takeover.[298]

Phase seven describes the aftermath. Feminism and sexism became separated from the issue of battering. The Center looks at battering as a "family violence program" without asking why women are the ones usually beaten. Men now work directly with women in the house on the hot-line and staffing. Divisions between the staff and volunteers and battered women are increasing.

> The Center for Battered Women has undergone the transformation to a social service agency by becoming more and more removed from its "client" population. . . . For example, women now living at the center must make an appointment to see a counselor days ahead of time. In the past, this type of interaction between the staff and a woman could just as easily have taken place at the kitchen table as in an appointed time in a more formal office setting.[299]

Professionalization depoliticizes the movement and gives enemies a convenient excuse by which to co-opt its revolutionary possibility. Professionals often choose to reform, rather than offer advice. They ask intrusive questions that go into voluminous case files closed to residents.[300]

Professionals often ignore the patriarchy leading to violence. They see battering as a mental health or criminal justice problem and not part of a political/sexism struggle.[301] Professionalization introduces hierarchy. No longer is the victim and the helper the same; violence becomes only a problem for some women.[302] Yet, "[i]n a fundamental sense we are all battered women, the experiences of one match the experiences of all."[303] Furthermore, professionals have a vested interest in maintaining the status quo. Their status is validated by it. Even Schechter admits that "professionalization of services is a dangerous goal for any movement that hopes to organize and liberate women."[304]

Professionalization can also magnify class differences in shelters. As "the majority who find their way to shelters are working class or poor,"[305] having shelters dominated by middle class profes-

297. *Id.* at 45.
298. *Id.*
299. *Id.* at 46.
300. Schechter, *supra* note 20, at 283.
301. Schechter, *supra* note 19 at 307.
302. Schechter, *supra* note 20, at 283.
303. Grossholtz, *supra* note 94, at 18.
304. Schechter, *supra* note 20, at 283.
305. *Id.* at 282.

sional women adds another level of friction. These dichotomies render the movement non-revolutionary. As Shirley Oberg, an Intervention Advocate at the Domestic Abuse International Project in Duluth, Minnesota said, "Did Martin Luther King organize 200,000 clients to march on Washington? When Gloria Steinem speaks out against pornography, does she refer to those of us she speaks for, as clients? Movements don't have clients."[306]

Hierarchy and professionalization both contribute to battered women's own marginalization within the movement. One author wrote:

> It has been over a decade since the battered women-mothers planted the seeds of the domestic violence movement. Something unsettling and unanticipated has occurred; a movement which began as the battered woman's is less and less hers. Rather than true empowerment for battered women, the original political ideal, we battered women could be swept away in a blur of service and political conflict, co-optation, classism, and professional elitism. Instead of being at the forefront of the movement, battered women are slipping into the background, far removed from positions of power, as shelters and projects become more and more typical of traditional social service agencies.[307]

Having battered women staff a shelter shows residents that all women are subject to violence. It also vividly demonstrates that they too can and should help other women. It reinforces the idea of grass roots, self-help and thereby encourages others to join in the struggle. Also, it helps temper power imbalances within the shelter. Today, only 10% of the shelters have 100% formerly battered women as staff members.[308] Only half have over 50% of its female staff composed of formerly battered women. And 25% of the shelters responding said that less than 25% of its female staff were battered women.[309]

> Because staff work full-time in the movement, they become its political leadership, accumulating knowledge, contacts, and power. It is an easy next step for programs to operate for the convenience of staff, not shelter residents. Hiring battered women as staff and involving them in program planning and on boards is one partial way to keep power imbalances under better control.[310]

Professionalization also minimizes residents' participation at

306. Shirley Oberg, *An Examination of "The Role of the Battered Woman in the Movement*, in End Violence in the Lives of Women, *supra* note 93, at VI-5.

307. Stafne, Reclaiming Our Movement: A Focus on Formerly Battered Women (mimeograph available from the National Coalition Against Domestic Violence).

308. Survey by Merle Weiner (1989). Fifty-nine shelters responded.

309. Survey by Merle Weiner (1989).

310. Schechter, *supra* note 20, at 285-86.

the shelter.[311] A battered woman's involvement in the shelter is essential to her own empowerment.[312] In a cooperative piece written by the director of the Prudence Crandall Center for Women, a shelter worker, and women who live and have lived in the shelter, the authors write, "When the only means of regaining control lie within the shelter environment, a woman needs more than house chores and welfare visits to establish a more stabilized identity."[313]

At the Prudence Crandall Center, women answer the hotline, advocate for women, and help women apply for welfare. The residents expressed their appreciation. "It's so lonely when you enter a shelter; being part of a semi-staff gives you a real sense of purpose."[314] Another woman said, "If we can't work there or help, if battered women aren't respected for what we can do, then they (shelter people) are saying we are not good for anything. Our brain doesn't stop working because we are battered."[315] While most shelters give their residents some responsibilities, most participation involves cleaning (91%) and childcare (80%).[316] In only 9% of the shelters and safehouses did women help with the hotline.[317]

As Marge Piercy wrote in the last stanza of her poem, "For Shelter And Beyond,"

> and who you are
> battered but alive
> woman ready to give birth again to hope,
> ready to midwife hope
> for other bleeding women.[318]

Battered women are willing and able to help each other. Mutual aid provides a means to more revolutionary ideas and actions. Professionalization of the movement undercuts the prospect for mutual aid.

Bureaucracy

A typical complaint, not unique to battered women's shelters, is that government money brings with it bureaucracy. Many in the

311. Margaret Kovac & Celine, *Shelters for Empowerment*, in End Violence in the Lives of Women, *supra* note 93, at VI-3 [hereinafter *Shelters for Empowerment*].

312. Oberg, *supra* note 306, at VI-5; see also Schecter, *supra* note 19, at 310.

313. *Shelters for Empowerment*, *supra* note 311, at VI-3.

314. *Id.* at VI-4.

315. *Id.*

316. Ninety-seven percent of shelters and safehouses responded to this question (62/66). Survey by Merle Weiner (1989).

317. *Id.*

318. Marge Piercy, *For Shelter And Beyond*, in For Shelter and Beyond ii (Massachusetts Coalition of Battered Women Service Groups) (undated).

movement view the paper work, red tape, and stringent rules and reporting requirements incommensurate with the sums obtained.[319] Kathleen Duggan, an activist at Jane Addam's House in New York, wrote, "Our library is ever growing but I'm afraid it's a small comfort for the tangled web of government bureaucracy we are only beginning to deal with. . . . I continue to be amazed with the slowness of the legal and government processes day by day."[320]

Receiving money from more than one level of government multiplies the bureaucracy. It can cause confusion, mix-ups, and sudden loss of funding. The Phoenix House in Los Angeles lost a $50,000 federal Community Block Grant when a "communications mix-up" occurred between it and the county which allocates the funds.[321] The House failed to submit its request in time to qualify for the funds, although the shelter had relied on these funds for eight years. Barbara Zasloff, director of the Phoenix House, said the shelter was undergoing staff changes at the time and staff members "do not recall receiving the county's notice."[322] This affected the shelter beyond that year; organizations awarded funds had priority to renew their contracts for the following year.[323]

Negotiating the tangled web of bureaucracy can prove particularly problematic for battered women's shelters. Apart from diverting energy from social change, it necessitates accommodating the state in one of its most masculine manifestations. Political scientists have historically described models of bureaucracy as hierarchical, rational, legalistic[324] and neutral, objective, professional, and non-political.[325] Of course, the shelters, by virtue of having to respond to bureaucratic forces, also risk becoming bureaucratic themselves.

Homophobia

Lesbian women have always been active in the battered women's shelter movement.[326] Joyce Grover, the House Coordinator

319. Hamos, *supra* note 31 at 69.

320. Letter from Kathleen Duggan to Lisa Leghorn (May 3, 1976) (available from the Battered Women's Directory Project in Schlesinger Library, Radcliffe College).

321. Martha L. Willman, *Shelter for Battered in Fight for Life*, L.A. Times, March 19, 1987, pt. 9, at 1.

322. *Id.*

323. *Id.*

324. *See* Max Weber, *Essays in Sociology* 196-198 (H.H. Gerth and C. Wright Mills eds. 1946); *see also* Victor Thompson, *Modern Organization* (1961).

325. *See* Woodrow Wilson, *The Study of Administration*, 2 Pol. Sci. Q. 212 (1887). *But see* Robert Nakamura & Frank Smallwood, *The Politics of Policy Implementation* (1980).

326. *See For Shelter and Beyond*, *supra* note 318, at 59.

at Women's Transitional Care Services, Inc., in Lawrence, Kansas wrote, "[Lesbians] were a vital part of these beginnings and our presence should not, must not be erased from that written history."[327]

"[H]omophobia has made its ugly way into shelters, forcing lesbians to leave the movement or, more frequently, to remain silent about their identities."[328] Jean Grossholtz, a staff member at Hegira, a shelter in Westfield, Massachusetts, attributes the escalating homophobia directly to an increased reliance on government money.

> Despite the fact that many founding mothers of the shelter movement are lesbians, homophobia from funding sources, the community and the shelter board and staff often functions to keep lesbian staff members in the closet to protect either their jobs or their shelters . . . . As shelters have gotten state and federal money, they have decided to clean up their image, so to speak. They want lesbian staff to be less blatant. If shelters are seen to be hotbeds, it will cut the funding.[329]

Lenore Walker reports that "[i]n the United States, there has been much concern that fear of losing funds is being used as a way to scapegoat lesbian women who work in shelters by the recent conservative political climate."[330]

Homophobia, as a form of discrimination, is wrong in and of itself. It also hurts a feminist movement. It helps "keep women in line" because society still discriminates against lesbians in employment, housing, child custody, credit, and access to public accommodations.[331] Lesbian-baiting scares women away from being participants in women-centered environments, striving for a social and cultural change.

> Woman-identification is a source of energy, a potential springhead of female power, violently curtailed and wasted under the institution of heterosexuality. The denial of reality and visibility to women's passion for women, women's choice of women as allies, life companions, and the community; the forcing of such relationships into dissimulation and their disintegration under intense pressure, have meant an incalculable loss to the power of all women *to change the social relations of the sexes, to liberate ourselves and each other.*[332]

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327. Joyce Grover, House Coordinator, Women's Transitional Care Services, Inc., Lawrence, Kansas (responding to survey by Merle Weiner 1989).

328. Schechter, *supra* note 20, at 267-68.

329. Janice Irvine, *The Search for Shelter*, Gay Comm. News, Jan. 14, 1984, at 1 (quoting Jean Grossholtz, staff member at Hegira in Massachusetts).

330. Walker, *supra* note 83, at 120.

331. *See generally* Gloria Steinem, *The Politics of Supporting Lesbianism*, in For Shelter and Beyond, *supra* note 318, at 63.

332. Adrienne Rich, *Compulsory Heterosexuality and Lesbian Existence*, in Pow-

Not only is being a self-identified, female-identified woman an "inevitable part of gaining the power to reach a humanistic society,"[333] but "compulsory heterosexuality" itself may be linked to woman battering.[334] It allows males the right of physical, economic, and emotional access.[335] While liberal feminists might justify hiding the lesbians in order to receive government funding, this oppression is counterproductive. "[W]e must look at our longer term goals and our real self-interest. We must understand that what we are attempting is a revolution, not a public relations movement. As long as we fear the word 'lesbian,' we are curtailing our own strength and abandoning our sisters."[336]

The denial of shelter to battered lesbians is an additional manifestation of homophobia within the shelters. "Not only does violence exist in lesbian relationships, it has been theorized that it is perhaps as prevalent among lesbians as it is among heterosexuals. It occurs in all lesbian communities, including those that are feminist, radical feminist, traditional and role-typed."[337] "Shelter workers from the National Coalition Against Domestic Violence report that every region has a shelter that has had some experience with a woman calling who has been beaten by another woman."[338]

Lesbians often find access to the shelters impossible. First, and most importantly, shelters are formally or informally discouraged from addressing this issue. Government funds for Hubbard House in Florida were rescinded when the Department of Housing and Urban Development found out that "lesbian activities," which was merely a Lesbian Task Force meeting, were taking place at the shelter.[339] Second, overt discrimination at the shelters exist which blocks lesbians' access to them. Homophobic staff members

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ers of Desire 177, 199 (Ann Snitow, Christine Stannsell, and Sharon Thompson eds. 1983). Rich refers to a spectrum of women-identification, broadening lesbianism to include relationships other than sexual.

333. Steinem, *supra* note 331, at 63.

334. Rich, *supra* note 332, at 189. Yet Rich herself recognizes some problems with a lesbian existence, including intrawoman violence. *See id.* at 192.

335. *Id.* at 191.

336. Steinem, *supra* note 331, at 63.

337. Ann Klauda, *Violence in Lesbian Relationships*, Safehouse News, July 1986, at 7 (available from Boulder County Safehouse). Lesbian battering is now getting more attention than in the past. Schechter unfortunately fails to talk about lesbian battering in any detail and dedicates only two paragraphs to the issue, the first which is filled with rhetorical questions about how lesbian battering fits in with a theory that explains the persuasiveness of battering in our society. Schechter, *supra* note 20, at 234-35.

338. Irvine, *supra* note 329, at 2.

339. Letter from Charlotte Fries to Betsy Warrior (Apr. 16, 1976) (available from the Battered Women's Directory Project in Schlesinger Library, Radcliffe College).

often block lesbians access to the shelters.[340] General homophobia also inhibits lesbian staff workers from offering the assistance to a battered lesbian.[341] Concerns about funding fuel the homophobia. "Most workers in the movement fear that if their boards or the community would discover that services were being offered to lesbians, funding and community support would immediately stop."[342]

Shelters need to address battered lesbians' unique problems. "[F]requently the location of shelters is known by many within the lesbian community. If the lesbian batterer knows where the shelter is, it eliminates it as a safe place of refuge for the woman she is battering."[343] Also, a lesbian might stay in a battering relationship because her partner threatens exposure of her lesbianism.[344] Or, she may not want to "provide ammunition for straight society to further pathologize" lesbians.[345] She may also fear isolation or objection within the lesbian community. This may stem from the lesbian community's feeling that the acknowledgment of battering was inspired by revenge, fear that public discussion will result in homophobic attacks on the entire community, intimidation from the abuser, or embarrassment about its own reluctance to take a stand against violence among women.[346]

Battered lesbians are in the same position battered heterosexual women were in twenty years ago. Society fails to recognize the existence of the violence in their lives and few safe spaces exist. Unfortunately, the present understanding of lesbian battering is still predicated on heterosexual battering.[347] Lesbian victims may deny their victimization even more than heterosexual victims.[348] These problems are even more acute for lesbians of color. " 'Historically communities of color are notoriously homophobic,' which intensifies the need to remain closeted."[349]

Some may contend that lesbian battering challenges this arti-

340. Penny Jeannechild, *Lesbian Battering Focuses on Discussion of 'Safe Space,'* Philadelphia Gay News, May 2, 1985.

341. Irvine, *supra* note 329, at 2.

342. Barbara Hart, *Violence in Lesbian Relationships*, in End Violence in the Lives of Women, *supra* note 93, at VI-28.

343. Irvine, *supra* note 329, at 2. Yet, homophobia in the larger society may make it more difficult for the battered woman to receive housing in the community.

344. Jeannechild, *supra* note 340.

345. Klauda, *supra* note 337, at 7.

346. Hart, *supra* note 342, at VI-31.

347. Irvine, *supra* note 329, at 2.

348. Hart, *supra* note 342, at VI-29.

349. Klauda, *supra* note 337, at 7-8 (quoting Valli Kanuha of the Community University Health Care Center).

cle's premise that violence stems from patriarchy and that women-centered communities can help end violence. Karen Gilman of Transition House, Inc., a battered women's shelter in Cambridge, Massachusetts, said,

> There's been this feeling that batterers are other, that they're men. . . . There was a lot of disillusionment of what lesbianism is, that it's not a panacea like we thought before. That was real hard for people to grasp . . . that we can be violent to one another, that we can attack one another. That we're not a loving, supportive community.[350]

Lesbian battering, however, need not defeat feminist attempts to link battering to patriarchy. All relationships are currently tainted by the power inequalities inherent in our current society. The male on female abuse model permeates all of the relationships in society. Yet, we must not equate all violence, shifting the focus away from the system of male dominance which condones and perpetrates violence against women. Even female batterers do not have the social, political, economic or personal power of men. "A lesbian brought into a courtroom for battery will face much different treatment than a male batterer would. She will be judged for the 'crime' of being a lesbian as well as for the acts that she committed."[351]

Lesbians are caught in a double bind. Society condemns lesbianism, perhaps because it threatens gender roles or because it threatens male control and domination of women.[352] Yet, the women's community also judges battering by lesbians more harshly, either because it thinks lesbian battering threatens the gendered conception of battering[353] or because funding sources demand

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350. Irvine, *supra* note 329, at 1.

351. M. Smith, *Supporting Lesbians Who Are Battered*, in For Shelter and Beyond, *supra* note 318, at 29. Yet apart from a possible theoretical consistency, many feminists still do not want this aspect of battering acknowledged. Katherine Triantafillou, a drafter of the Massachusetts Abuse Prevention Act, said, "I have a personal hatred and bias against women using the legal system and policy system in their fights with each other. I find it offensive as a feminist. Resolutions of disputes between lesbians should not take place in a white male judicial court." Irvine, *supra* note 242, at 2.

352. *See generally* Sylvia A. Law, *Homosexuality and the Social Meaning of Gender*, 1988 Wisc. L. Rev. 187-235.

353. Early on in the movement, lesbians themselves denied that battering was an issue for them. In organizing a speak out on battering, one activist reported,

> One thing which comes up from time to time is that some women in the group will say that "as lesbians," they cannot strongly identify with the issue, since they "have chosen not to relate to men" and therefore will never be battered. Then it is said, it is important to them "as lesbians," to bring in other issues which are more relevant to "them" ("us"). I'm really beginning to feel there's an analytical difference here, that women are positing without really analyzing it consciously, that lesbianism is a solution to wifebattering, that anyone

condemnation.

While "violence between women was certainly not one of the things we thought we would have to confront in struggling to achieve a utopian women's community or egalitarian, non-sexist community,"[354] it does exist. Shelters must be free to shelter battered lesbians and to address their unique needs. A utopian women's community must help all battered women until violence between women and between women and men ceases.

Shelters need to return to their roots: non-hierarchical, non-professional, women-centered, self-help communities. While some bonds of sisterhood remain,[355] those bonds need to be preserved and multiplied. Overcoming women's oppression needs again to assume importance for the movement. Abandoning government money is a necessary and critical step towards this goal. Fortunately, some shelters are starting to conclude that alternatives to government funds must be obtained. Jan French, a volunteer supervisor of counselors at Women's Transitional Living Center in Los Angeles, advocates more independent funding for the center. "[Government] funds do fluctuate, and some government agencies are not as responsive to the needs of women's shelters as we would like them to be."[356] Casa Myrna Vazquez in Massachusetts, after experiencing a $100,000 drop in state funding in two years, recently launched a $140,000 fund-raising campaign "to lessen its depen-

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> could choose to be lesbian . . . and therefore to not be battered. And therefore . . . they do not want to "only be working on the problems of women who live with men." . . . I'm not sure why these women are in this group at all, really, if that is their feeling. Except that I think it is a confusion and a contradiction that has yet to be worked out, not a completely thought out position.

Letter from Missouri to Betsy Warrior (Aug. 4, 1977) (author redacted) (available from the Battered Women's Directory Project in Schlesinger Library, Radcliffe College).

354. Hart, *supra* note 342, at VI-29.

355. One woman reported her experience at a battered women's conference in 1980:

> A really moving event was the celebratory herstory they did early on in the conference—a speak out format where women got up and spoke about how they began to work on this issue—more or less chronologically. Some were planned, other people came up from audience. It was so *affirming*, to hear how so many started in isolation and how we've all kept on; every time someone got up who had struggled hard, it affirmed *me* as well as *them*; I'd start crying suddenly, a strange combination of painful remembrance and affirmation of strength. Lots of other women were doing the same. It was really an incredible coming together that evening.

Letter from Missouri to Betsy Warrior 2-3 (Mar. 3, 1980) (author redacted) (available from the Battered Women's Directory Project in Schlesinger Library, Radcliffe College).

356. Mathewson, *supra* note 232, at 4.

dence on the state."[357] More shelters need to follow this lead for the movement to serve women's long-term interests.

Section Four: The Alternatives to Government Funding

Shelters should forego all government money. The government, however, should not cut funding before shelters request it. An abrupt cut in government funding, or even a gradual unrequested cut, will immediately impoverish various shelters, a result not desired. This section examines the shelters' non-government funding sources and analyzes their acceptability or feasibility as alternatives to government money. Women's foundations, grass roots resources (including volunteer efforts), and/or self-sufficiency provide the best alternative funding sources for the shelter movement. As a transitional measure, corporate funding is an alternative to government money.

Alternative Funding

Foundations

Foundations currently provide a small amount of support for shelters.[358] During a shelter's start-up phase, foundations provide initial support which then declines over time. Thirteen percent of shelters in the author's survey initially received over half of their funding from foundations and 5% were totally dependent upon foundation money.[359] Only 4% of shelters currently receive more than half of their funding from foundations.[360] The vast majority of shelters (72%) receive no foundation money.[361] Foundations generally prefer to give seed money, and their rare provision of ongoing funds explains the lack of support later in a shelter's life.[362]

Foundation money probably will not replace government

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357. Boston Globe, Apr. 11, 1990, at 14.

358. Survey by Merle Weiner (1989). For the purposes of the survey only, the amounts from charities and churches have been folded into the foundation figures.

Current Foundation Support

Percentage of Foun $	(0)	(1-24)	(25-49)	(50-74)	(75-99)	(100)
# of shelters(49)	35	6	6	1	1	0
% of shelters	72	12	12	2	2	0

359.

Initial Foundation Support

Percentage of Foun $	(0)	(1-24)	(25-49)	(50-74)	(75-99)	(100)
# of shelters(39)	30	3	1	1	2	2
% of shelters	77	8	2	3	5	5

360. *Id.*

361. *Id.*

362. Mettger, *supra* note 145, at 17.

funding. Foundation grants tend to be small and non-renewable.[363] Quantitatively, foundations have not compensated for federal cuts in the past.[364] Moreover, battered women's shelters do not rank high on foundations' list of preferred recipients. "[M]ost foundations are controlled by white males who have their favorite programs," making grants for a women's program difficult to obtain.[365]

In 1980, the Foundation Center examined the IRS reports of 500 foundations, including the 100 largest, and found that only 2.9% percent of the grant dollars were allocated to programs for women and girls.[366] Joanna Hayes, president of Women and Foundations/Corporate Philanthropy in New York puts the most recent estimate at four percent.[367] Finally, one commentator noted: "domestic violence is no longer as 'fashionable' as it was in the mid-1970s. One of the drawbacks of foundation giving which is not likely to change is that it is subject to fashion."[368]

Foundations fare no better than the government in terms of fostering dependency, hierarchy, and a loss of autonomy in shelters. Foundations impose restrictions on the use of their funds.[369] Applying for foundation money often imposes hierarchy within a shelter: "[U]sually only one person in the organization raises these funds; and if you are a collective, this can breed resentment."[370] Because men dominate the traditional foundations, symbolic issues of dependency also arise.

The new women's foundations, however, offer shelters a potentially wonderful funding source for the future. In 1988, approximately twenty-seven recently begun women's funds raised

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363. *See id.* ("typical grants to domestic violence programs range from $1000 to $35,000. They usually are awarded for a [one] year period and rarely exceed [three] years. In multi-year grants, the amount of the gift almost always decreases each year.").

364. *See Federal Budget Cuts*, *supra* note 170, at 12 ("Of those who reported federal funding cutbacks, 15% (72 projects) reported increased foundation support.").

365. Sojourner Truth House, *supra* note 31, at 18. Although the number of women holding foundation professional positions has increased from 17% in 1972 to 60% in 1985, "women serve as chief executive officers at only three of the more than 100 foundations with more than $100 million in assets." David Johnston, *Women Take Aim at Charity Gender Gap: "New Girl Network" of Nonprofit Groups Challenges Male Control in Fund-Raising*, L.A. Times, July 8, 1987, pt. 5, at 1 (The 17% figure comes from the Russell Sage Foundation Study, the 60% figure comes from Elizabeth Boris, research director, Council on Foundations.).

366. *Federal Budget Cuts*, *supra* note 170, at 13; *see also* Jody Mann, *HELP: Feminist Movements Make Charity List*, Wash. Post, Sept. 18, 1981, at B1.

367. Johnston, *supra* note 365.

368. Mettger, *supra* note 145, at 17.

369. Sojourner Truth House, *supra* note 31, at 18.

370. *Id.*

$10 million, double the amount raised in 1985.[371] The number of funds "increased more than tenfold in seven years because women have become aware of how massive shifts in government spending priorities have hurt causes of concern to women."[372] Theresa Odendahl, executive director of the Women's Foundation of Colorado, explains that "[i]nitially . . . class solidarity was stronger than gender solidarity, but now even wealthy women are recognizing their inferior status compared to the men of their class."[373] Most of the donors to the Los Angeles Women's Foundation are single women making between $27,000 to $40,000, ardent feminists, and new donors.[374] One source said, "Women's funds may be pint-sized in comparison with the overall charity scene. But if they are able to mobilize the relative untapped earning power of working women, they could be among the most potent forces fighting social problems in the 1990s."[375] Predictions are that the giving will grow exponentially in the next ten years as women become aware of the foundations and their missions.[376]

The philosophy of these foundations harmonizes well with the shelter movement. The Los Angeles Women's Foundation uses the concepts of independence, personal empowerment, and economic self-sufficiency for women as guidelines when determining grants.[377] Acquiring funds from women's foundations further promotes women helping women; it expands and reinforces the concept of sisterhood. If shelters relied on women's foundations for more of their support, the means of funding shelters would indeed harmonize well with their ends.

Corporations

Corporations present an untapped and potentially abundant source of funding for shelters. In one survey, only twenty-seven shelters out of 665 received help from or approached corporations for support.[378] "In approaching the corporate sector for money, most battered women's programs are entering a new realm."[379]

371. Sandra Atchinson, Walecia Konrad & Ricardo Davis, *Now, It's "Sister, Can You Spare a Dime?"*, Bus. Week, Jan. 29, 1990, at 58 [hereinafter *Sister*]. This compares with the $100 billion raised by established charities in 1988. *Id.*

372. Johnston, *supra* note 365, *quoting* Brenda Funches, founder of the L.A. Women's Foundation.

373. *Id.* at 2.

374. *Id.*

375. *Sister*, *supra* note 371.

376. Johnston, *supra* note 365.

377. *Id.*

378. *Federal Budget Cuts*, *supra* note 170, at 13 (survey conducted by the Center for Women Policy Studies in the summer and fall of 1982).

379. Mettger, *supra* note 145, at 17.

Recently, corporations have shown an interest in battered women. A growing number of companies "have begun to treat family violence as a sickness undermining the health and performance of their employees. New corporate programs . . . are focusing on domestic problems . . . ."[380] Control Data Corporation, for instance, sent letters and brochures to the homes of 34,000 employees and invited any employee who wanted help to contact company counselors. It also sent the same invitation to about 400,000 employees of 200 other companies nationwide that buy employee counseling programs from Control Data.[381] "The General Electric Company is making a videotape to tell 1,150 employees in Hendersonville, N.C., about Mainstay, a local program that helps abused women. The company is also holding meetings and mailing brochures to describe the help available for family problems."[382]

There are various incentives for corporations to become involved. Women battering diminishes their own workers' productivity.

> In a recent study of 50 battered women by the Victims Service Agency in New York, lost work time was common. Half the women said they had missed three days of work a month, on average, because of abuse at home. Sixty-four percent said they were late to work because of violence. More than three-fourths of the women said they had used work time to telephone friends, counselors, physicians and lawyers, because they could not do so at home.[383]

The overall costs to business are staggering. "American businesses lose $3 to $5 billion each year because of abuse-related absenteeism and another $100 million in medical bills."[384] Involvement with a battered women's shelter also provides a corporation with good publicity. Valle Jones from My Sister's Place in Washington, D.C., described how this publicity was generated for a corporate donor:

> The president of HUB [Furniture Stores] gave our shelter a bunch of furniture for P.R. reasons. To capitalize upon this further, he wants to write something up in a national trade journal (for furniture dealers) explaining what he did in D.C. and encouraging others (furniture dealers) to do the same in their community. . . . He did come through with beds and living room furniture, a dining room table, and ten folding chairs and a few odds and ends for us.[385]

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380. Milt Freudenheim, *Employers Act to Stop Family Violence*, N.Y. Times, Aug. 23, 1988, at A1.

381. *Id.*

382. *Id.* at D5.

383. *Id.*

384. 135 Cong. Rec. H4030 (daily ed. July 20, 1989) (statement of Rep. Morella).

385. Letter from Valle Jones to Betsy Warrior (undated) (available from the Battered Women's Directory Project in Schlesinger Library, Radcliffe College).

Contributions also provide tax benefits for corporate donors. A corporation can deduct up to 10% of its taxable income.[386] The current national average for corporate giving is only 1.6% of net income.[387] Thus, much room for growth exists.

Corporate support can take many forms. Gantos, Inc., gave a $335,000 clothing gift in 1988 to Volunteers of America to distribute throughout their emergency shelters for battered women and the homeless.[388] California's Hewlett and Packard Foundation loaned two of its executives to the mid-Peninsula Network to help them develop an effective corporate fund raising strategy and packet.[389] In-kind support seldom has strings attached and can serve to educate the public in general.

Another innovative form of corporate aid is cause-related marketing.[390] Cause-related marketing involves corporate promises to donate some of its sales profit to a particular cause. Consumers respond to this type of promotion. "For the consumer, cause-related marketing is a simple, painless way to ease the conscience," says Mava Heffler, who established Johnson & Johnson Shelter Aid program.[391]

Johnson & Johnson developed Shelter Aid, a program that makes donations to battered women's shelters and supports a national hotline for victims of women battering. It is funded through the sales of Johnson & Johnson products including Carefree and Stayfree feminine napkins.[392] When Shelter Aid was introduced, "many Madison Avenue types figured the controversial and depressing nature of domestic violence would turn off squeamish consumers. Just the opposite. Women identified strongly with the program. Last year Shelter Aid netted close to $1 million for a network of local shelters that aid victims of domestic violence."[393]

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386. I.R.C. § 170(b)(2) (1988).

387. Mary Sit, *Bottom Line for Many Corporations: Charity Tied to Growth*, Boston Globe, Apr. 1, 1990, at A7.

388. *Denver Broncos' Wives to Accept $335,000 Clothing Gift*, PR Newswire, Sept. 9, 1988 (NEXIS). Recently, House of Ruth in Washington, D.C., received a new van from an organization of employees at Signet Bank. Martha Mitchell, *Civil Rights Leader is Breakfast Speaker*, Wash. Post, Jan. 11, 1990, at J3.

389. Mettger, *supra* note 145, at 18.

390. This has been spreading rapidly since 1983. *See generally* Zachary Schiller, *Doing Well by Doing Good*, Bus. Week, Dec. 5, 1988, at 53.

391. *I Gave At the Supermarket*, Forbes, Dec. 25, 1989, at 138 (Joshua Levine ed.) [hereinafter Levine].

392. The nine participating brands were Band-Aid adhesive bandages, Johnson's baby powder, Johnson's baby shampoo, Medipren, o.b. tampons, PediaCare children's cold relief, Reach toothbrushes, Sine-Aid and StayFree. Schiller, *supra* note 390, at 53.

393. Levine, *supra* note 391, at 138. Revenues from this type of campaign can be tremendous. Another cause-related marketing program, the Children's Miracle

The identification by women with the product resulted in dramatic sales increases for Johnson & Johnson.[394]

Although some feared that this type of fund raising would undercut other traditional corporate contributions, a recent survey of thirty companies and nonprofits found that cause-marketing usually added to, rather than detracted from, direct corporate contributions.[395] In addition to providing funds, cause-related marketing also publicizes the problem of woman-battering and the availability of shelters.

The drawbacks are that corporate funding may be difficult to acquire because of a business' reluctance to part with profits.[396] Corporate funding generally requires knowing someone in the upper levels of management in the corporations and the stability of funds may also be questionable as the economy affects corporations' giving.[397] As only 0.3% of corporate gifts go to "women's causes,"[398] there may be significant resistance to financing battered women's shelters, especially if shelters become more radical and overtly feminist. Moreover, corporate financing does not escape from the problems of lost autonomy, co-optation, hierarchy, professionalization, and homophobia. Corporations can attach strings to their giving and corporate sources often appear just as patriarchal as the government, raising ideological questions of

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Network, started by the singing Osmond family, supports 165 children's hospitals. It is estimated that in 1988, $50 million will be raised from a telethon and $18 million will come directly from twenty-two corporate sponsors who run promotions. The participating brands include Breyers Ice Cream, Maxwell House, and Hershey's.

394. Laurie Freeman & Wayne Walley, *Marketing With a Cause Takes Hold*, Advertising Age, May 16, 1988, at 34 [hereinafter *Marketing with a Cause*].

> Evidence that consumers are interested in the philanthropic records of corporations comes from the Council on Economic Priorities. The council's book *Shopping for a Better World* rates products sold in supermarkets on their manufacturer's philanthropy and on other aspects of corporate good citizenship. The first edition of the guide, published last year, sold 350,000 copies with virtually no distribution network .... Nearly 70 percent of the respondents to a survey of guide readers least year said they changed their buying habits based on the ratings. And 52 percent said that corporate giving was a top priority or very important when they were deciding among brands.

Christina Robb, *Consumers Shop for Generous Companies*, Boston Globe, Apr. 1, 1990, at A8.

395. Schiller, *supra* note 390.

396. Sojourner Truth House, *supra* note 31, at 18. The Council on Foundations recently found that seventy-one percent of CEOs believe giving policies should reflect corporate self-interest. Schiller, *supra* note 390.

397. Sojourner Truth House, *supra* note 31, at 18; *see also* Sit, *supra* note 387, at A7.

398. Janice Mall, *About Women: Forming Fine Financial Foundations*, L.A. Times, Sept. 7, 1986, pt. 6, at 8 (quoting a National Committee for Responsive Philanthropy report).

dependence.[399]

Cause-related fund raising itself may be objectionable. The product sold to raise money for the shelter may be troubling to feminists, such as cosmetics. Cause-related marketing also forces a shelter or coalition to grant exclusive use of their name during a campaign to the corporation.[400] Socialist and marxist feminists may find this direct dependence on capitalism even more objectionable than the status quo, although today, all money derives from a capitalist system: "money is almost always dirty, earned through the exploitation and oppression of segments of this and other societies . . . ."[401]

Notwithstanding these concerns, dependence on corporate America seems less troubling than dependence on the government. First, corporations have more self-interest than the government to support shelters. Because battering effects productivity, corporations have an economic incentive to support shelters. While battering may force women to receive government social services, this link is more attenuated and harder for any level of government to notice. Government officials, concerned about re-election, may have less of a commitment to a spending program, especially when rhetoric about fiscal constraint and family stability can also attract votes. Second, while an individual corporation may be greatly vested in a single shelter, horizontal control of the entire movement would not exist. This limits potential co-optation and makes any one funding source more easily severable. If corporate funding is used transitionally while shelters strive toward self-sufficiency, the potential for co-optation will be minimized.

The United Way[402]

The United Way, a national workplace charity campaign, is a major non-governmental source of income for battered women's shelters. More than 2,000 United Ways exist, each governed by a local board of volunteers.[403] The United Way collects contribu-

399. Corporations, hierarchical and dominated by men, also devalue women's work, as evidenced by the salary differentials of female and male employees.

400. Schiller, *supra* note 390.

401. Schechter, *supra* note 20, at 296. Tax dollars themselves also result from the oppression of others in the generation of taxable income.

402. This discussion does not include organizations similar to the United Way, such as the Junior League. "From 1984 to 1986 . . . Junior Leagues reported committing more than 600 volunteers and more than $1.8 million to family violence projects across the country." *Adoption Reform Act Reauthorization*, *supra* note 12, at 130. (statement of Cynthia A. Grove, Member, Board of Directors and Public Policy Committee, The Association of Junior Leagues, Inc.).

403. *A Century of Caring*, N.Y. Times, Oct. 23, 1987, at A38.

tions from corporations, foundations, and individuals participating in payroll deduction programs, and raises about $2.6 billion a year.[404] Of fifty-nine shelters responding to the author's survey, 65% received some United Way money.[405] Thirty-nine percent received over a quarter of their budget from this source.[406] These figures correspond to findings from a National Coalition Against Domestic Violence survey which revealed that 67% of their survey respondents (328 projects) received United Way funds during fiscal year 1981 or fiscal year 1982.[407]

The United Way provides fewer funds during a shelter's start-up. Only 10% of those shelters responding to this author's survey initially received any United Way funding.[408] The United Way makes it difficult to acquire its money at a shelter's outset.[409]

While the United Way gives large renewable grants, offers advice and assistance, and forces good bookkeeping,[410] shelters should be very cautious about increasing their dependence on the United Way. The United Way is very white, male, and establishment.[411] Not until 1989 did a woman become the first female chairperson of the board of the United Way of Massachusetts Bay. She followed a "long line of men with gray hair and big companies—men like John Larkin Thompson, president of Blue Cross-Blue Shield, John P. LaWare, former chairman of the Shawmut Bank . . . ."[412]

Sexist giving trends substantiate the United Way's image as

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404. David E. Anderson, *Smaller Charities Should Pass $100 Million*, United Press International, Dec. 2, 1988 (NEXIS).

405. Survey by Merle Weiner (1989).

Current United Way Funding

Percentage of UW $	(0)	(1-24)	(25-49)	(50-74)	(75-99)	(100)
# of shelters(49)	17	14	16	2	0	0
% of shelters	35	28	33	4	0	0

406. *Id.*

407. *Federal Budget Cuts*, *supra* note 170, at 12.

408. Survey by Merle Weiner (1989).

Initial United Way Funding

Percentage of UW $	(0)	(1-24)	(25-49)	(50-74)	(75-99)	(100)
# of shelters(39)	35	1	0	1	1	1
% of shelters	90	3	0	2	2	3

409. Sojourner Truth House, *supra* note 31, at 18.

410. *Id.*

411. Also, shelters may not want to rely on an organization that is extremely hierarchical. This hierarchy is illustrated by the very high salaries paid to top administrators. The median salary of the presidents of the United Way agencies in 1988 in the nation's twenty-five largest cities was $151,500. Mohl, *United Charity Payroll up 25%; President's Package Worth $182,000*, Boston Globe, Oct. 16, 1989, at 21.

412. Nina McCain, *Micho Spring: United Way's "First Woman,"* Boston Globe, Mar. 20, 1989, at 31. Micho Spring, the new female chairperson, said, "We must overcome the perception that we're a closed club. We are reaching out to a lot of

white, male, and establishment.[413] "United Ways nationwide gave $2.38 to boys' programs for every dollar they gave to girls' programs . . . ."[414] The United Way has defended itself against charges of sexism and offers as proof the fact that "[o]ver 52% of all clients served by United Way member agencies are female."[415] This statistic includes funds given to traditional agencies, such as the Lutheran Social Mission Society, the Girl Scouts, and the YWCA.[416] Criticism about sexism may be changing the organization, however. The United Way of New York City, under pressure from criticism, decided to devote $70 million in the next five years to bolstering small local agencies, including battered women's shelters.[417] This decision "could influence other affiliates to do the same."[418]

Further problems with United Way funding can develop because the United Way restricts the use of funds and makes the distribution and renewal of funds political.[419] Co-optation can occur. A shelter can lose its funds if the United Way views "instability and lack of responsible management" at the shelter.[420] The United Way cut off $32,000 in funding for the Fifth Street Shelter

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small agencies, battered women's shelters. We have to be more inclusive about the agencies we serve." *Id.*

413. Some women in the movement dispute the allegation. Roberta Hacker, Executive Director of Women in Transition said,

> Women in Transition simply couldn't survive without the support we get from United Way. We can use United Way dollars for our basic operations that support all our programs. That's the hardest type of funding to get. I have no question that United Way has a very strong commitment to services for women and girls.

United Way Rebuffs Attack by Women's Way, PR Newswire Nov. 23, 1988 (NEXIS).

414. Mall, *supra* note 398 (quoting a National Committee for Responsive Philanthropy report). In San Francisco, the Women's Foundation accused the United Way of the Bay Area of giving over $1 million more to boys' programs than to girls' programs, even though there were not more boys than girls. Johnston, *supra* note 365. The United Way of the Bay Area allocated $850,000 over five years to narrow the gender gap. *Id.*

415. *Id.* (quoting Christine James-Brown, director of Fund Distribution and Community Problem Solving).

416. *Id.*

417. Kathleen Teltsch, *United Way to Aid Smaller Agencies*, N.Y. Times, Feb. 22, 1990, at B4.

418. *Id.* (quoting Tom Nunan, Vice President of the United Way of America).

419. Sojourner Truth House, *supra* note 31, at 18. *Contra* Eileen Norris, *Divvying Up United Way Pie a Tough Job as Needs Swell*, Crains Chi. Bus., Oct. 24, 1988, at 86. ("Once a member, they are eligible to receive annual funding, as long as their audits, annual reports and periodic spot visits receive good marks and directors remain convinced their charitable dollars are spent *appropriately*.") (emphasis added).

420. *United Way Cuts Off Shelter Funding*, United Press International, Jan. 28, 1990 (NEXIS).

Ministries in North Carolina which provided shelter to battered women. Citing instability and a lack of responsible management, the United Way denied cutting off funds because two Presbyterian ministers working there had a child-out-of-wedlock.[421]

The United Way also pressures shelters to become more hierarchical and professional. "Some respondents reported in fact that upon requesting grants from the United Way or foundations, they were advised to become a part of a better known or more traditional social service organization."[422] One project reported just this kind of pressure:

> [We] will apply to the United Way next year. They turned us down this year and requested we join the YWCA. We increased our services from a crisis line—we moved from [being] an autonomous agencies to [being a part of a] YWCA program in 1980. This made us immediately eligible for United Way funding.[423]

Another major problem with United Way funding is that during the United Way fund drive, member organizations are prohibited from conducting outside fund raising.[424] A shelter facing hard times during the drive may be endangered if the United Way cannot accommodate its emergency. Also, striving toward self-sufficiency may take continual fund raising. A prohibition from raising funds for a period of time may not be in a shelter's long term interest.

Finally, increasing dependence on the United Way may be a moot point. The United Way may not be able to increase its fiscal support of shelters.[425] Individual United Ways are having trouble raising enough money to support their present members, much less to consider new ones.[426]

A role for the United Way, separate from direct funding of shelters, does exist. In Los Angeles, the United Way created a rental-assistance program. It gives battered women the first month's rent, and does not require repayment. This makes it easier for homeless women and children fleeing abuse to move into an apartment.[427] This type of involvement should continue and expand.

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421. *Id.*

422. *Federal Budget Cuts*, *supra* note 170, at 15.

423. *Id.*

424. Kathleen Ostrander, *Beloit Family Shelter Out of Funds*, United Press International, Sept. 12, 1986 (NEXIS).

425. *Federal Budget Cuts*, *supra* note 170, at 12. (quoting Robert Bothwell, Executive Director of the National Committee for Responsive Philanthropy, saying that the United Way can not pick up the slack left by federal cutbacks).

426. *Id.*

427. *Helping Hands*, L.A. Times, Oct. 22, 1988, pt. 2, at 8.

The Church[428]

Many shelters depend on church money. One shelter in New Orleans, Crescent House,

> has benefited not just from the support of individual churchgoers, but also from the assistance of powerful religious organizations in Louisiana. Pressure from the Catholic Daughters of America (CDA), for example, convinced the Archbishop . . . to donate a house to the program. And the combined efforts of the CDA, the Archbishop, and Associated Catholic Charities persuaded the governor to commit well over $100,000 of state funds to the shelter, support that has continued for several years.[429]

One advocate tells how nuns helped acquire the building for their shelter.

> The big news is we got a house! A former convent (regular old house) in excellent condition. It's probably going to be demolished in 2, 3, or 4 or more years because a street's being moved through where it now stands. So the sisters (Sisters of Loretto) are moving out and wanted to do something with the house (2 women in our group are SL's—very radical SL's—not your usual nuns—which is how we knew of it, and really, got it, since they went to the executive meeting which decided in our favor for the house). We don't own it—we just get it rent free, for the cost of maintenance and upkeep. It seems they've even left us the furnishing—even linen! How's that for a windfall![430]

In addition to in-kind donations, churches can provide a steady source of income. In 1988, a survey of 4,200 religious congregations found that of the $41.4 billion donated to congregations, forty-six percent was spent on human services within the community.[431] Church support often gives a shelter mainstream credibility which can facilitate fund raising from other sources.[432]

The disadvantages of church money, however, are great. Churches have big bureaucracies both at the national and regional levels.[433] Churches tend to be conservative, controlled by men,

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428. "Church" is used in this section non-denominationally. It refers to the organized institutions that uphold a Judaic-Christian ideology. The discussion does not specifically refer to eastern religions, as the literature did not distinguish between religions and the author's knowledge about these religions is limited.

429. Mettger, *supra* note 145, at 19.

430. Letter from Missouri to Betsy Warrior (March 10, 1978) (author redacted) (available from the Battered Women's Directory Project in the Schlesinger Library, Radcliffe College).

431. Linda Matchan, *Religious Groups Lead the Way in Giving*, Boston Globe, Apr. 1, 1990, at A8.

432. *See* Sojourner Truth House, *supra* note 31, at 19.

433. *Id.*

and distribute their wealth politically.[434] Churches are hierarchical and put women at the bottom of the hierarchy.[435] Tremendous potential for co-optation exists as organized religion is inherently sexist.[436] The "seeds of violence against women are embedded in the theology and teachings of the church."[437] The importance and centrality of the family in religious dogma also makes dependence on church money problematic.

Grass Roots

Private contributions provided an important source of financing for shelters at their beginning. A survey by the author found that 26% of the shelters received over 50% of their initial funding from private donations.[438] Fifty-four percent received some level of private donations.[439] This coincides with findings by the National Coalition Against Violence study: "[N]early half of the respondents, 45 percent (302 domestic violence projects), rely on their communities for support."[440]

Shelters rely less on private donations today than they did in the past. The author's study found that currently only 4% of the shelters receive over 50% of their funding from private donations.[441] While initially 34% of the shelters received over 25% of

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434. *Id.*

435. Jean Jean Gledhill, *Breaking the Silence of the Church on Domestic Violence*, in 1 National Conference on Domestic Violence 51, 53 (Suzanne Hatty, ed. 1985).

436. *See, e.g.*, Mary Daly, Beyond God the Father: Toward a Philosophy of Women's Liberation (1973); Mary Daly, The Church and the Second Sex (1975); Rosemary Radford Ruether, Womanguides: Readings Toward a Feminist Theology (1985); Phyllis Trible, God and the Rhetoric of Sexuality (1978). For examples of misogynous readings of the Bible, see Merlin Stone, The Paradise Papers: The Suppression of Woman's Rites 5-8, 198-233 (1976); June Singer, Androgyny: Toward a New Theory of Sexuality 85-100 (1976).

437. Gledhill, *supra* note 435, at 55. For example, *The Bible* contains the following: "Wives be subject to your husband, as to the Lord. For the husband is the head of the wife as Christ is the head of the Church." *Ephesians* 5:22-23; "Do not permit women to teach, nor to have dominion over man, but to be in quietness." 1 *Timothy* 2:12, *quoted in* Gledhill, *supra* note 435, at 55.

438. Survey by Merle Weiner (1989).

Initial Private Donations

Percentage of PD $	(0)	(1-24)	(25-49)	(50-74)	(75-99)	(100)
# of shelters(39)	18	8	3	5	0	5
% of shelters	46	20	8	13	0	13

439. *Id.*

440. *Federal Budget Cuts*, *supra* note 170, at 14.

441. Survey by Merle Weiner (1989).

Current Private Donations

Percentage of PD $	(0)	(1-24)	(25-49)	(50-74)	(75-99)	(100)
# of shelters(49)	16	25	6	2	0	0
% of shelters	33	51	12	4	0	0

the revenue from private donations, today only 16% of the shelters received over 25% of their revenue from private donations.[442] In fact, now over half the shelters (52%) receive less than 10% of their funding from private sources.[443] While initially 13% of the shelters received all of their funds from private donations, today none of the shelters responding to the survey reported that they were totally dependent on private donations.[444]

Grass roots support has been characterized as shelters' "weakest area of fund raising," yet one of the most potentially rewarding areas.[445] This article advocates an increased reliance on local private funds. Grass roots financial support can take many forms. For example, the Women's Transitional Living Center in Orange County, California, raised $17,000 in one evening at their annual dinner and silent-voice auction.[446] The men's auxiliary of Battered Women's Alternatives in California holds a benefit each year. "Composed of boyfriends, friends, and husbands of BWA staff and volunteers, the auxiliary raffled off a car this year, earning $15,000 for BWA."[447] Other forms of support include phone-a-thons[448] and direct mail solicitation.[449] In-kind benefits from the community also help shelters. In San Jose, California, forty-three area restaurants collect left over food and distribute it to battered women's shelters.[450]

One lucrative method of local fund raising is inclusion in a payroll deduction program, either through public or private employers. An employee chooses which group benefits from a payroll deduction. In 1983, for example, My Sister's Place in Washington, D.C., received $80,000 from the Combined Federal Campaign, a charitable donations program sponsored by the federal govern-

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442. *Id.*

443. *Id.*

444. *Id.*

445. Mettger, *supra* note 145, at 18, 20.

446. Mathewson, *supra* note 232, at 4.

447. Mettger, *supra* note 145, at 19.

448. The Community to Aid Battered Women raised $6,000 in four hours in a phone-a-thon. Mettger, *supra* note 145, at 19.

449. For example, the St. Louis Abused Women Support Project estimated in 1977 that they needed $10,000 to start a shelter. In their grass roots fund raising effort, they wrote "friends" and said, "If each of you who receive this letter donates $5.00, we will reach our goal." Letter from Mary Jo Cinnater, St. Louis Abused Women's Support Project, Inc. to friends (Dec. 4, 1977) (available from the Battered Women's Directory Project in Schlesinger Library, Radcliffe College).

450. Marcia Ludwig, *Restaurants Donating Unused Food to Shelters*, 7 Bus. J.-San Jose, Feb. 5, 1990, at 1. The legislature passed a bill relieving restaurants of liability for any illness or allergy caused by the food. However, the food is still closely inspected. *Id.*

ment for federal workers.[451] "[P]ayroll deductions are by far the most lucrative and efficient way for groups to raise money. 'For the time you put in, it makes more for you than any other kind of fundraising,' says Tricia Rubacky of the Youth Project."[452] Today twenty-nine states, twenty-two cities, and 4,000 worksites allow their state government payroll campaign to be open to non-traditional funds.[453]

Grass roots fund raising, in addition to raising money, educates the community about sexism and abuse against women. The End Violence Fund held a day-long event with an evening concert, afternoon films (including *We Will Not Be Beaten*), an art exhibit, and display booths from local women's groups. One participant reported, "[a] good number of people showed up for the afternoon session, and even better for the concert. People I've never seen before . . . . It's not going to pay even for a month of expenses . . . but it helps and it's good to reach new people."[454] Education helps eliminate the problem, not merely heal its victims.

Perhaps the largest area of local support, and one which should be expanded, comes from women who volunteer. Susan Kelly-Dreiss, Executive Director of the Pennsylvania Coalition Against Domestic Violence says, "[d]omestic violence services truly depend upon volunteers."[455] In Pennsylvania alone "over 350,000 hours of volunteer time were contributed."[456]

Shelters have always relied heavily on volunteers. The author's survey showed that when the average shelter began, it had three paid staff and twelve volunteers.[457] In 1989, the average shelter had eleven paid workers and thirty volunteers.[458] While

451. Marilyn Gisser, *Funding for Shelters: Litigation of the Necessaries Doctrine*, Response to the Victimization of Women and Children, Fall 1984, at 22. The first year a feminist organization was allowed to participate in a payroll deduction program was in 1981. This followed court suits and congressional hearings. Mann, *supra* note 366. This program was threatened with a Reagan administration proposal to make groups which litigate or advocate ineligible for funds. This would have affected My Sister's Place, a shelter which was part of the Women's Legal Defense Fund. That proposal, fortunately, did not succeed. Dorothy Gilliam, *Fallacy*, Wash. Post, Sept. 18, 1981, at B1.

452. Mettger, *supra* note 145, at 18.

453. David E. Anderson, *Smaller Charities Should Pass $100 Million*, United Press International, Dec. 2, 1988 (NEXIS).

454. Memorandum from Missouri to Betsy Warrior (Aug. 4, 1980) (author redacted) (available from Battered Women's Directory Project in Schlesinger Library, Radcliffe College).

455. *Child Abuse Prevention Reauthorization*, *supra* note 100, at 63 (testimony of Susan Kelly-Dreiss, Executive Director of the Pennsylvania Coalition Against Domestic Violence).

456. *Id.*

457. Survey by Merle Weiner (1989).

458. Survey by Merle Weiner (1989). This does not include residents efforts at

the ratio of volunteers to workers has decreased, the absolute number of women volunteering in shelters has increased. The shelters probably can recruit an even greater number of women. Volunteering in general is on the rise.[459]

Relying more on volunteers will help replace the need for government funding. Future volunteering can take various forms. For example, safety networks should increase. Safety networks were prevalent before centralized battered women's shelters existed.[460] Sandy Ramos housed several hundred women and children in her home through a safety network system before she opened Shelter Our Sisters in New York. "They kept coming. As soon as one left, another one would appear."[461]

Many rural areas still rely on safehome networks. Door Opener's Crisis Intervention Program in Mason City, Iowa, shelters women and children this way. It has more than 200 participating families spread over eight counties; and at least half the homes are available at any given time."[462] Many of these programs developed because of the scarcity of funding resources. One advocate reported:

> Although the cost of rural services is high in dollars and time, we can and do offer programs with little or no money. Local fund raising relies upon small, individual donations and a wealth of in kind goods and services. We learn to do more with volunteer systems, and our volunteer systems are strong. They connect our programs more closely with the communities being served, and they keep our base of support wide and diverse. . . .
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> . . . Current economics affect rural programs less—we

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running the shelter. Ninety-seven percent (62/64) of shelters responding said that women residents had shelter responsibilities. Ninety-one percent of the shelters (58/64) had the residents help clean the shelter, 80% of the shelters (51/64) had residents help with child care and 9% of the shelters (6/64) had residents help with the hotline. Survey by Merle Weiner (1989).

459. The number of hours given per volunteer per week approximately doubled in the 1980s. Richard Higgins, *The Fortune of Others*, Boston Globe, Apr. 1, 1990, at A5. On average, 45% of Americans volunteered in 1987 for an average of 4.7 hours per week. Gloria Negri, *Volunteerism Up as "Me Decade" Ends*, Boston Globe, Apr. 1, 1990, at A6. (quoting a survey of 2,775 households nationally conducted for The Independent Sector, Washington, D.C.).

460. However, some shelters developed because safehomes presented "too much of a strain on family members." Executive Director, CASA of Howard County, Inc., Columbia, Maryland. Survey by Merle Weiner (1989). For a general description of safehomes, see Irene Kiebert & Susan Schechter, Park Slope Safe Homes Project. Technical Assistance Manual (1980).

461. Sandra Gardner, *New Center to Open for Battered Women*, N.Y. Times, Apr. 26, 1981, at 12, s. 11.

462. Joseph D. Le Valley, *Safe-House Network for Rural Victims*, Ms., Oct. 1982, at 19.

> have never had a budget to cut or lose. There is discussion of co-optation, pressures from funding sources and professionals to change our services and/or service delivery. Because there are fewer strings attached to how rural programs are funded, we are more autonomous and able to respond to our own community's needs.[463]

The movement should also rely more on volunteers for the centralized shelters. Both community women and former shelter residents should help run the shelter.[464] This would cut shelters' costs tremendously. Staffing comprises the largest part of a shelter's budget.[465] The author's survey found that for eighty percent of the shelters, salaries constitute over half of their operating budget.[466]

Some feminists may balk at the suggestion of increasing dependence on volunteers. Some believe that volunteering keeps women's contributions to society undervalued, uncompensated, and to some extent unappreciated. Volunteering historically represented a form of participation without control,[467] and has led to an undervaluing of women's paid employment.[468] It also has been associated with the primacy of the traditional family, where a married woman, supported financially by her husband, contributed in a way which would not conflict with marriage and motherhood.[469] Liberal feminists also criticize volunteerism as an excuse for with-

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463. Nancy Gentile, *Rural Women: Defining Our Own Standard*, in End Violence in the Lives of Women, *supra* note 93, at VI-8-VI-9 (second national conference and national meeting); *see also Networker* 1 (Mar./Apr. 1986) (newsletter of the Family Violence Network in Lake Elmo, MN) ("We have made our program very cost effective because we choose to provide emergency housing through a county-wide network of volunteer safe homes rather than by maintaining an expensive shelter."). While isolated safehouses may be less effective than shelters in fostering change, safehome participants reject that criticism. *See* Joint Strategy and Action Committee, Inc., *The Battered Wife*, Grapevine, June 1977, at 1, 2 ("A network of homes run for and by women across the country would begin to undermine the hegemony of the patriarchal, nuclear family set-up in which so much violence occurs.").

464. *See* Gardner, *supra* note 461 (former residents do return often to help run the shelter).

465. Survey by Merle Weiner (1989). Forty-five shelters responded to the questions necessary for this determination. For all the shelters, staffing comprised the largest part of their budget.

466. *Salaries as Percentage of Total Shelter Operating Budget*

Percentage of Budget	(0)	(1-24)	(25-49)	(50-74)	(75-99)	(100)
# of shelters (45)	0	0	9	30	6	0
% of shelters	0	0	20	67	13	0

467. Wendy Kaminer, Women Volunteering 3 (1984).

468. Volunteering contributed to the idea that women's paid employment was supplemental to the family income and of lower value because women's social service work appeared similar to their volunteer work. *See id.*

469. Kaminer, *supra* note 467, at 2.

drawing governmental dollars.[470] In 1971, the National Organization for Women issued a resolution telling women they could volunteer to lobby for social change, but not to deliver social services.[471]

However, other feminists defend volunteerism.[472] They call the criticism racist and classist; many black women, for example, worked and yet saw volunteering, especially through the community church, as very important.[473] Furthermore, they challenge the dichotomy between service work and advocacy.

> There's never been a time when advocacy and service volunteerism didn't go hand in hand . . . . People who've been there and smelled the smells and seen the sights and become part of it become your strongest advocates. . . . They talk for the staff of the agency they're in; they talk to the problem at hand, and they talk for the client who needs the service.[474]

Moreover, they allege that women helping women defies the traditional criticism.

> Even the hardest feminist line against volunteering had to make exceptions for service work in a battered women's shelter or rape crisis center—because it helped other women whose needs were not being met by the system and promoted a kind of public consciousness raising: by providing shelter alternatives for battered wives . . . volunteers would begin to change prevailing attitudes toward sexual violence while they assisted its victims.[475]

While volunteering may symbolically devalue women's work, the present system of pay in shelters raises the same objection. "[W]orkers doing traditionally 'male' jobs such as bookkeeping, public speaking and organizing/directing are usually paid more than those doing traditionally 'female' jobs such as child advocacy, house manager and secretary."[476] Additionally, volunteering can offer untrained women experience which is transferable to paid work.[477] Finally, as one feminist said,

> We've been so eager to get into this corporate world; we're so eager to be accepted by men, we're willing to accept the values that men have created. Instead of saying to ourselves, "Well, maybe there's something wrong with those values." I think

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470. *Id.* at 4.

471. *Id.*

472. *See generally id.*

473. *Id.* at 7.

474. *Id.* at 5 (quoting Winifred Brown, Director, May's Voluntary Action Center, New York).

475. *Id.* at 6.

476. Lenore Walker, Building the Battered Women's Movement: Diversity and Class Issues 124 (undated) (available in the National Coalition Against Domestic Violence's vertical files under "socio-economics").

477. Kaminer, *supra* note 467, at 8.

> there's something wrong with saying we only value what we pay a lot of money for. And I'm not willing to accept that.[478]

The grass roots funding and volunteer efforts provide shelters an excellent means of support. The money usually comes unrestricted. Accountability, if it exists, is only to one's own community.[479] These people know the shelter's work and its importance.[480] Also, this type of funding builds membership, energizes people, and fosters good public relations.[481] It helps educate people about the problem of battering and makes women aware of available services. Most importantly, community funding offers battered women's programs the best hope of long-term stability.[482]

Grass roots fund raising also has its disadvantages. One needs experienced fund raisers for it to be productive, money loss can occur, and it takes time and energy which might be better spent in other ways.[483] Also, it can cause worker burnout:

> While raising money for a house through individual contributions insured our independence the time it required exacted a price, both from women needing housing, and from those of us providing housing in our homes. . . . The decision to seek public funding was made, but it was not made easily. The collective was split over the issue, and several women who believed strongly in the need to remain autonomous of all public funding left the group. Those who stayed went on, fearful that funders would not give consideration to a shelter for women and wary of the potential for co-optician if they did.[484]

Self-Sufficiency

Numerous shelters operate their own business to become self-sufficient. For some reason, shelters seem to prefer operating thrift stores. Shelter Services for Women in Santa Barbara, California, opened a thrift store in August of 1981. By November of 1981, the store cleared 3,640 dollars.[485] Shelter Our Sisters in Teaneck, New York, also opened a thrift store called Stepping Stone. "Ex-battered women will use it for a first work experience. And it will provide money for us to shelter more women."[486] The Ran-

478. *Id.* at 214 (quoting an unnamed feminist and career volunteer).

479. Sojourner Truth House, *supra* note 31, at 19.

480. If the shelter is in a very conservative community, this may backfire as the shelter becomes more radical in focus. If this occurs, sister shelters should share resources or women's foundations should ensure money.

481. Sojourner Truth House, *supra* note 31, at 19.

482. Mettger, *supra* note 145, at 20 (quoting Susan Jan Hornstein of the Western States Shelter Network).

483. Sojourner Truth House, *supra* note 31, at 19.

484. Women's Advocates, *supra* note 281, at 6.

485. Mettger, *supra* note 145, at 19.

486. Gardner, *supra* note 461.

dolph County Family Crisis Center, Inc., opened a family thrift shop in October 1989 which "has been very successful."[487]

Of course, shelters are not limited to the thrift store business. Alternatives for Battered Women, in Rochester, New York, suggests that women in the shelter produce a product and establish a cottage industry.[488] Some shelters themselves are run like a business by charging user fees.[489]

Running a business to finance a shelter is not necessarily incompatible with feminism. Communal efforts to conduct a business can empower women and increase the sense of community. Women should never, however, be pressured to either produce a product or work when they need recuperation or time to organize their own affairs.

Litigation may also help a shelter move towards self-sufficiency. An innovative approach involves litigation under the necessaries doctrine. This doctrine holds a husband responsible for the cost of his wife's necessary items and services, such as shelter, food, and medical attention.[490] A shelter can sue a batterer husband under the necessaries doctrine for the cost of sheltering his wife.[491] Under this theory the shelter bills the woman for the use of services and then brings suit against her husband if she is unable to pay.

Some see this as a panacea for shelters: "Litigation under the law of necessaries is feasible in most states, can be relatively simple and cost effective, will require only minor changes in a shelter's operation, and can provide significant income."[492] The figures are indeed compelling:

> Over a one-year period, a shelter could collect $54,600 from men who cause its services to be needed if (1) the shelter

487. Survey by Merle Weiner (1989).

488. Community Health Center, Inc., *How the Budget Cuts are Affecting Shelters: Four Profiles*, SANEnews: A National Newsletter on Battered Women, Mar. 1982, at 3.

489. *But see* Lerman, *supra* note 3, at 113.

490. *May Co. v. Jokes*, 44 Ohio Op. 483, 98 N.E.2d 358 (Mun. 1951).

491. *See* Michael Ferry, Nina Balsam & Ruth Przybeck, *Litigation of the Necessaries Doctrine: Funding for Battered Women's Shelters*, 17 Clearinghouse Rev. 1192, 1195-98 (1984) (listing relevant state provisions and cases on the necessaries doctrine) [hereinafter *Necessaries Doctrine*]. Any litigation against the batterer may bring counter-claims, many frivolous. Advocates should recommend Rule 11 sanctions to minimize this harassment. *See* Blair v. Shenandoah Women's Center, 757 F.2d 1435 (4th Cir. 1985) (Rule 11 sanctions applied against attorney for filing suit against, inter alia, a battered women's shelter in which his client's wife had sought refuge seeking $10,000,000 for discrimination based on sex, conspiracy, false arrest, malicious prosecution, assault and battery, negligence, defamation of character, intentional inflection of emotional distress, and harassment).

492. *Necessaries Doctrine*, *supra* note 491, at 1193.

> houses an average of 20 persons per day—10 adults and 10 children, (2) only half of these residents have husbands/fathers or assets from which judgments can be satisfied, (3) for various reasons—wife unwilling to assist, husband cannot be found—only half of the sheltered group is actually the subject of successful litigation, and (4) the shelter sets a rate of $30 per person per day for food, shelter, and other services.[493]

Some believe this strategy "[m]ay eventually contribute a substantial share of the chronically strapped budget of most shelters."[494] Moreover, the expense may help deter some abusive men.

Notwithstanding these positive features, the necessaries doctrine's limitations outweigh its usefulness. The sexist premise of the doctrine would undermine the ultimate goal of the battered women's shelter movement. In fact, the doctrine may violate equal protection,[495] although a court could redefine it as child support or make the doctrine reciprocal. Also, by charging user fees, a shelter may force a woman with meager, yet adequate, resources to pay for housing she really cannot afford. The cost may be enough to dissuade her from coming to the shelter.

Safety may be an issue, as someone from the shelter or the woman may need to testify about reasons for her separation to prove her husband was at "fault."[496] The defendant and the court also may demand to know the shelter's location, in which case the shelter would have to abandon the suit or seek a protective order. The procedure requires new record keeping which will increase staff burden. Also, the shelter would have to change its status to that of a merchant.[497] This could have implications for its tax exempt status, and its ability to attract contributions.[498] Technical problems exist with the necessaries doctrine as well. The woman may be reluctant to be a witness in court.[499] If she knows a shel-

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493. *Id.*

494. Kaberon, *supra* note 28, at 30.

495. *See* Orr v. Orr, 440 U.S. 268 (1979).

496. *Necessaries Doctrine*, *supra* note 491, at 1194.

497. Gisser, *supra* note 451, at 22.

498. *Id.* The tax implications of any alternative funding proposal must be carefully analyzed. In particular, if the shelter has a business, its profits would be taxable and the contributions would not be tax deductible. *See* United States v. American Bar Endowment, 106 S. Ct. 2426 (1986) (unrelated trade or business regularly carried on under 512(a)(1) and 511 (a)(1) is taxable at corporate rates). Also, if a shelter engages in lobbying, it may have to set up a separate organization for that purpose. *See* Regan v. Taxation with Representation of Washington, 461 U.S. 540 (1983) (501(c)(3) organization cannot engage in substantial lobbying held constitutional).

499. The Attorney General's Task Force on Family Violence recognized this reluctance. It recommends that prosecutors neither require victims to sign a formal complaint against the abuser before the prosecutor files charges (unless mandated by state law) nor require victims to testify at preliminary hearings. *Federal Task*

ter will go after her husband, she may forego coming to the shelter, especially if she has to testify or if she wants to reconcile. Some women go out of state to seek shelter and thereby jurisdictionally complicate the possibility of litigation.

Finally, its potential to earn money also may be overexaggerated. The litigation is predominantly limited to married individuals,[500] regardless of the theory of liability.[501] A batterer may lack the income or assets to pay. Its application may also be limited if the wife has adequate means of her own.[502] Moreover, small shelters may serve too few people to raise much money. Legal costs are not figured in the estimates of revenue raised, nor are unrecovered filing fees for unsuccessful suits, or collection fees. Even optimistically, the amount potentially earned only comprises one-fourth of the average shelter's budget.[503]

Alternatively, shelters might help women litigate lawsuits directly against their husbands. A statutory remedy may exist in some states. In *Powell v. Powell*,[504] for example, a woman sought a court order under the District of Columbia's Intrafamily Offenses Act[505] against her husband ordering him to pay $1100 monthly "to cover both child support and rental expenses for a house or apartment, the address of which shall remain unknown to respondent."[506] Although the Act did not specify this type of "monetary relief," the District of Columbia's Court of Appeals felt that the Act must be expansively read.[507]

Government Money as a Last Resort

If a shelter chooses to keep its government money, it should decrease its dependence and try to insulate itself from the negative effects of government funding. While this is no substitute for fore-

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Force Issues Family Violence Recommendations, Response To the Victmization of Women and Children, Fall 1984, at 24.

500. Edinston v. Smith, 92 P. 842 (Idaho 1907).

501. *See, e.g.*, Morris v. Bruce, 98 Ga. App. 821, 107 S.E.2d 262 (Ga. Ct. App. 1959) (agency); Carr v. Anderson, 154 Minn. 162, 191 N.W. 407 (Minn. 1923) (quasi-contractual liability).

502. Prescott v. Webster, 175 Mass. 316, 56 N.E. 577 (Mass. 1900). *Contra* Smith v. Smith, 300 S.W.2d 275 (Mo. Ct. App. 1957); Ott v. Hentall, 70 N.H. 231, 47 A. 80 (N.H. 1899).

503. *See supra* note 27 and accompanying text.

504. Powell v. Powell, 547 A.2d 973 (D.C. App. 1988).

505. D.C. Code Ann. §§ 16-1001 to 16-1006 (1981). The Act provides, among other things, civil protection orders against intra family offenders. *Id.* § 16-1003.

506. *Powell*, 547 A. 2d at 974.

507. *Id.* However, the Court did not remand because two years had passed. The statute permits relief for accomplishing an "effective resolution" of the matter and "an award now could have no such retroactive effect." *Id.* at 975.

going government funding, it is better than maintaining the status quo. A method of diminishing the effects of government money is to accept money with no strings attached. A one time in-kind award (e.g., a house) or a one time cash subsidy best assures minimal interference with the government although entanglement may still occur through an initial eligibility requirement. If shelters were conceptualized as local communities to which the government gave minimally restrictive block grants, periodic payments might be less objectionable.

A shelter is like a neighborhood: strangers are living together in close proximity, in an area with its own characteristics. While turnover occurs in a shelter, continuity also exists. Women often return to a shelter numerous times for help, and they return as volunteers and as staff. More importantly, commitment to the institution rather than duration of stay seems a more accurate way to define a community. Just as a church or a university functions as a community even though members come and go over time, so too can a shelter be conceived of as a community.

A referendum can help a shelter achieve "no strings attached" government funding. In Green County, Missouri, the Family Center convinced voters to pay five dollars more for a marriage license and ten dollars more for a divorce decree to help generate $25,000 a year for a shelter house. Less than $100 was spent for a victory of more than 2-1 at the ballot box.[508] A shelter could adopt this strategy and stipulate on the referendum that the shelter will autonomously administer the fund.

Alternatively, shelters can establish mechanisms to minimize co-optation.[509] Shelter coalitions can serve as a buffer between the government and the shelter and help to minimize the harmful effects of government funding. The Pennsylvania Coalition Against Domestic Violence (PCADV), for example, contracts with the state to administer all government money.[510] When the Pennsylvania Department of Public Welfare allocated an original $1.7 million through Title XX funds for services to battered women, the Pennsylvania Coalition became the grantee. This designation meant that the state coalition determined program standards as well as allocations and monitoring criteria for all battered women's services in the state receiving Title XX funds.[511] As Schechter

508. *Organization Proves Election Victory Possible on Low Budget*, United Press International, Nov. 5, 1982 (NEXIS).

509. *See, e.g.*, Schechter, *supra* note 20, at 295.

510. The PCADV has administered the statewide contract since 1980/81. In fiscal year 1984/85, it covered 45 programs with $2.9 million in funding. *Id.*

511. Schechter, *supra* note 20, at 115.

points out about the Pennsylvania system, "[b]ecause the battered women's movement, rather than the state, allocates funds and monitors programs, an unprecedented amount of control is placed in the hands of grass roots women's organizations."[512] Only four state coalitions currently administer the government funds.[513]

Even if a coalition does not administer the government funds, coalitions can establish peer review programs to help ward off government intervention. In 1981, the Southern California Coalition on Battered Women developed peer review guidelines and assessment tools; this was the first set of guidelines developed by and for shelters in the United States.[514] Peer review lets shelters feel confident that each "provid[es] safe, quality services designed to empower battered women and their children."[515] Equally important, it allows shelters to minimize co-optation.

> It has been the feeling of the SC/CBW Board that it is in our best interest to establish our own standards and guidelines. Outside agencies (both county and state) are already discussing the possibilities of applying licensing criteria to shelters that have been developed for group homes, adult day care, and child care programs. There has been, understandably, real concern among grassroots shelter programs about the possibility of this move . . . . The committee is hoping that each shelter will see that it is in its own self interest to be reviewed by peers rather than by a State of California licensing board.[516]

While state coalition standards may be better than government imposed standards,[517] the coalition still must accommodate the government's conception of acceptable standards. The PCADV itself institutionalizes a form of hierarchy: each center must have a program director[518] and a governing or coordinating body.[519] It also institutionalizes bureaucracy by demanding extensive written policies.[520] Its physical plant requirements,[521] training require-

512. *Id.*

513. *Survey of State Coalitions*, *supra* note 120, at 35 (These states are Maine, New Hampshire, Illinois and Pennsylvania).

514. Southern California Coalition on Battered Women, Shelter Peer Review Assistance Project 2 (undated).

515. *Id.* at 1.

516. Southern California Coalition on Battered Women, Standards and Peer Review Overview 1 (1982).

517. State coalition standards have shown a sensitivity to traditionally excluded groups: differently-abled individuals, shelter residents, and individuals traditionally underserved (including battered lesbians). *See* Pennsylvania Coalition Against Domestic Violence, Title XX/Act 44 Program Standards 12-19 (1989).

518. *Id.* at 4.

519. *Id.* at 1.

520. For example, all organizations have to have documentation "of their legal propriety," "written policies and procedures for encouraging the involvement of formerly-battered women in all aspects of the program," and written policies and

ments,[522] and its service provision requirements[523] are also demanding. Also, an individual shelter may lose its own autonomy with peer review. This problem emerged in a dispute between the Pennsylvania Coalition Against Domestic Violence (PCADV) and its YWCA members, where eventually the YWCA's were forced to issue an autonomy statement, which was arguably in contravention of YWCA by-laws.[524] In the end, the National YWCA gave in to the Coalition's demands and issued the statements.[525]

The Disadvantages of Foregoing Government Money

Whether alternative funding sources can substitute for government money represents an empirical question that needs a

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procedures regarding the selection of volunteers and the dismissal of volunteers. *Id.* at 6, 11.

521. For example, toilets and baths must be "conveniently located throughout the building" and all programs must have adequate liability insurance. *Id.* at 13.

522. *Id.* at 14-18. A minimum of forty hours of training is mandated for all staff and volunteers. *Id.* at 14.

523. For example, shelter programs must provide counseling and/or advocacy for children residents as needed and provide for meeting their education needs. *Id.* at 24.

524. The PCADV's regulations required that shelters be "self-governing and models of democratic, participatory decision-making programs." Pennsylvania Coalition Against Domestic Violence, *supra* note 517, at 1. It required a statement of autonomy from each YWCA shelter stating that the YWCA had an incorporated Board of Directors, with an established coordinating body which has "as its primary purpose the provision of direct service to victims of domestic violence." *Id.* Even though the coalition solicited the YWCA programs and asked for input on the autonomy requirements, the PCADV found that three out of six YWCA members were out of compliance with the standard as enacted. *Id.* at 2. The Coalition told the shelters that "the programs' Autonomy Statement must be revised and approved before any moneys can be forwarded." *Id.* The YWCAs said compliance was impossible because of its legal and constitutional requirements to the National YWCA Association. Letter from Mary Gay Harm, Director, Program Services, National Board YWCA, to Susan Kelly-Dreiss, Executive Director, Pennsylvania Coalition Against Domestic Violence 1-2 (Sept. 26, 1984).

525. Telephone interview with Nancy Durborow, Pennsylvania Coalition Against Domestic Violence (Apr. 6, 1990). Today, the PCADV program standards are twenty-five pages long. *See* Pennsylvania Coalition Against Domestic Violence, *supra* note 517. In its autonomy requirement, the Coalition now accepts the reality of the YWCA situation. For example, it states:

> Where the domestic violence center is a coordinating body established within a parent organization, the coordinating body shall be responsible for making all recommendations which affect personnel, budgetary and program development matters of the domestic violence center, to the governing body of the parent organization, which must approve or disapprove of those recommendations in a timely fashion.

Id. at 1. In making recommendations and decisions, the standards call for the governing body of the parent organization and the coordinating body to make "best efforts to cooperate with one another, to minimize conflicts, and to operate the domestic violence center in a manner that assures the efficient and timely provision of services to victims of domestic violence and their dependents." *Id.* at 2.

case-by-case analysis. The move is theoretically possible. Even if actual funding losses would occur, shelters should accept the trade-off. The movement and women will be better off in the long run. The principal arguments against this proposal, however, are as follows: it is paternalistic; it is a plot to undermine feminist progress; it is unworkable; it is too divisive; and the alternatives are no better than government funding. These critiques will be addressed in turn.

First, this proposal may appear paternalistic. After all, individuals within the movement are calling for more government money, not less. Susan Kelly-Dreiss, Executive Director of the Pennsylvania Coalition Against Domestic Violence said to Congress, "I think the primary need is for funding. . . . I think right now we are really hurting for lack of federal funds."[526] Paternalism, however, represents exactly what this proposal seeks to avoid. Far from imposing a solution on women in the movement, this article seeks to convince them of the argument's validity and eliminate any false consciousness about government funding. This article offers a strategy for better reaching self-identified long-term goals of the movement. It seeks to replace the current government paternalism with a form of maternalism: collective action by women for women. Albeit in a different context, Frances Olsen's insight on the paternalism critique is enlightening.

> A major problem with taking this easy route of condemning "paternalism" is that it tends to disable us from our own efforts at collective action. Whenever people try to bring about change they are likely to employ policies that depart from isolated individualism. Any attempt we make to act together to improve our lives can be labeled paternalistic.[527]

Second, some may call this proposal a plot to subvert feminist achievement. Abandoning government funding will force feminists to spend their energy on "bake sales" and the like. In the movement's earlier days, participants explained that the continual search for funding was exhausting: "Funding is a constant problem. Support groups lose enthusiasm and frequently shift allegiances. Keeping safe houses running after they finally are opened takes enormous energy."[528] Yet, obtaining government funding, maintaining it, and complying with funding requirements can also be draining. While shifting from the status quo takes energy, once

526. *Child Abuse Prevention Reauthorization*, *supra* note 100, at 74 (statement of Susan Kelly-Dreiss, Executive Director, Pennsylvania Coalition Against Domestic Violence).

527. Frances E. Olsen, *From False Paternalism to False Equality: Judicial Assaults on Feminist Community, Illinois 1869-1895*, 84 Mich. L. Rev. 1518 (1986).

528. Walker, *supra* note 4, at 203.

a shelter establishes alternative funding sources, the energy requirement may potentially decrease. By involving everyone in fund raising, including volunteers and shelter residents, shelters can spread around the energy needed. One person will not be weighed down writing a grant proposal. Finally, the movement should prefer expending energy to co-optation. Energy saved in a patriarchal society means energy expended continually keeping women patched up.

Third, some may accuse this proposal of being misogynistic, as it will cost some women their lives. This potential loss of life can not be minimized. It is the most powerful reason to maintain the status quo. Yet, any reform must be judged on more than whether it saves lives. For example, having the state impose a geographical boundary around the high crime areas in the city and prohibiting women from living in or visiting those areas would further the goal of women's safety. The cost, however, in terms of women's freedom and the propogation of stereotypes clearly make such a proposal unacceptable. Other issues, apart from women's safety, impact on any decision. Charlotte Bunch poses five useful questions which help evaluate this proposal.[529] Applying her framework indicates that government funding harms women more than it helps them. While it is clear the the funding "materially improves the lives of women," and many women at that, and it helps to "build an individual woman's self-respect, strength, and confidence," the disadvantages outweigh these benefits. Government funding does not "give women a sense of power, strength and imagination as a group, and help build structures for further change." Instead, the funding breeds dependence and transforms the movement into a social service, bureaucratized, hierarchical institution in a patriarchal world. Government funding also fails to educate "women politically, enhancing their ability to criticize and challenge the system in the future." Instead, their dependence on the government inhibits their ability to criticize the state which helps oppress them. Finally, state funding does not help "weaken patriarchal control of society's institutions and help women gain power over them." As earlier indicated, government funding has the opposite effect.

Fourth, opponents of this proposal may contend that alternative sources of funding cannot sustain them. Some say that it was the paucity of community resources that made shelters originally

529. Charlotte Bunch, The Reform Tool, in Building Feminist Theory: Essays from Quest 189, 196-98 (1981), *quoted in* Schneider, *supra* note 90, at 648 n.271.

turn to the government.[530] Cynthia Grove, a member of the Board of Directors of the The Association of Junior Leagues, Inc., said,

> Many say that family violence is a community problem and must be resolved at the community level . . . [i]t also is clear that these resources are strained beyond capacity . . . . There are not enough community resources to support these shelters. They must have Federal support. . . . I . . . take grave exception with the idea that there is enough money . . . .[531]

Those who claim that shelters need government money are those that currently depend on it. Immediate self-interest obscures both the short-term need assessment and the harmful long-term impact of such funding. Alternatives do exist. As mentioned previously, 33% of the shelters receive no income from private donations and a total of 84% receive less than 25% of their income from private donations.[532] Shelters have shifted away from local grass roots donations.

Funding gaps do not always translate to shelter closings. Shelters can cut services or lay off staff rather than close.[533] When

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530. *See, e.g., Child Abuse Prevention Reauthorization, supra* note 100, at 10 (statement of Rep. Miller):

> The resources to support shelters and related services for family violence victims, adults and children alike, are scarce. Despite the best efforts by private organizations such as the local Junior Leagues, the YWCA's [sic], family services and United Way that support these shelters, funds continue to be very limited and many communities still have no shelters at all. The National Coalition Against Domestic Violence reports that only 1,200 safe homes and shelters exist across the Nation.

Id.

531. *Adoption Reform Act Reauthorization, supra* note 12, at 141-42. (statement of Cynthia Grove, Member, Board of Directors and Public Policy Committee, The Association of Junior Leagues, Inc.). Various activists testified as to the harms of funding cuts. For example, a staffer at The Loudoun Abused Women's Shelter in Purcellville, Virginia testified,

> In fiscal year 1986-1987, VOCA funds represented more than twenty percent of the Shelter's budget, this next year will be about fifteen percent of the budget. The rest of the Shelter's funds come from the private sector—individuals, churches, private foundations, businesses, and community groups. The Shelter also is sustained by many dedicated volunteers. But without VOCA money, Shelter operations would cease or become severely curtailed.

Victims of Crime, supra note 9, at 53 (testimony of Wendy Gourdeau). Anne Menard, Executive Director of the Connecticut Coalition Against Domestic Violence said that the $88,000 of the Family Violence Prevention and Services Act money that Connecticut received was "critical"; loss of the funds would "seriously impair" their ability to provide emergency services to battered women. *Adoption Reform Act Reauthorization, supra* note 12, at 107.

532. *See supra* notes 441 - 444 and accompanying text.

533. For example, because of a dispute over whether YWCAs could comply with the Pennsylvania Coalition Against Domestic Violence's program standards, state funds were delayed during the months of August and September of 1984. This caused sixteen shelters to experience layoffs and forced one shelter to close. Mem-

Massachusetts recently cut $600,000 allocated for shelters from its budget, the shelters left staff positions unfilled or laid off workers.[534] At Transition House, the staff worker responsible for welfare and housing outreach was laid off. This meant the shelter was unable to obtain subsidized housing units for its residents.[535] Another shelter reported that because it is short-staffed it couldn't answer all the hot line calls it received.[536] Volunteering and increased resident responsibility could mitigate these effects. Close coordination with state agencies may be able to make up for cuts in shelter services.[537]

The government should provide the various more peripheral services that shelters now offer. Shelters, with the additional government money, have usurped arguably many government functions. The YWCA Gateway House in Billings, Montana, provides a free visiting nurse program, high risk pregnancy intervention, and a free visiting nutritionist.[538] All are obviously worthwhile services; none, however, are crucial to a shelter's immediate function of providing a safe space for a battered women and consciousness-raising for the transformation of society. Researchers Dobash and Dobash, after extensive study, state: "[W]e have serious doubts about the need for therapeutic helpers in refuges. We think refuges should be places where, in the words of the French group SOS Femmes, women will have an opportunity to 'take charge of themselves.' "[539]

Finally, the women themselves find the shelter environment more important than its services. In a follow-up survey of sixty-two women who had stayed at the YWCA Women's Emergency Shelter in Santa Rosa, California, over half said that the best thing that happened for them at the shelter was the sensitive sustaining

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orandum to Brian Baxter, Executive Deputy Secretary of the Department of Public Welfare, Pennsylvania from Susan Kelly-Dreiss, Executive Director, Pennsylvania Coalition Against Domestic Violence 1 (Sept. 12, 1984); *but cf.* Lerman, *supra* note 142, at 113 (withdrawal of federal funds has caused the closing of many shelters).

534. Reid, *supra* note 45, at 7.

535. *Id.*

536. *Id.*

537. *See generally*, *Violence Against Wives*, *supra* note 47, at 228. *See also* CSR, Incorporated, A Presentation of Three Case Studies to Illustrate Various Responses to the Problem of Domestic Violence 37 (Feb. 1981).

538. Mary Ann Roberts, Program Director, YWCA Gateway House, Billings, Montana (responding to survey sent by Merle Weiner, 1989).

539. *Violence Against Wives*, *supra* note 47, at 232 (footnote omitted). Shelters, however, have been hailed as providing comprehensive services under one roof. *See* McShane, *supra* note 8, at 34-39. The social service delivery system, in contrast, has been criticized for its inaccessibility, fragmentation, and nonaccountability. *Id.* at 36. Yet, strategies for improving community services exist, e.g., consciousness-raising of professionals, program development, and case integration. *Id.* at 37.

support from staff and residents.[540] With careful planning and coordination, new shelters can even be built under this proposal.[541]

Fifth, supporters of government money may say that the alternative funding options may be no better than government funding. Certainly, some alternative funding sources represent the same problems as government money. One shelter worker stated

> Our strongest support has to come from conservative organizations in our community—the Baptist Church, the Y, the United Way. Public funds aren't available in our town except for the police and fire departments and small services. We simply had to become part of the local Y to survive. We had to call the problem family violence, not battered women.[542]

While this section acknowledges the problems of alternatives to government funding, some still appear better than government money. Moreover, some sources, such as women's philanthropy, grass roots funding, and self-sufficiency, appeared much better. Although seeking funding from the government calls the government's attention to the problem, it also signals that merely patching women up solves the problem. Less co-optive methods exist for focusing attention on battering, such as seeking stiffer penalties for batterers. By involving more community women in helping battered women, attention becomes focused on the problem of

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540. Nancy Peterson, Beyond Battery: A Follow-up Study of Residents of a Woman's Shelter 16 (Sept. 1980) (available from YWCA Women's Emergency Shelter Program, Santa Rosa, California).

541. This proposal recognizes that the number of shelters needs to increase. Current shelter space is insufficient for demand. While there are approximately 1200 shelters nationwide, "for every one battered wife or child who finds space in a shelter, two are turned away." *Women, Violence, and the Law*, *supra* note 6, at 45 (statement of Elizabeth Holtzman, District Attorney, Kings County, New York). That amounts to over 300,000 people being turned away each year. *Child Abuse Prevention Reauthorization*, *supra* note 100, at 5 (statement of Major R. Owens). In some areas the problem is worse than in others. For example, "My Sister's Place, the largest shelter program in Washington D.C., turns away seven out of every eight women—and the children that accompany those women—who seek refuge." *Id.* at 10 (statement of Rep. Miller).

Moreover, in many localities no shelter even exists. "In Michigan there are forty shelters that are funded by the state . . . . We have 83 counties, so there are many, many women that would have to travel a few hundred miles to get to the nearest program." *Victims of Crime*, *supra* note 9, at 275 (statement of Hedy Nuriel, Executive Director, Michigan Coalition Against Domestic Violence).

Yet, shelter isn't uniformly required in all areas. The author's survey revealed that 46% of the shelters are less than half full. And 74% of the shelters are less than 75% filled. Although 9% of the shelters indicated that they were filled to capacity or over capacity.

The movement must determine where the greatest need exists, and whether a safehouse concept can accommodate an area. Cutting away from state and local money may free the movement from arbitrary political boundaries in order to determine where the greatest need for shelter exists.

542. Schechter, *supra* note 19, at 302.

women abuse. In the rural safehome network, knowledge of local women's volunteer affiliation keeps the issue in the public view.[543]

Finally, some may claim that this proposal is too divisive and that it will polarize the shelter movement and fractionalize coalitions. Schechter suggests that diversification raises "heated political and moral questions," e.g., board membership shifting from battered women to influential people, a decline in community outreach in working class and poor neighborhoods, and a pull in more conservative directions from a constant search for funds.[544] Yet none of those outcomes seem intrinsic to switching funding sources. As those problems have developed from reliance on government money, a shift to other sources can only help redress those very problems.

Models for the Future

To conclude this article with a vision of the future is appropriate. To prevent the reader from dismissing the proposal as mere wishful thinking, this article closes with a brief look at the shelter movements in West Germany and England. The safehome network in the United States could also be included here, although it has already been described above.[545] While the following brief discussion fails to evaluate the impact of these movements on violence and patriarchy in those countries, it applauds the means as being consistent with those ends.

An autonomous battered women's shelter movement exists in West Germany.[546] The West German approach contrasts strongly with the American approach. In West Germany, a strong radical feminist emphasis exists. Other German writers have described the shelters as woman-identified feminist communities encouraging women not to return to battering relationships.[547] "At least two-thirds of the shelters are run by autonomous feminist groups . . . ."[548] In these shelters, "the issue of control is treated as central, and state funding or other forms of support are accepted only insofar as the autonomy of the organization is not compromised."[549]

The frauenhaeuser (women's houses) accept all women,

543. Gentile, *supra* note 463, at VI-8.
544. Schechter, *supra* note 20, at 296.
545. *See supra* notes 460 - 463 and accompanying text.
546. *See generally* Sybille Kappel & Erika Leuteritz, *Wife Battering in the Federal Republic of Germany*, 5 Victimology 225-39 (1980).
547. Walker, *supra* note 83, at 120 (citing Hagemann-White (1981)).
548. Ferree, *supra* note 247, at 187.
549. *Id.*

notwithstanding overcrowding or drug dependence, "not limiting the length of stay, sharing work and decision-making collectively, and drawing the fewest possible hierarchical distinctions between residents and volunteers."[550] The lack of hierarchy is total: "all women work on a rotation basis and if pay is provided, it is allocated equally. No woman is allowed to become financially dependent on income she receives from the house. Except in some cases where women have young children, all workers are required to earn their living elsewhere."[551] Self-help is the philosophy of the women's houses.

> Women who work in the houses give newcomers the necessary information concerning the operation of the house and advise the women on legal and medical questions. The battered women themselves organize everything else. They answer the phones, take care of newcomers at night and on weekends, and accompany each other to social service agencies. The most important aspect of self-help, however, is that the women talk with each other and learn that their experiences are not unique.[552]

The price of their autonomy is "a considerably lower level of funding, a chronically precarious economic position, and continued reliance on extensive volunteer commitments from the local feminist community merely to keep a shelter open."[553] Yet the movement is flourishing. In 1983, there were eight feminist shelters and forty more in the active planning stage.[554]

The feminist shelter movement in Britain is another example of a movement that has remained localized, autonomous, non-hierarchical and which emphasizes self-help politics.[555] In Britain, "refuges provide a unique form of assistance unencumbered by the bureaucratic rules, policies, and practices of traditional helping institutions."[556] Lenore Walker describes Chiswick Women's Aid,

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550. *Id.*

551. *The Shelter Movement in West Germany*, Response to The Victimization of Women and Children, Spring 1985, at 27.

552. *Id.*

553. Ferree, *supra* note 247, at 187.

554. *Id.*

555. *See generally* Val Binney, Gina Harkell, & Judy Nixon, *Refuges and Housing for Battered Women*, in Private Violence and Public Policy 167-78 (J. Pahl ed. 1985) [hereinafter *Housing for Battered Women*]; *Violence Against Wives*, *supra* note 47, at 223-307; Gelb, *supra* note 48. According to Gelb, American feminism has been more "successful" than British feminism in gaining public acceptance of movement goals, reaching larger numbers of supporters, and achieving policy outcomes which may aid in restructuring power relationships. *Id.* at 286. Yet, Gelb defines the goal as merely achieving safe space and not ending societal battering.

556. *Violence Against Wives*, *supra* note 47, at 227.

the first shelter in England,[557] as a place where

> self-help is a necessity, and all meals, chores, and finances are the responsibility of the collective group. Independence is encouraged by a slow assumption of responsibility for oneself and others in a sheltered and protective environment. Women learn that they can trust others to help them and that they can be successful in helping others—the necessary elements for fostering the development of interdependence. This is what is meant by a therapeutic community.[558]

This sense of community is further fostered by communally run second-stage houses, and third-stage housing.[559]

> The longest stay in this [third-stage] house has been four years. The women and children there have developed a remarkably close sense of community fostered by their years of living together. During my visit, I was struck by what a beneficial alternative to the nuclear family this arrangement was for these women and children.[560]

Despite the movement's problems, women in England find the battered women's shelters a positive experience. Eighteen months after the women left the shelter, eighty-four women were interviewed and eighty-three percent said they preferred having come to the refuge rather than being rehoused immediately.[561] They acknowledged the importance of the continuing contact with the refuge and friends they made.[562]

These two movements reinforce the idea that shelters can be independent of the state. While disadvantages exist with such a position, these movements are better able to achieve the desired ultimate end. Although switching funding sources for shelters causes short term discomfort, some excellent alternatives exist. Corporations provide a feasible interim source of money. Women's foundations, grass roots fund raising, and self-sufficiency offer the best long term options. For if the movement continues to use corrupting means to achieve its ends, the ends will never be obtained.

Conclusion

The battered women's shelter movement, from a feminist

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557. Chiswick was established in 1971. *See generally* Walker, *supra* note 4, at 192-97.

558. *Id.* at 194.

559. Very few second stage houses exist in the United States. The first such house in the United States was Second Step, located in San Rafael, California. It opened in July 1983. *See* Janice Mall, *"Second Stage" Housing for the Abused*, L.A. Times, July 24, 1983, at 6, col. 1.

560. Walker, *supra* note 4, at 195.

561. *Housing for Battered Women*, *supra* note 555, at 172.

562. *Id.*

utopian perspective, needs to shift from its current dependence on government funding to more benign sources of money. This article has documented the dependence, enumerated the problems, presented the alternatives, acknowledged their drawbacks, and pressed for change.

The potential for empowering women and transvaluating values exists within a battered women's shelter. Perhaps no where else in society is there such a mechanism to connect the multitude of women affected by the battering hand of patriarchy. The ability of shelters to revolutionize society depends, however, upon the movement being a means to an end, and not merely an end to itself. Shelters must work to end the patriarchy which perpetuates violence against women. As conduits for social change, shelters must be steadfast against corrupting influences. Government funding has such a corrupting influence. It causes dependency on unreliable sources, results in autonomy loss, permits a band-aid approach by the government to violence against women, imposes hierarchy and professionalization, institutionalizes homophobia, and bureaucratizes the movement. These effects undercut the movement's revolutionary potential. The movement must shift away from government dollars and back again towards social change.