

7-1-2015

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Recommended Citation

Eesha Pandit, *On the Same Bodies: Exploring the Shared Historical Legacy of Violence Against Women and Reproductive Injustice*, 5 U. Miami Race & Soc. Just. L. Rev. 549 (2015)
Available at: <http://repository.law.miami.edu/umrsjlr/vol5/iss2/27>

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On the Same Bodies: Exploring the Shared Historical Legacy of Violence Against Women and Reproductive Injustice

Eesha Pandit*

Your legal right to an abortion; the freedom to raise the family you want and parent the children you want; being safe inside your home; being safe outside of it—each of these struggles is about autonomy, self-determination and individual and community health. These issues are connected, but often the movements that focus on them are not. In this piece I consider the historical, political and cultural connections between reproductive justice and anti-violence organizing. While there are divergences in each movement’s trajectory, there can be great value in naming the connections. In this piece I examine the connections between these arenas of women’s human rights advocacy and make the case for looking at them as deeply connected issues in the fight for gender equality and justice.

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Recommended citation: Eesha Pandit, *On the Same Bodies: Exploring the Shared Historical Legacy of Violence Against Women and Reproductive Injustice*, 5 U. MIAMI RACE & SOC. JUST. L. REV. 549 (2015).

I. SHARED HISTORIES

The argument here is simple. The way we conceive, define and fight for reproductive freedom as well as freedom from violence is rooted in the belief that our bodies are our own. Both of these struggles stand in opposition to historical and contemporary efforts to ensure that the bodies of women, cis- and transgender women alike, are not fully ours.

The ability to control our body is deeply connected to the amount of economic, social, cultural and political power we have. In fact, it was an attempt to name those lived realities that brought women of color together in 1994 in Cairo, Egypt at the United Nations International Conference on Population and Development (ICPD).¹

Frustrated with the narrow pro-choice paradigm, these women discussed the limitations of making bodily autonomy a matter of freedom from interference by the state, disregarding the impacts of slavery and colonialism on women around the world for whom choice meant so much more than an argument rooted in the right to privacy.²

In a moment that would spark and root the current reproductive justice movement in the United States, women of color came together to challenge the paradigm of reproductive rights, which zeroed in on birth control and the right to an abortion, as particularly inadequate for poor women of color around the world.³ The central tenet of the argument is that the lives of women of color around the world do not lend themselves to a single-issue movement focusing on the right not to have a child.

That same year, 1994, the United States Congress signed the very first Violence Against Women Act (VAWA) as part of the Violent Crime Control and Law Enforcement Act of 1994, P.L. 103-322, which funded services for victims of rape and domestic violence, allowed women to

¹ See INTERNATIONAL CONFERENCE ON POPULATION AND DEVELOPMENT, UNITED NATIONS POPULATION FUND, <https://www.legalbluebook.com/R-18-1> (last visited April 26, 2015) (explaining the “global recognition that fulfilling the rights of women and girls are central to development” can be traced back to Cairo in 1994 at the International Conference on Population and Development).

² See CENTER FOR REPRODUCTIVE RIGHTS, UNITED NATIONS POPULATION FUND, ICPD AND HUMAN RIGHTS: 20 YEARS OF ADVANCING REPRODUCTIVE RIGHTS THROUGH UN TREATY BODIES AND LEGAL REFORM (2013), http://www.unfpa.org/sites/default/files/pub-pdf/icpd_and_human_rights_20_years.pdf (highlighting the progress countries have made through their laws and policies to implement the International Conference on Population and Development “Programme of Action” and describing national and international human rights developments over the past two decades on issues related to sexual and reproductive health and reproductive rights).

³ *Id.*

seek civil rights remedies for gender-related crimes, and provided training to increase police and court officials' sensitivity.⁴ While VAWA was indeed groundbreaking in creating legal recourse for domestic and intimate partner violence, it relied deeply on the criminal justice system which meant that key provisions were inaccessible to many women, particularly women in communities of color that are heavily criminalized, immigrant communities, and Native women living on tribal lands.⁵

About two years ago, twenty years after the first VAWA passed Congress, a version of the bill was authorized that makes it possible for Native women to bring charges against non-Native men for violence that occurs on tribal lands, ending the relative impunity which existed up until March 2013.⁶

Knowing this political history enables a deeper understanding of the connection between reproductive autonomy and freedom from violence. Take for example the many cases in which violence and coercion anchor reproductive oppression:

- Between 1968 and 1982, a third of all women of childbearing age in Puerto Rico were sterilized.⁷

- Native women living on the Mohawk reservation in New York were not told of the dangerous environmental toxins in their communities, and passed those toxins onto their babies through breast milk.⁸

- Mexican-American immigrant women miscarry and go into labor prematurely due to the immense stress they experience during home raids.⁹

- Women in prison, disproportionately women of color, experience staggering rates of rape, sexual assault, sterilization abuse and inadequate prenatal care.¹⁰

⁴ See LISA N. SACCO, CONGRESSIONAL RESEARCH SERVICE, *THE VIOLENCE AGAINST WOMEN ACT: OVERVIEW, LEGISLATION, AND FEDERAL FUNDING* (March 6, 2014), available at <https://fas.org/sgp/crs/misc/R42499.pdf>.

⁵ BETH E. RICHIE, *ARRESTED JUSTICE: BLACK WOMEN, VIOLENCE, AND AMERICA'S PRISON NATION* (2012).

⁶ See Violence Against Women Reauthorization Act of 2013, S. 47, 113th Cong. (2013).

⁷ D. Marie Ralstin-Lewis, *The Continuing Struggle Against Genocide: Indigenous Women's Reproductive Rights*, 20 WICAZO SA REV. 71, 76 (2005).

⁸ WINONA LADUKE, *Akwesasne: Mohawk Mother's Milk and PCBs*, in ALL OUR RELATIONS: NATIVE STRUGGLES FOR LAND AND LIFE 11 (1999).

⁹ Syd Lindsley, *The Gendered Assault on Immigrants*, in POLICING THE NATIONAL BODY: RACE, GENDER AND CRIMINALIZATION IN THE UNITED STATES 175 (2002).

¹⁰ DOROTHY ROBERTS, *KILLING THE BLACK BODY: RACE, REPRODUCTION, AND THE MEANING OF LIBERTY* (1998).

- Women on welfare were coerced, often as a condition of their welfare funds, to use Norplant, a long-term contraceptive with extensive side effects, which can include permanent sterilization.¹¹

- Vietnamese women who make up 80% of the nail salon workers in California are exposed to toxic chemicals that contribute to higher levels of spontaneous abortion, fetal abnormalities, and reproductive problems.¹²

- Transgender women are often sterilized, deemed unfit to parent and/or refused medical care on account of their trans identity.¹³

As we can see, there are broad patterns of violence and abuse, by the state, already at play here. Notably, it is these same groups of women who face compounded risks of intimate partner and family violence, in their homes and in their communities. Intimate Partner Violence (“IPV”), including sexual, physical, emotional and economic abuse, affects the lives of women across all races and income levels.¹⁴ Nevertheless, women of some racial and socioeconomic backgrounds experience different, often increased, rates of violence.¹⁵

Poverty, stress, unemployment and substance use are all predictors of IPV.¹⁶ Such violence contributes to higher rates of unintended pregnancy and even escalates during pregnancy.¹⁷ One study found that a woman’s odds of experiencing IPV rose by 10% with each pregnancy.¹⁸ Native American women have higher rates of nonfatal IPV as compared to either Black or White females,¹⁹ but Black women account for 22% of all

¹¹ Rachel Stephanie Arnow, *The Implantation of Rights: An Argument for Unconditionally Funded Norplant Removal*, 11 BERKELEY J. GENDER L. & JUSTICE 19, 39 (2013).

¹² Ann Rojas-Cheatham et al., *Looking Both Ways: Women’s Lives at the Crossroads of Reproductive Justice and Climate Justice*, 5 THE MOMENTUM SERIES 1, 15 (2009), available at <http://forwardtogether.org/assets/docs/ACRJ-MS5-Looking-Both-Ways.pdf>.

¹³ Katherine Cross, *Trans Rights Are Reproductive Rights*, FEMINISTING (2012), <http://feministing.com/2012/04/10/trans-rights-are-reproductive-rights/>.

¹⁴ CALLIE MARIE RENNISON, U.S. DEP’T OF JUSTICE, BJS, NCJ 197838, BUREAU OF JUSTICE STATISTICS CRIME DATA BRIEF: INTIMATE PARTNER VIOLENCE, 1993–2001 (2003), <http://www.bjs.gov/content/pub/pdf/ipv01.pdf> (85% of IPV victims are women.)

¹⁵ JAMES PTACEK, BATTERED WOMEN IN THE COURTROOM: THE POWER OF JUDICIAL RESPONSES (1999).

¹⁶ INST. ON DOMESTIC VIOLENCE IN THE AFRICAN AM. COMMUNITY, UNIV. OF MINN., *Fact Sheet: Intimate Partner Violence (IPV) in the African American Cmty.*, http://www.dvinstitute.org/media/publications/FactSheet.IDVAAC_AAPCFV-Community%20Insights.pdf (last visited April 26, 2015).

¹⁷ Lauren Roth et al., *Predictors of Intimate Partner Violence Among Women Requesting Medical Abortion*, 78 CONTRACEPTION 190 (2008).

¹⁸ Rebekah E. Gee et al., *Power Over Parity: Intimate Partner Violence and Issues of Fertility Control*, 201 AM. J. OBSTETRICS & GYNECOLOGY 148.e1, 148.e5 (2009).

¹⁹ Bureau of Justice Statistics, *Intimate Partner Violence in the U.S.: Victim Characteristics* (2007), available at <http://www.ojp.usdoj.gov/bjs/intimate/victims.htm>.

intimate partner homicide victims.²⁰ There are also both language access and cultural barriers to seeking help for many women, who may fear authorities even more than their batterer, or who have trouble accessing culturally appropriate services in the language they are most comfortable speaking.²¹

By tracking these multiple, overlapping and linked histories, we can tease up and out the anchors of violence and reproductive injustice: entrenched racism, economic inequity, and patriarchal social norms, as well as colonization. We also see a beam of light as groups of women of color, queer, and trans people call for a paradigm shift and create movements that look through an intersectional lens.

II. POLITICAL CONTEXTS

In 2013, Republican legislators around the country introduced more than 300 state-level restrictions on access to reproductive health care.²² Consider the sheer breadth and volume of that effort, which is aimed at keeping people from getting access to health care. Many of those same legislators have embarked on a quest to minimize the reach and scope of the government, federal and state, that capitalizes on racial anxiety and stands in the legacy of states' rights movements of old.²³ This demonizing of government has resulted in a push to make it “smaller,” save military spending and congressional salaries (and the resulting health care coverage that all congresspeople enjoy).²⁴ This effort includes a push to limit any money spent on things that are deemed extraneous to the basic functioning of the country. Into that category falls the funding

²⁰ INST. ON DOMESTIC VIOLENCE IN THE AFRICAN AM. COMMUNITY, *supra* note 16, at 1 (Black women are only 8% of the United States' population.)

²¹ See, *Alianza History*, ALIANZA: NATIONAL LATINO ALLIANCE FOR THE ELIMINATION OF DOMESTIC VIOLENCE, <http://www.dvalianza.org/about-us.html> (last visited April 26, 2015) (“National Latino Alliance for the Elimination of Domestic Violence (Alianza) was established as one of three domestic violence “Cultural Institutes” to address the particular needs and concerns of communities of color experiencing family violence.”).

²² Tara Culp-Ressler, *2013 is Shaping Up to be the Worst Year for Reproductive Freedom in Recent History*, THINKPROGRESS (June 13, 2013, 3:40 PM), <http://thinkprogress.org/health/2013/06/13/2152801/2013-worst-year-reproductive-freedom/>.

²³ CTR. FOR REPRODUCTIVE RIGHTS, UNDER ATTACK: REPRODUCTIVE RIGHTS IN THE 112TH CONGRESS (2013), available at http://www.reproductiverights.org/sites/crr.civicactions.net/files/documents/Legislative%20Wrap%20Up%202015_0.pdf (documenting how reproductive rights were under sustained assault in the 112th Congress).

²⁴ See LOIC WACQUANT, PUNISHING THE POOR: THE NEOLIBERAL GOVERNMENT OF SOCIAL INSECURITY (2009).

of domestic violence shelters and program.²⁵ Both reproductive health care and access to services that serve low-income survivors of violence are, in these ways, clearly under attack.

To put a finer point on it: what women need, what low income people need, what low income survivors of violence need are social supports very often considered a drain on society. The key to understanding how these legislative attacks link together is noticing that they, in fact, target the same women. Lest we forget the unapologetic words spoken aloud in 1977, while he stood in the Congressional chamber,²⁶ what Congressman Henry Hyde, for whom the Hyde Amendment is named, said when debating adding the Medicaid restriction on abortion coverage:

I certainly would like to prevent, if I could legally, anybody having an abortion, a rich woman, a middle-class woman, or a poor woman. Unfortunately, the only vehicle available is the . . . Medicaid bill.²⁷

Poor people are often at the mercy of their government in being able to access the social services, like abortion coverage, that they need. They are also the people who are least likely to have a safety net that would enable them to leave a violent home or relationship. Recently, the National Network to End Domestic Violence surveyed its 56 member, state and territorial, coalitions, and 69% of them reported that domestic violence programs experienced overall funding decreases from Fiscal Year 2011 to Fiscal Year 2012.²⁸ All this while, 80% of states report that their programs were losing funding from local county and city sources, and 90% of states report a decrease in private donations and over this very same period in decreased resources, 88% of these coalitions are seeing an increase in need.²⁹

So there we have it, a long-standing legacy that refuses federal resources to low-income people who need abortion care. A legacy that

²⁵ Mattea Kramer & Jo Comerford, *That Time When DC Stopped Funding Domestic Violence Shelters While Both Congressional Gyms Stayed Open*, THE NATION (Oct. 17, 2013), <http://www.thenation.com/article/176713/time-when-dc-stopped-funding-domestic-violence-shelters-while-both-congressional-gyms>.

²⁶ Heather D. Boonstra, *The Heart of the Matter: Public Funding of Abortion for Poor Women in the United States*, 10 GUTTMACHER POL'Y REV. 1 (2007), available at <http://www.guttmacher.org/pubs/gpr/10/1/gpr100112.html>

²⁷ *Id.*

²⁸ NAT'L NETWORK TO END DOMESTIC VIOLENCE, LOWERED FUNDING JEOPARDIZES SERVICES TO VICTIMS OF DOMESTIC VIOLENCE 1 (2013), available at http://nnedv.org/downloads/Policy/CoalitionFundingReport_2013_ExecutiveSummary.pdf.

²⁹ *Id.*

erodes the (literal) safety net that many low-income women, disproportionately women of color, rely upon to access the social services they need to build their lives free from violence. These legacies are intertwined, as are these issues in the lives of women who experience violence and need reproductive health care, including birth control and abortion.

The reproductive justice framework places reproductive health and rights within a social justice framework by supporting the right of individuals to have the children they want, raise the children they have, and plan their families through safe, legal access to abortion and contraception. If we take steps to address the racial and socioeconomic inequities that deny low-income women access to reproductive health care, we will be working to provide the services that survivors of violence need in order to escape violence and live in safety. As anti-violence survivors and advocates know all too well, controlling their partner's sexual and reproductive life is often an element of intimate partner violence, so restrictions on access to family planning and abortion can keep survivors of violence physically and financially vulnerable.³⁰

The Hyde Amendment bans federal funding of abortion except in cases of rape, incest, or life endangerment.³¹ These kinds of restrictions may force a low-income woman to carry her pregnancy to term and maintain contact with a violent partner or family member. In *Planned Parenthood of Southeastern Pennsylvania v. Casey*, the Supreme Court acknowledged that restricting a woman's access to abortion by requiring her to notify an abusive husband or partner of her decision can result in increased violence and abuse and often serves as a "a flashpoint for battering and violence," including physical and psychological abuse.³²

It is here—at this intersection of violence and reproductive justice—that our call to action waits.

There are not categories of people who need access to public funding for abortion and a separate category of those who need shelters and programs to be safe from violence. The diminishing resources and

³⁰ Sharon Levin, *Abortion Restrictions Can Make it Harder to Leave Violent Relationships: What the New Study Means for Our Current Policy Fights*, NAT'L WOMEN'S L. CTR. (Oct. 2, 2014), <http://www.nwlc.org/our-blog/abortion-restrictions-can-make-it-harder-leave-violent-relationships-what-new-study-means-o> (describing Sarah C.M. Roberts et al., *Risk of Violence From the Man Involved in the Pregnancy After Receiving or Being Denied an Abortion*, 12 BMC MED. 144 (2014)).

³¹ See Heather D. Boonstra, *The Heart of the Matter: Public Funding of Abortion for Poor Women in the United States*, 10 GUTTMACHER POL'Y REV. 12 (2007).

³² *Planned Parenthood of Southeastern Pennsylvania v. Casey*, 505 U.S. 833, 889 (1992).

restrictions on access to health care create a perfect storm, which targets women living at the intersections of violence and poverty. Access to comprehensive reproductive health care can prevent abusers from isolating victims, and contact with a health care provider often presents a rare opportunity for a survivor to get help. That these ever-increasing restrictions fall on the shoulders of those with the least resources should be the lightning rod that our movements for ending violence and securing reproductive justice must work together.³³

III. CULTURAL NARRATIVES

Having discussed the historical and political legacy that connects the reproductive justice movement and the anti-violence movement, and I have made the argument for a shared legislative agenda to respond to the attacks, the last portion of this conversation is about culture, and in some ways, that's the most intractable problem. We often ask ourselves: what is it in our culture/s that creates and sustains gender based violence and an opposition to reproductive justice? Here it behooves us to avoid an anemic analysis of culture as an idea that it lives merely in our hearts and minds, and winds up there via our socialization. This is true, values and beliefs live in our hearts and minds, but not there alone.

Culture is created and sustained by structures, systems and institutions: legal, political, and social. And violence is created and sustained in those same spaces. Unless we trace rape culture into these institutions, their roots and their histories, we run the risk of repeatedly being swept away in the ever-recurring victim-blaming narratives. Take for example, the case in Steubenville, Ohio, which garnered national attention.³⁴ It is true that the boys convicted of raping their fellow student were operating from a particularly craven sense of what constitutes masculinity and sex. It is true that they receive messages, beginning as soon as they can understand the world around them, about what it means, "to be a man": aggressive, heterosexual, dominant, unfeeling.³⁵ Never vulnerable. Never empathetic.

³³ Bryce Covert, *Domestic Violence Shelters Warn That Sequestration Has Put Women's Lives on the Line*, THINKPROGRESS (June 3, 2013, 3:00 PM), <http://thinkprogress.org/economy/2013/06/03/2093221/domestic-violence-shelters-fear-the-ultimate-cost-from-sequestration/>.

³⁴ Juliet Macur & Nate Schweber, *Rape Case Unfolds on Web and Splits City*, N.Y. TIMES, Dec. 16, 2012, http://www.nytimes.com/2012/12/17/sports/high-school-football-rape-case-unfolds-online-and-divides-steubenville-ohio.html?_r=0.

³⁵ See Kristin L. Anderson & Debra Umberson, *Gendering Violence: Masculinity and Power in Men's Accounts of Domestic Violence*, 15 GENDER & SOC'Y 358 (2001).

The brave young woman who testified in her own case received messages how she would be seen.³⁶ She forecast the CNN coverage of the poor boys with “promising futures” whose lives were ruined³⁷ when she admitted her hesitation in coming forth because she “knew everyone would just blame me.”³⁸ A whole host of institutions like schools, churches, temples, courts, TV, movies, and news send us messages about masculinity, femininity, sex, and violence that leads young men to believe that raping an unconscious girl is acceptable because she didn’t say “no.” College campuses are notorious for sweeping sexual assault under the rug, so as not to affect their reputation (take for example the honor code violation a University of North Carolina at Chapel Hill student was charged with when she recently spoke out about her assault, without having even named the offender).³⁹

The anti-violence movement’s response to these phenomena is the beautiful and important statement, “I believe her.”

Policies that seek to eliminate access to reproductive health care, as I have argued, are largely about targeting poor women who rely on the government to help them access health care. A few years ago New York City woke up to a billboard in Soho claiming, “the most dangerous place for an African American child is in the womb.”⁴⁰ These billboards popped up all over the country and are particularly vile given that the disparity in abortion rates mirrors all other health care disparities in the Black community from heart disease to infant mortality and diabetes.⁴¹

The reproductive justice movements’ response to these phenomena is the beautiful and important statement, “Trust [B]lack women.”⁴²

The notion that we are in the midst of “the culture wars” is both right and wrong. The national debate about reproductive health policy concerning abortion is not new. In 1995, Michelle Dillon took issue with

³⁶ See Macur & Schweber, *supra* note 34.

³⁷ Poppy Harlow, *Guilty Verdict in Steubenville Rape Trial*, CNN (Mar. 17, 2013, 11:00 PM), <http://transcripts.cnn.com/TRANSCRIPTS/130317/rs.01.html>.

³⁸ Drew Singer, *Accuser in Steubenville Rape Case Says She Recalls Little*, REUTERS (Mar. 16, 2013, 7:12 PM), <http://www.reuters.com/article/2013/03/16/us-usa-crime-ohio-idUSBRE92E0ZS20130316>.

³⁹ Allie Grasgreen, *Slaying the Messenger?*, INSIDE HIGHER ED (Feb. 26, 2013), <http://www.insidehighered.com/news/2013/02/26/unc-charged-student-honor-code-violation-discussing-her-rape-allegation#sthash.3SrywSfY.dpbs>.

⁴⁰ *New Racist Anti-Choice Billboards Show Up in NYC*, FEMINISTING (Feb. 24, 2011), <http://feministing.com/2011/02/24/new-racist-anti-choice-billboards-show-up-in-nyc/>.

⁴¹ Susan A. Cohen, *Abortion and Women of Color: The Bigger Picture*, 11 GUTTMACHER POL’Y REV. 2, 2 (2008).

⁴² SISTER SONG: WOMEN OF COLOR REPROD. JUSTICE COLLECTIVE, RACE, GENDER AND ABORTION: HOW REPRODUCTIVE JUSTICE ACTIVISTS WON IN GEORGIA 13–15 (2010), available at http://www.trustblackwomen.org/SisterSong_Policy_Report.pdf.

the argument that the abortion debate was somehow different, by virtue of the kind of discourse or the beliefs of the people involved, than any other political issue. Dillon found that “abortion is debated in the public arena the same way as are other political issues.”⁴³ The lesson of the shifting national conversation about domestic or intimate partner violence, seen as an intractable cultural issue within very recent memory, gives us a point of contextualizing the impact of a national conversation that advocates for culture change and institutional change simultaneously. Culture gives us narrative, and it gives us a story to tell. It also is created by us every day, via our policies and structures. So, to my mind this is a chicken-egg, all at the same time, strategy: change laws, policies, institutions and we will change the culture, and also vice versa.

⁴³ Michele Dillon, *The American Abortion Debate: Culture War or Normal Discourse?*, in *AMERICAN CULTURE WARS: CURRENT CONTESTS AND FUTURE PROSPECTS* 116 (James L. Nolan, Jr. ed., 1996).