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Women, the Law, and Cults: Three Avenues of Legal Recourse: New Rape Laws, Violence Against Women Act, and Antistalking Laws

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Abstract

The author examines three avenues of legal recourse that are available to society at large, but may not be well-known to women in cults, their families, and their potential mental health providers. These avenues for recourse are improved rape laws now available in every state; recently-enacted federal legislation -- the 1994 Violence Against Women Act; and recently-enacted state and federal antistalking laws. The author developed this article from her speech delivered at the annual American Family Foundation conference on May 30, 1997, in Philadelphia, PA.

There are no state or federal laws that prohibit cults. Yet, there are laws prohibiting certain kinds of conduct in society at large that can be used by members, or former members, of cults to bring about either criminal penalties or civil remedies against other cult members and cult leaders. These three avenues for recourse are state rape laws, which have undergone significant changes in the past 20 years; the 1994 federal Violence Against Women Act[1]; and recent state and federal antistalking laws.

In reviewing literature on cults and reported court cases, it appears that cult victims have not made use of these three avenues for recourse. Experts in the field of cultic studies acknowledge that few mental health professionals or family members of those assisting cult victims are aware of the recent legislative and institutional changes. In order to bring about justice, knowledge is essential. Hopefully, the information offered on legal remedies in this article will be useful to exit counselors, prosecutors, family members of cult victims, and cult victims themselves.

Why focus on women as victims in this article? Men are also victims of stalking, rape, and other crimes, but not in the same proportion as women. For example, for domestic violence crimes, women are approximately six times more likely than men to experience violence committed by an "intimate."[2] Nevertheless, men may use the same legal recourse described in this article because the laws, for the most part, are gender neutral.

This article includes, in its hypothetical examples, crimes committed by men. This is not to say that women have not committed such crimes. In fact, women have committed violent domestic crimes, not only against men but also against their homosexual partners. However, the subject of homosexual domestic violence is beyond the scope of this article.[3]

Data on violence toward women in cults are sparse because there is no cohesive, national data-recording system. Although 40% of the women in a recent postcult recovery workshop claimed to have been sexually abused in their cults, Janja Lalich, a cult information specialist and educator who regularly speaks with former cult members, estimates that the percentage is higher.[4] Violence and abuse towards women in cults needs to be addressed.[5]

This article is divided into three parts. Rape is addressed in Part I. Part IA discusses the former rape laws and the recent changes to those state laws. Part IB explores the lingering problems with the reformed rape laws, and, in particular, the standards for rape victims in demonstrating that they did not consent to the act. As explained in IC, the difficulty in

establishing lack of consent is more acute in prosecuting cult-rape. Part ID suggests further reform in this area.

Part II discusses the Violence Against Women Act. Criminal liability for interstate violation of protection orders is set forth in IIA, and for interstate domestic violence in IIB. The VAWA civil remedies are described in IIC. Part IID explores future litigation under VAWA.

Part IIIA discusses the recent antistalking laws. Part IIIB suggests how these laws may assist cult victims.

The reformed rape laws, the VAWA, and antistalking laws are three recent legislative enactments that may assist cult victims in obtaining justice against members and leaders of the victim's former cult.

I. Rape

A. The Old and New Laws

In the 1970s, state criminal justice systems began to institute dramatic changes in the prosecution of rapists and the counseling of rape victims.[6] Until the 1970s, most states required: (1) cautionary instructions to the jury to evaluate the victim's testimony "with special care because of the difficulty of determining its truth"; (2) corroboration by those who had witnessed the event; and (3) physical proof of the victim's resistance to the attack. Consequently, these laws made conviction of rape difficult. For example, in New York state, there was an average of only 18 rape convictions a year.[7]

By the mid-1980s, nearly all states had enacted new rape laws to make it easier to prosecute rapists. "Rape" was redefined more broadly to include sexual penetration of any type, including not only penile vaginal penetration but other types of sexual penetration as well. Eliminated was the requirement that a witness corroborate the victim's testimony. Most rapes are committed in secluded areas and, therefore, witness corroboration was hard to provide under the former laws. Also eliminated was the requirement that the victim physically attack her attacker.[8]

One of the more important changes in the law was the proliferation of restrictions on the use of the rape victim's prior sexual conduct, called "Rape Shield Laws," which have been enacted in some form in every jurisdiction.[9] The rape shield laws assist in dispelling the old myth that if the victim had an active sexual past, then she either deserved to be raped or enticed the rapist by her clothing, demeanor, and, perhaps, reputation. Unfortunately for complainants, the rape shield laws are not ironclad. Courts may admit the victim's prior sexual history under certain circumstances. For example, in New York, the rape statutes provide that evidence of a victim's sexual conduct is admissible in a prosecution for rape to prove the victim's prior sexual conduct with the accused.[10] In considering whether sexual history of the complainant should be admitted into evidence, courts must weigh the evidence to determine if it is a material fact at issue in the case and if it is more probative than prejudicial. According to prosecutors, rape shield laws provide comfort to many rape victims because they bar defense counsel from unwarranted inquiries into their pasts.[11] Critics argue that the rape shield laws do not go far enough in protecting victims' prior sexual conduct.[12]

Another important change in the law was the enactment, in some states, of legislation making the rape of one's spouse a crime, known as "Marital Rape."[13] The state laws fall along a continuum. Some states have made rape of a spouse a crime, but may treat the crime as a lower grade than the rape of a stranger,[14] and may also require extreme circumstances, such as where the accused is armed with a weapon or causes serious bodily injury to the victim.[15]

Whether marital rape is a cognizable crime can also be a matter of common law, as opposed to statutory law. For instance in Louisiana, the highest state court held, in 1899, that a husband cannot be found guilty of rape on his wife. That decision is still good law today.[16]

In addition to the changes in state laws, institutional changes also occurred. Rape crisis centers were established to provide rape victims with medical and emotional support, as well as legal advocacy.[17] Many hospitals now have services unique to the needs of rape victims, such as attending to the immediate psychological crisis as well as collecting medical forensic evidence.[18] Specialized units in the district attorney's offices now handle rape prosecutions and other sex crimes.[19]

B. Lingering Problems with the New Rape Laws; Proving Lack of Consent

Despite the institutional and legislative improvements in prosecuting rapists, "rape continues to be a significant crime problem," according to the U.S. Department of Justice.[20] Regardless of which statistical survey you read, the incidence of rape is high, particularly for rapes committed by someone whom the victim knows. The Justice Department reported that 48% of rapes in 1991 were committed by an assailant known to the victim, and the National Women's Survey found that in the same year, 75% of rapes were committed by an acquaintance, relative, lover, or husband of the victim. The reason for the discrepancy between the reports is that it is difficult to obtain figures on sex crimes. Only one-half to one-fifth of rapes are reported to the police.[21]

The problem of proving rape is exacerbated when the perpetrator of the crime is a colleague, an intimate, or a spouse, because it is more difficult for prosecutors to convince juries that the victim did not consent to the act. This would be no less true for a female member of a cult who accuses another cult member or leader of rape because he would likely be someone whom the victim knows, such as a friend, intimate, spouse, or cult leader.

The new rape laws did not completely resolve the difficulties prosecutors share in establishing the rape victim's lack of consent. Unlike other crimes where the intent of the defendant is at issue, here the state of mind of the victim is critical. Whether there was consent to the act turns on the victim's response. As law professor Susan Estrich stated:

> Nonconsent has traditionally been a required element in the definition of a number of crimes, including theft, assault, battery, and trespass. Rape may be the most serious crime to allow a consent defense, but it is certainly not the only one. Rape *is* unique, however, in the definition that has been given to Nonconsent -- one that has required victims of rape, unlike victims of any other crime, to demonstrate their "wishes" through physical resistance. And the law of rape is striking in the extent to which nonconsent defined as resistance has become the rubric under which all of the issues in a close case are addressed and resolved. [22]

There is one exception in the rape laws where consent is not an issue--statutory rape. Prosecution for statutory rape has been, and in some states still is, defined under states' criminal laws as sexual intercourse by a male, of any age, with a female who is under the age of majority. Statutory rape does not require a showing of lack of consent because of the age of the victim.[23] Some states, such as New York, have amended the definition of statutory rape to make it gender neutral.[24] Statutory rape is a legal recourse available to cult victims just as it is to minors in society at large. A statutory rape prosecution on behalf of a child cult member would not involve the thorny issue of establishing lack of consent in a mind-controlled environment. In child sexual abuse cases, in which actual penetration may not have occurred, physical force usually does not need to be shown when the crime involves an adult perpetrator with a minor as the victim[25] or a parent-child relationship.[26]

But to establish lack of consent for rape against adults, prosecutors generally must show an element of "force" or "threat of force."[27] Physical force may not need to be proven even in rape cases where there are unusual circumstances such as a restrained adult victim in a stretcher.[28]

If force against an adult victim cannot be demonstrated, and if the victim is not physically restrained, then states' laws require a showing of some form of incapacity to consent. New York's rape statute requires a general showing of the victim's "incapacity to consent," such as when the victim is (1) "mentally defective," or (2) "mentally incapacitated" or (3) "physically helpless."[29] Whereas, Louisiana's statute provides slightly broader grounds for incapacity: when (1) the victim is under the effects of "an intoxicating agent," or (2) when the victim is "incapable, through unsoundness of mind, whether temporary or permanent, of understanding the nature of the act and the offender knew or should have known of the victim's incapacity."[30]

But courts narrowly construe incapacity to consent. Courts appear to rely predominately on force rather than the victim's inability to give consent. In New Jersey's *State v. Scherzer*[31], the court looked toward a showing of physical force. In the widely publicized *Scherzer* case, eight high school-aged males were tried on various sexual assault charges they allegedly committed against a mentally "slow" high school-aged female. According to the testimony of the victim, and consistent with that of the defendants, sexual activity occurred among the victim and the defendants, under the urging of the boys, whereby the victim masturbated and performed fellatio on five of the young men, and the young men inserted various objects into her vagina including a broomstick and a handle of a baseball bat, and they sucked on her breasts.[32] One of the boys testified that they persuaded her to perform for them as they sat in chairs surrounding her "like a tank of piranhas."[33] Based upon the boys' knowledge of the victim's "intellectual limitations," and their persuasion that she engage in sexual activity with them, the court held that the evidence was sufficient to support a conviction for conspiracy to commit an aggravated sexual assault.[34]

Remarkably, on a separate charge for aggravated sexual assault, the New Jersey court held that there was not enough evidence to prove that "force or coercion" was used. Despite the testimony that numerous boys encouraged the mentally vulnerable girl, and that the boys participated in the sexual acts, nevertheless, the court enunciated a narrow rule: "persuasion is not coercion . . . merely because the victim is mentally defective."[35] Upon examining the facts, the court found, "there [was no] indication that [she] was in any way intimidated by the size or number of the boys present."[36] The court did not find it convincing that "force or coercion" was used when considering that one of the boys led the victim to the basement where the crime occurred by holding his arm around her in a "romantic fashion."[37] Furthermore, the court must not have found it persuasive that the witnesses characterized the victim as one who tried desperately to please her peers, even those who were abusive toward her.[38]

The rationale of the New Jersey decision is consistent with the Minnesota decision of *State v. Meech*, a case similar to *Scherzer* in that the victim was mentally "slow" and subjected to sexual abuse, but the outcome in *Meech*[39] is different. The Minnesota court held that force or coercion in the crime of rape was demonstrated by the perpetrator having pushed up her nightgown, held down her hands, and told her to shut up. According to the Minnesota court, she was "fearful and overpowered by his words and actions."[40] Thus, courts are persuaded by a demonstration of defendant's physical force, as in *Meech,* as opposed to coaxing and engaging behavior, as in *Scherzer.* The courts' emphasis on a showing of physical force presents difficulties for prosecutors to prove rape of cult members, when physical force was not present.

C. Cult-Rape -- The Application of Rape Laws in the Cult Context

I define "cult-rape" as rape upon a cult member by another member or cult leader. If a cult-rape victim indicated by her words or acts that she did not give consent, then her case would be tried like any other rape case and justice should prevail. However, a successful prosecution of a cult-rape may be hampered because the nature of the crime hinges upon whether the victim gave consent. Cults, according to many researchers, subject their members to coercive persuasion, thought reform, or other unusually high levels of psychological influence, often referred to as brainwashing or mind control. This influence affects the cult-rape victims' mental capacities and, consequently, their ability to consent. Research revealed no reported cases where a court tried a defendant for rape of a cult victim and where the consent of the victim was at issue.

There are numerous writings documenting the psychological power cults wield over members. Clinical Psychologist Margaret Thaler Singer, having interviewed and worked with more than 3,000 current and former members of cults, found that cults range in their levels of psychological influence -- from the relatively benign to those that exercise extraordinary control and use thought-reform processes to influence and control members.[41] Legal commentators, Douglas Cook and Richard Delgado, suggest that cults cause their members to lose the ability to think rationally[42] and their ability to make voluntary choices.[43] Another commentator, Ann Penners Wrosch, argues that brainwashing by a religious cult is a type of long-term coercive persuasion which "offend[s] basic notions of fairness and freedom because . . . the victim's will and autonomy is overcome by the persuader's will."[44]

Researchers have also documented that sexual abuse and rape occur in cults. Dr. Singer, for example, found that in the Peoples Temple in Jonestown, Guyana, "children were frequently sexually abused," and teenage girls "had to provide sex for influential people courted by Jones."[45] According to Dr. Singer, many cults use sex and intimacy to "keep members dependent on the group."[46] Sex and intimacy are tied to other forms of emotional manipulation, including inducing feelings of guilt, shame, and fear.[47]

Janja Lalich found a prevalence of sexual exploitation in cults, which she defined as "the exercise of power for the purpose of controlling, using, or abusing another person sexually in order to satisfy the conscious or unconscious needs of the person in power¾whether those needs be sexual, financial, emotional, or physical."[48] The range of sexual abuse spans from "having to live in a sexually coercive environment" to rape, including marital rape.[49]

A woman who was a member of a cult for 21 years, Katherine E. Betz, describes the psychological control her teacher had over her to perform sexually for him: "The bottom line was that I couldn't say no to him. He knew more than I did. I felt flattered that he even considered me. He was the teacher and I was the student. Because of the asymmetrical relationship, he held the power."[50]

The highly publicized trial of Charles Manson revealed that rape and other sexual abuse occurred in that cult. During the murder trial of Charles Manson and his followers, testimony of certain sexual activities was presented in order to establish the extent of Manson's influence on the members of his cult, which he called the "Family."[51] One witness testified that a 16-year-old girl was forced to stand wearing only bikini panties in a room with many Family members surrounding her. Manson made advances toward her. She bit him. He then struck her, raped her, and convinced others to do so. Upon these facts, and others, the appellate court concluded that such testimony at trial was permissible to show Manson's leadership of the Family: "the inference being that if Manson could induce bizarre sexual activities, he could induce homicidal conduct."[52]

Other cases further document that rape and sexual abuse have occurred in cults. In *Scalf v. Bennett*,[53] a federal court affirmed the conviction of a religious leader for statutory rape

upon members of his Ministry where intercourse was part of the creed of their church. In *State v. Ryan*,[54] a Nebraska court affirmed the murder conviction of a leader of a religious cult, described as both a cult and a band of criminals, upon review of factual detail of torture and sexual abuse. And, in *Conrad v. Hazen*,[55] a New Hampshire court let stand a prosecution on charges of sexual abuse by a former cult member against another member. Recently, a civil jury awarded an ex-follower of a New Age yoga center nearly $1.9 million after concluding that the spiritual leader forced her to have intercourse with him on frequent occasions.[56]

When cult-rape victims are forced into unwanted sexual intercourse, they may not indicate their lack of consent by their words or acts. Therefore, a prosecutor would have the daunting task of establishing that the cult-rape victim lacked consent even though her words and acts falsely indicated consent.

In order to establish that the cult-rape victim acquiesced only because of the thought reform used by the cult organization, prosecutors could draw on established law in their states. A prosecutor in Ohio, for instance, could attempt to rely on the rule of law which provides, the "element of force is established if the . . . the victim's will was overborne by fear or duress . . . force need not be overt or physically brutal[, but] can be subtle and psychological."[57] Or, a prosecutor in Minnesota could draw on the state statute that defines coercion as "words or circumstances that cause the complainant reasonably to fear that the actor will inflict bodily harm upon, or hold in confinement, the complainant or another, or force the complainant to submit to sexual penetration or contact, but proof of coercion does not require proof of a specific act or threat."[58] But even if the laws are facially broad enough to encompass thought reform, courts may not be willing to apply such laws to cult-rape victims if they do not accept the fundamental premise that thought reform in cults exists.

There may be more successful rape prosecutions against cult members in courts that recognize that religious cults use thought reform processes to attract and retain members. For example, a Minnesota court, in *Peterson v. Sorlien*, found a "reasonable basis" existed for the "deprogrammers" to fear for the cult members' physical and emotional well-being. The highest court of Minnesota accepted as truthful the testimony in the court below illustrating the cult's method of recruitment and "programmed manipulation [which was] devised to allay the suspicions and anesthetize the rational processes of its targets."[59] Specifically, the court held that parents of a cult member were not liable for false imprisonment and intentional infliction of emotional distress in their good faith beliefs to prompt her disaffiliation from a religious organization.

But not all courts have accepted the premise that cults impose mind control. For instance, in *United States v. Fishman*, a California federal court excluded proffered testimony by experts, including that of Dr. Singer, because the Court was not convinced that the application of coercive persuasion theory to religious cults was widely accepted in the medical community.[60] Dr. Singer and others sought to testify that the defendant was under the influence of the Church of Scientology to the extent that the church manipulated him to commit mail fraud for a period of years.[61]

The *Fishman* court recognized the historical underpinnings of the theory of coercive persuasion as having its beginnings in studies of American prisoners of war during the Korean conflict in the 1950s. At that time, researchers sought to explain why some of the captives adopted the "belief system of their captors," and had concluded that "the free will and judgment of these prisoners had been overborne by sophisticated techniques of mind control or 'brainwashing.'"[62] Nonetheless, the *Fishman* court did not accept the coercive persuasion theory in the context of cults.[63]

In addition, courts are reluctant to embrace the application of coercive persuasion theory to cults for reasons of freedom of religion under the federal and state Constitutions. A New

York court, in failing to accept the prosecution's theory that the Hare Krishna religion intimidated and restrained two victims, relied in part on the First Amendment to the federal Constitution and the comparable state Constitution, stating that such a theory is "fraught with danger in its potential for utilization in the suppression -- if not outright destruction -- of our citizens' right to pursue, join and practice the religion of their choice, free from a government created, controlled or dominated religion . . . ."[64]

There are substantial hurdles to overcome in prosecuting cult-rape -- such as courts' emphasis on the use of force, despite the victim's mental vulnerabilities; difficulties in establishing lack of consent in cult-rape cases; and courts' resistance toward embracing the theory that cults use coercive persuasion on their members. Nevertheless, law is always evolving and as more cult-rape cases are brought, perhaps changes beneficial to victims will occur.

D. Suggestions for the Future Regarding Rape Prosecution

An emerging area for reform is in the prosecution of acquaintance rape. Some commentators contend that the new rape laws neglected to improve prosecution of rape perpetrated by those whom the victim knows -- such as a boyfriend, platonic friend, colleague, and other acquaintances.[65] Acquaintance rape is similar to cult-rape in that both are performed by someone whom the victim knows, thereby making it more difficult to prove lack of consent. Further reform of the rape laws to expand the definition of consent would be beneficial for all rape victims, whether cult members or nonmembers, who were raped by a nonstranger.

To effectuate more successful prosecutions of acquaintance rape, some states have included in their definitions of rape a standard such that where no words or overt acts of consent are given, there is a presumption of lack of consent.[66] Under this definition, both parties engaging in sexual intercourse would need to affirmatively, by words or acts, indicate consent. Other states have adopted statutes whereby nonconsent must be proven by the victim's words or conduct or by other circumstances, placing the onus on the parties to indicate nonconsent.[67]

Some commentators advocate that prosecutors should use lower-grade statutes for acquaintance rape.[68] Because juries are more likely to convict a defendant of rape by a stranger, a lesser penalty for acquaintance rape may make convictions easier to secure. Furthermore, the lower-grade statutes may not require a showing of consent or nonconsent. However, a lower-grade statute prosecution would treat acquaintance rape as a less serious crime.[69]

Professionals from many disciplines--legal, mental health, and medical -- could help to address the prevalence of rape in society at large and to ensure more effective prosecution of the crime. Rape prevention education needs to continue. District attorneys' offices, as well as police departments, have been speaking with young adults and community groups about the new rape laws and the institutional support for rape victims, and have also been teaching techniques for avoiding rape.[70] In speaking with mental health professionals at the 1997 annual American Family Foundation conference, many of them did not know about the new rape laws. Perhaps counselors of cult-rape victims should provide information about these laws to their patients. This, of course, presumes that cult-rape victims seek out counselors.

But education directed at preventing and prosecuting the crime does not go far enough. We should challenge cultural values that promote and condone sexual violence. As law professor Elizabeth M. Schneider has stated, "When we change the laws, social attitudes lag and limit effective implementation."[71]

State authorities should be encouraged to improve or establish a more reliable data-reporting system for offenses of domestic and/or sexual violence. According to the Justice Department, while the majority of states are collecting some form of information on domestic and sexual violence offenses, a significant number do not. A more uniform system would also be useful because there are substantial disparities in the types and quantity of data collected.[72]

Just as one commentator suggests engaging battered women more actively in the battered women programs by assessing needs and listening to critiques of the programs,[73] exit counselors may find it beneficial to engage cult-rape victims in listening to their critiques of the rape prevention and prosecutorial efforts.

Both lawmakers and experienced counselors may benefit from a continuing dialogue on how to prosecute rape when it occurs between cult members or cult member and leader. Such a discussion could focus on perfecting a legal definition of "nonconsent" that does not necessitate a showing of physical force. The states' determinations of when a person is incapable of consent, or whether one affirmatively indicated consent or nonconsent, could include situations in which the person is subjected to coercive persuasion by another, such as the kind of manipulative persuasion that exists in cults. An expanded definition of nonconsent could take into account, for example, a situation in which a cult victim feels psychologically coerced to engage in sexual intercourse with another cult member, even in the absence of that person's threats of physical force being present, because she fears the cult leader's later retaliation, be it verbal harassment, beatings, or expulsion from the group.

II. The Violence Against Women Act

In 1994, Congress passed the Violence Against Women Act (VAWA) landmark legislation that calls for unprecedented cooperation among federal, state, and local law enforcement, to prosecute domestic violence as a crime, and to provide civil remedies as well.[74] VAWA declares that violent crimes motivated by gender violate the victim's civil rights under federal law.[75] The VAWA is multifaceted. It provides that Congress appropriate funds to make streets and public transportation safe for women,[76] such as installing lighting, cameras, emergency phone lines, and so on, in areas of public transportation; make safe homes for women who are subjected to domestic violence, such as securing confidentiality of domestic violence shelters;[77] study and evaluate the manner in which states have taken measures to protect the confidentiality of communications between sexual assault or domestic violence victims and their therapists or trained counselors;[78] and train state and federal judges to combat widespread gender bias in the courts.[79]

A. Criminal Liability for Interstate Violation of Protection Orders

Prior to the enactment of VAWA, the majority of states did not acknowledge protection orders issued by other states, thereby rendering an order of protection useless if, for example, a woman who had obtained the order relocated and attempted to enforce it against a batterer. Now, with the new federal law, a state must afford full faith and credit to an order of protection of another state.[80]

Crossing a state line triggers criminal liability under the act, which gives Congress power under the Constitution to enact this legislation. The VAWA legislation provides for stiff criminal penalties, ranging from 5 to 20 years in prison depending on the extent of the victim's physical injuries, to a life sentence if the victim were killed.[81] The VAWA encompasses a *person who travels across a state line* with the "intent to engage in conduct" that violates a "protection order" against "threats of violence, repeated harassment, or bodily injury."[82] In addition, the legislation provides the same penalties if a *person causes one's "spouse or intimate partner" to cross a state line,* by "force, coercion, duress, or

fraud," resulting in an intentionally injurious act to that spouse or partner in violation of a protection order.[83]

Orders of protection have become increasingly easy to obtain and are a common legal means of protection for women struggling with a violent partner. Former cult members who fear reprisals by their former cult leaders may consider obtaining orders of protection issued by courts that would require specified persons to refrain from contact or violent behavior during the time the order is in force.

B. Criminal Liability for Interstate Domestic Violence

Stiff criminal penalties are also provided for acts of domestic violence under the VAWA, including life imprisonment if death results.[84] A criminal case can be brought upon the triggering of one of two events. First, when a person "travels across a State line . . . with the intent to injure, harass, or intimidate that person's spouse or intimate partner, and who, in the course of or as a result of such travel, intentionally commits a crime of violence and thereby causes bodily injury to such spouse or intimate partner . . . ."[85] Or, second, when the person, "causes a spouse or intimate partner to cross a State line or to enter . . . by force, coercion, duress, or fraud, and, in the course of or as a result of that conduct, intentionally commits a crime of violence and thereby causes bodily injury to the person's spouse or intimate partner. . . ."[86]

The elements of the federal crime are as follows. First, the victim must be a spouse or intimate partner of the defendant. Second, either (1) the defendant must have crossed the state lines with the intent to injure, harass, or intimidate the spouse or intimate partner; or (2) the defendant caused the victim spouse or intimate partner to cross a state line by force, coercion, duress or fraud. Third, the defendant intentionally committed a crime of violence against the spouse or intimate partner. Fourth, the defendant thereby caused the victim or intimate partner bodily injury, or death.

Cult victims should be able to take advantage of the VAWA just as could any other victim of a crime of domestic violence or of gender animus. When cult members cross state lines under the conduct proscribed in the VAWA, the Act may be a legal basis for a criminal prosecution, so long as the victim is a "spouse or intimate partner"[87] of her abuser.

The relationships among cult members may not fit neatly into society's perception of a "spouse or an intimate partner." For instance, where a cult member is a victim of a crime meeting the statutory requirements of VAWA as described above, but the perpetrator is another cult member with whom she does not share a monogamous relationship, a court may have difficulty applying the VAWA remedies. In such a case where lack of monogamy exists, prosecutors would be wise to refer courts to the expanding definitions of "domestic partnership." "Domestic partnership" is a term that is gaining frequent use. One commentator offered the following definition of domestic partnership: a "legal mechanism used to recognize homosexual couples and unmarried heterosexual couples who publicly declare an emotional and economic commitment to each other."[88] This definition could be useful to describe cult relationships based upon the premise that cult members share emotional and/or economic partnership typically through a cooperative business or household.

Another commentator defined domestic partnership as:

> "In its simplicity, domestic partnership is one step more than cohabitation, but one step less than marriage. Its essential ingredient is a business or government recognition of benefits conferred on a nonmarital adult couple of the same or opposite sex because of conformity with a procedure established by the business or government."[89]

Some municipalities have enacted domestic partnership ordinances.[90] These ordinances primarily confer certain governmental benefits on domestic partners. Similarly, cults that receive govern-mental benefits, such as health care, hospital visitation, and housing, could be defined as domestic partnerships.

In cities that have domestic partnership ordinances, cohabitation is usually one requirement for the formation of a domestic partnership.[91] Arguably, cult members cohabitate, albeit not necessarily in monogamous pairs. Thus, the definition of what constitutes a "spouse or intimate partner" under the VAWA may be given expansion by the growing body of rights given to nontraditional families.[92]

C. Civil Remedies

VAWA provides civil remedies if a person "commits a crime of violence motivated by gender and thus deprives another"[93] of the "right to be free from crimes of violence motivated by gender,"[94] then the victim can bring a civil lawsuit regardless of a criminal complaint, prosecution, or conviction.[95] Under the VAWA, a successful plaintiff can obtain compensatory and punitive damages, as well as injunctive and declaratory relief.[96] Attorneys fees are recoverable for VAWA litigation.[97]

Consider this hypothetical situation: several cult members engage in sexual intercourse with a female member against her consent. The cult-rape victim may have grounds for a civil case, even if convictions were not obtained criminally, against the male members.

In an actual case similar to this hypothetical, *Brzonkala v. Va. Poytechnic & State Univ.,*[98] a college student filed a civil lawsuit under the VAWA against male students who had raped her in her dormitory room. The federal trial court in Virginia held that Brzonkala successfully stated a claim for a violation of her civil rights under VAWA. The court reasoned that not all rapes are the same, and that this one indicated gender animus, particularly where one defendant made a couple of statements indicating gender animus; minutes after the rape, he exclaimed, "I like to get girls drunk and [f---] the [s---] out of them."[99] Furthermore, the assault involved a gang rape by two males, which the court considered to be more egregious than a "one-on-one rape." Thus, in the above hypothetical cult-rape scenario, the victim could recover damages if she could establish that the rape was committed with gender animus, as required by the statutory language of VAWA, such as by words or acts that indicated a hatred or disrespect toward women and not just toward this particular victim.[100]

Unfortunately for the hypothetical cult victim, the *Brzonkala* court found it significant that the rapists were closer to strangers than acquaintances in finding gender animus.[101] This is another example of how the degree to which cult members know each other may cause difficulties in prosecuting rape crimes. However, VAWA civil or criminal remedies are not limited to cases of rape, a consent-based crime. Under the statutory language, a male cult member could be civilly liable for any "felony against [a female] person" or a felony against her property if the conduct presented "a serious risk of physical injury to another."[102] Thus, civil remedies for non-consent-based crimes also may be available to female cult members so long as the crime is based on gender animus.

D. Future Litigation Under VAWA

While the trial court did find that Brzonkala successfully demonstrated a claim under the VAWA, it nonetheless found that VAWA was unconstitutional because Congress exceeded its power under the Commerce Clause.[103] On appeal, the Fourth Circuit reversed the lower court and held, among other things, that the VAWA is constitutional and remanded Brzonkala's case for further proceedings.[104]

Challenges, such as the one in *Brzonkala*, in the lower federal courts as to the constitutionality of VAWA, may eventually need to be resolved by the United States Supreme Court.[105] These challenges have been fueled by the United States Supreme Court's 1995 decision of *United States* v. *Lopez,*[106] in which the Court struck down a federal statute holding that Congress exceeded its powers under the commerce clause of the federal constitution in enacting the Gun-Free School Zones Act, legislation aimed at making schools safer. Future Supreme Court decisions may resolve the controversy as to whether the VAWA is constitutional.

Congress should continue funding the VAWA programs, remedies, and studies. The 1994 House of Representatives unanimously passed the VAWA in an election year, but the newly elected Congress was resistant to funding it. Representative Patricia Schroeder and others had to fight for appropriate funds. In criticizing Congress for its lack of support in funding the VAWA, Rep. Schroeder commented, "The bottom line is that Congress funds what it fears. Apparently, it just doesn't fear violence against women."[107]

III. Antistalking

Until recently, police had no power to arrest stalkers because they had committed no legally recognized crime.[108] Kathleen Krueger, wife of a Texas candidate for the U.S. Senate, tells a chilling account of how the couple was stalked for nine years.[109] The couple had befriended a pilot of the airplane they used for the Senate campaign. When Mr. Krueger lost the campaign, the pilot began harassing them, and the harassment intensified. He called them as often as 120 times in a day. Often he had made threats and used foul language. He had broken no Texas laws. But when the stalker called them from another state and made a threat on the life of Mr. Krueger, then the FBI acted under federal law.

A. Recent Antistalking Laws

Since 1990, all of the states enacted legislation that makes stalking a crime.[110] In addition, Congress enacted legislation that prohibits interstate stalking.[111] Since 1996, federal law provides, "Whoever travels across a State line . . . with the intent to injure or harass another person, and in the course of, or as a result of, such travel places that person in reasonable fear of the death of, or serious bodily injury . . . to, that person or a member of that person's immediate family. . . ."[112]

Under federal law, the United States Attorney General is authorized to provide grants to states and local government to improve data collection regarding stalking.[113] Because of the nature of the crime, figures on the numbers of stalkers are not readily available. One commentator estimates that more than "200,000 people, most of whom are abusive men, are stalkers."[114]

Unlike other crimes that are identifiable from a single act, stalking is comprised of a series of actions that individually may not constitute a crime at all.[115] What is particularly dangerous about this kind of crime is that initially the victim may be annoyed but not fearful. Eventually, however, a stalker's behavior typically becomes more and more threatening, serious, and violent. Under the state and federal laws, a stalker does not need to be a stranger, but may be an intimate or an acquaintance.[116]

Under these new laws, the police no longer need to wait for an assault to occur in order to make an arrest. Courts may also issue protective orders to intervene in early instances of stalking. The new laws permit courts to impose strict release conditions requiring the defendant to stay away from the victim while the defendant is pending trial.[117] Many states have both misdemeanor and felony classification for stalking. Misdemeanors generally carry a jail sentence up to 1 year. Sentences from 3 to 5 years are typical for felony stalking offenses.[118]

B. How the Antistalking Laws May Assist Cult Victims

Women are subjected to frequent visits, phone calling, and other harassment by cult members in their quest to recruit members. For instance, the following series of acts could constitute stalking: frequent visits to one's house, pamphleteering a dormitory room, telephoning, and heckling. Exit and school counselors should be made aware of these laws in an attempt to prevent stalking. Psychotherapist Shelly Rosen postulates that cults advertise what women consciously want, such as success, guidance, romantic relationships.[119] Once in a cult, often women are subjected to endless "counseling" and other harassment when they attempt to leave the cult.[120] Shelly Rosen isolated three "powerful manipulative tools" that cult leaders use to prevent their members from leaving: (1) the use of narratives based on the departing members confessions; (2) invoking "ideology to criticize questioning"; and (3) criticism of the member's commitment, which Rosen argues is particularly more manipulative for women than men because women often strive to maintain harmonious relationships.[121]

The new antistalking laws should provide remedies for cult victims in prosecuting stalkers who are cult members. For most state laws, the conduct and the state of mind of the defendant are at issue, not the state of mind of the victim, which may be helpful in the case of a cult member who is stalked because it takes the burden off of the prosecutor to show lack of consent of the cult member, as was necessary for the crime of rape. To convict the stalker, the prosecutor must demonstrate beyond a reasonable doubt that there was a course of conduct or behavior, a presence of threats, and the defendant's possession of criminal intent to cause fear in the victim. Thus, the emphasis is on the stalker's acts and state of mind, not the victim's.[122] Whether the defendant poses a threat or acts in a way that causes fear is judged from the standpoint of a reasonable person. The threat does not need to be written or verbal. In many states, the defendant does not need to have actually caused the fear he intended,[123] which should be helpful in prosecuting stalkers who stalk cult members.

The antistalking laws could be used by prosecutors if cult members conduct a campaign of tactics to either recruit new members or to persuade members not to leave.

Conclusion

This article addressed recent changes in the state and federal laws that provide former cult members legal recourse against their respective cult members and leaders. Other literature[124] has noted a similarity between cult leaders, who exert psychological control over the group's members, and batterers, who seek to control domestic partners in abusive personal relationships. The avenues for legal recourse identified in this article may be applicable also for women entrapped within abusive personal relationships.

Notes

1. Violence Against Women Act of 1994, Pub. L. No. 103-322, Title IV, 108 Stat. 1902 (codified in scattered sections of 18 & 42 U.S.C.) (1994) [hereinafter "VAWA"] The VAWA was part of a larger piece of legislation, enacted as the Violent Crime Control Act, which received a lot of publicity as the "Crime Bill."
2. BUREAU OF JUSTICE STATISTICS SPECIALK REPORT, U.S. DEP'T OF JUSTICE, PUB. NCJ-154348, VIOLENCE AGAINST WOMEN: ESTIMATES FROM THE REDESIGNED SURVEY 1 (Aug. 1995). Younger women, ages 10 to 29, and poor women, in families with incomes below $10,000, are more likely than other women to be victims of violence by an intimate.
3. For a thorough discussion of domestic violence statutes as pertaining to violence in homosexual relationships, see Hon. Mac D. Hunter, *Homosexuals as a New Class of Domestic Violence Subjects Under the New Jersey Prevention of Domestic Violence Act of 1991*, 31 U. Louisville J. Fam. L. 557 (1992/1993)
4. *See* Janja Lalich, *Dominance and Submission: The Psychosexual Exploitation of Women in Cults*, 14 Cultic Stud. J. 4, 7 (1997)

5. *See generally* MARGARET THALER SINGER, CULTS IN OUR MIDST: THE HIDDEN MENACE IN OUR EVERYDAY LIVES 88-89 (1995) ("Cults are abusive and destructive to varying degrees.").
6. *See generally* NATIONAL INSTITUTE OF JUSTICE, U.S. DEP'T OF JUSTICE, NCJ148064, THE CRIMINAL JUSTICE AND COMMUNITY RESPONSE TO RAPE (1994) [hereinafter "*Response to Rape*"] (providing a detailed summary of the states' reformed rape laws).
7. *Id.* at 1.
8. *See id. at 7.*
9. *See id.* At 9; Symposium, *The Violence Against Women Act of 1994: A Promise Waiting to be Fulfilled, The Civil Rights Remedy of the Violence Against Women Act: Legislative History, Policy Implications & Litigation Strategy*, 4 J.L. & Pol'y 371, 429 n.6 (1995) [hereinafter "VAWA Symposium"] (providing a comprehensive listing of state laws).
10. *See* N.Y. CRIM; PROC. LAW § 60.42 (Mckinney *1992).*
11. *See Response to Rape, supra* note 6, at 9
12. *See* BEVERLY BALOS & MARY LOUISE FELLOWS, LAW AND VIOLENCE AGAINST WOMEN: CASES AND MATERIALS ON SYSTEMS OF OPPRESSION 456-60 nn. 1-3 (1994) (suggesting that inadequacies in law school teaching have led to rape shield laws lacking protection for complainants.)
13. *See Response to Rape, supra* note 6, at 10; KATHERINE T. BARTLETT, GENDER AND LAW 520-25 (1993) (provides history and summary of marital rape laws); Patricia Searles and Ronald J. Berger, *The Current Status of Rape Reform Legislation: An Examination of State Statutes*, 10 Women's Rts. L. Rep. 25 (1987) (providing a survey of state rape laws).
14. *See, e.g.,* TENN. CODE ANN. §§ 39-13-503 & 39-13-507 (providing that spousal rape is only a class C felony, whereas "rape" is one of class B) (1997).
15. *See, e.g.* TENN. CODE ANN. § 39-13-507 (1997); *see also* OKLA. STAT. ANN. Tit. 21, § 1111 B. (West 1983 & Supp. 1998) (defining rape as "an act of sexual intercourse accomplished with a male or female who is the spouse of the perpetrator if force or violence is used or threatened").
16. *See* State v. Haines, 51 La. Ann. 731, 732, 25 So. 372, 273 (1899) The court held: "For if [the husband] were the one who forcibly and against her consent performed the sexual act upon her, there was and could be no rape. This is so, because the husband of a woman cannot himself be guilty of an actual rape upon his wife, on account of the matrimonial consent which she has given, and which she cannot retract." *Id.*
17. *See* Response to Rape, *supra* note 6, at 45-47.
18. *See id.* at 53-58.
19. *See id.* at 27-39.
20. *Id.* at 1.
21. *See id.*
22. SUSAN ESTRICH, REAL RAPE 29 (1987) (footnotes mitted) (emphasis in the original) (providing a detailed discussion of the crime of rape and the relevant laws); see also Susan Estrich, Rape, 95 Yale L.J. 1087 (1986) (discussing rape laws).
23. *See* Michael M. v. Superior Court of Sonoma County, 450 U.S. 464 (1981). In *Michael M.*, the United States Supreme Court held that California's statute, which defined statutory rape as "sexual intercourse accomplished with a female not the wife of the perpetrator, where the female is under the age of 18 years," did not violate the equal protection clause of the Fourteenth Amendment. The equal protection clause challenge was based upon "making men alone" criminally liable for the sexual act. The court based its reasoning upon the policy of preventing teenage pregnancy. Critics complain of the distinction in *Michael M.* that a 17-year-old boy was liable for intercourse with a girl one year younger, and that generally statutory rape laws rely upon the premise that "young girls are too easily coerced to effectively consent to sex." See Michelle Oberman, *Turning Girls into Women: Re-Evaluating Modern Statutory Rape Law*, 85 J. Crim. L. & Criminology 15, 41 (1994).
24. *See* N.Y. PENAL LAW § 130.25(2) (McKinney 1998). The New York statute provides: "A person is guilty of rape in the third degree when:
    2) Being twenty-one years old or more, he or she engages in sexual intercourse with another person to whom the actor is not married less than seventeen years old." *Id.*
25. *See* State v. Martinez, No. L-95-009, 1995 Ohio App. LEXIS 5091 (Ohio Ct. App. Nov. 17, 1995).
26. *See* State v. Glover, No. CA85-12-106, 1988 Ohio App. LEXIS 3345 (Ohio Ct. App. Aug. 15, 1988).
27. Lack of consent is an element that the prosecution needs to prove at trial. An example of a typical state penal law of "lack of consent" for sex offense is found in the New York state:

New York defines lack of consent as:
"1. Whether or not specifically stated, it is an element of every offense define in [sex offenses], except the offense of consensual sodomy, that the sexual act was committed without consent of the victim.
2. Lack of consent results from: (a) Forcible compulsion; or (b) incapacity to consent; or (c) Where the offense charged is sexual abuse, any circumstances, in addition to forcible compulsion or incapacity to consent, in which the victim does not expressly or impliedly acquiesce in the actor's conduct.
3. A person is deemed incapable of consent when he or she is: . . . (b) mentally defective; or (c) mentally incapacitated; or (d) physically helpless....
* * * ." N.Y. PENAL LAW § 130.05 (McKinney 1998).

28. *See* State v. Hufford, 205 Conn. 386, 533 A.2d 866 (1987).
29. N.Y. PENAL LAW § 130.05 (2) (b) (McKinney 1998).
30. LA. REV. STAT. ANN. § 14:43 (A) (1) & (2) (West 1997 & Supp. 1998).
31. 301 N.J. Super. 363, 402, 694 A.2d 196, 214 (N.J. Super. Ct. App. Div.), *cert. denied*, 151 N.J. 466, 700 A.2d 878 (1997).
32. See id. at 394, 694 A.2d at 210.
33. Id. at 402, 694 A.2d at 214.
34. *See id.*
35. *Id.* at 404, 694 A.2d at 215.
36. *Id.* ("[W]e are convinced that the State failed to present enough evidence to prove to a reasonable jury that force or coercion were used against [the victim].").
37. *Id.* at 394, 694 A.2d at 210.
38. *See id.* at 397, 694 A.2d at 212.
39. 400 N.W.2d 166, 168 (Minn. Ct. App. 1987).
40. *Id.*
41. *See* Singer, *supra* note 5.
42. *See* Douglas H. Cook, *Tort Liability for Cult Deprogramming*: Peterson v. Sorlien, 43 Ohio St. L.J. 465, 483 (1982) (arguing that cults use mind control in their indoctrination process).
43. *See* Richard Delgado, Comment, *Religious Totalism: Gentle and Ungentle Persuasion Under the First Amendment*, 51. S. Cal. L. Rev. 1, 8, 50-52 (1977) (arguing that the process by which cults draw people in "seriously erode[s] the voluntary quality of their choice").
44. Ann Penners Wrosch*,* Comment*, Undue Influence, Involuntary Servitude and Brainwashing: A More Consistent, Interests-Based Approach,* 25 Loy. L.A.L. Rev. 299, 506 (1992).
45. Singer, *supra* note 5, at 250.
46. *Id.* at 169.
47. *See id.*
48. Lalich, *supra* note 4, at 6.
49. *Id*.
50. Katherine E. Betz, *No Place to Go: Life in a Prison Without Bars*, 14 Cultic Stud. J. 85, 92 (1997)
51. People v. Manson, 61 Cal. App. 3d 102, 130-31, 132 Cal. Rptr. 265, 278 (Cal Ct. App. 1976)
52. *Id*. at 131, 132 Cal. Rptr. At 279.
53. 408 F.2d 325 (1969).
54. 233 Neb. 74, 444 N.W.2d 630 (1989).
55. 140 N.H. 249, 665 A.2d 372 (1995).
56. *See* Ken Dilanian, *"$1.9 Million Awarded in Sex Scandal."* Inquirer Harrisburg Bureau, Dec. 10, 1997.
57. Martinez, 1995 Ohio App. LEXIS 5091, at *4 (citations omitted).
58. MINN. STAT. ANN. § 609.341 (14) (West 1987 & Supp. 1998).
59. Peterson v. Sorlien, 299 N.W.2d 123, 130 (Minn. 1980), *cert. denied*, 450 U.S. 1031 (1981).
60. United States v. Fishman, 743 F. Supp. 713, 715 (N.D. Cal. 1990).
61. *See id.* at 716.
62. *Id.* (quoting E. Hunter, *Brainwashing in Red China* (1951)).
63. *Id.* at 716-20 (reasoning that the peers of the experts were not in agreement that coercive theory applied to cults and, therefore, under evidentiary test, "the *Frye* test," the proffered testimony was not admissible because it was not well-recognized in the scientific community).
64. People v. Murphy, 98 Misc. 2d 235, 413 N.Y.S.2d 540, 543-44 (N.Y. Sup. Ct. 1977).
65. *See* Kathleen F. Cairney, Note, Addressing Acquaintance Rape: *The New Direction of the Rape Law Reform Movement*, 69 St. John's L. Rev. 291, 291, 297 (Winter-Spring 1995) (contending that

many post-reform statutes lack terms that pertain to acquaintance rape); Beverly Balos & Mary Louise Fellows, *Guilty of the Crime of Trust: Nonstranger Rape*, 75 Minn. L. Rev. 599, 601-02 (1991) (advocating common law doctrine of confidential relationship based upon trust should apply to nonstranger rape thereby assisting rather than hindering prosecution); Lani A. Remick, Comment, *Read Her Lips: An Argument for a Verbal Consent Standard in Rape*, 141 U. Pa. L Rev. 1103 (1993) (advocating for affirmative verbal consent standards).

66. *See, e.g.* WASH. REV. CODE. ANN. § 9A.44.010(7) (West. Supp. 1998) (defining "consent" as "at the time of the act of sexual intercourse or sexual contact there are actual words or conduct indicating freely given agreement to have sexual intercourse or sexual contact."); WIS. STAT. ANN. § 940.225(4) (West 1996) (defining "consent" as words or overt actions by a person who is competent to give informed consent indicating a freely given agreement to have sexual intercourse or sexual contact."). *See generally* Cairney, *supra* note 65, at 317 (advocating against affirmative consent statutes and in favor of affirmative nonconsent standards).
67. *See,* e.g., UTAH CODE ANN. § 76-5-406(1) (1995 & Supp. 1997).
The Utah statute provides: "An act of sexual intercourse, rape attempted rape, rape of a child … is without consent of the victim under any of the following circumstances: (1) the victim expresses lack of consent through words or conduct…." *id.*
68. *See* Cairney*, supra* note 675, at 314.
69. *See id.* at 303.
70. *See Response to Rape, supra* note 6, at 79-83. For example, in the fall of 1996, Deputy Chief of Sex Crimes Unit for the Manhattan District Attorney, Lisa Friel, lectured on the new rape laws in a "Women and the Law" class held at The New School for Social Research in New York, NY. AFF President, Herbert Rosedale, also presented and the author moderated.
71. *VAWA Symposium, supra* note 9 at 429; *see* Eric Slater, *What's Worse: Killing Rabbit or Beating Girlfriend? Court: Alleged Assault or Woman Could Cost Man $1,000 Fine, But Strangling Her Bunny Could Bring a Penalty of $20,000*, L.A. Times, June 28, 1995 at B1 (pointing out the dichotomy between the penalties of beating and choking a girlfriend and receiving a $1,000 fine, as opposed to doing the same act to a pet rabbit but receiving a $20,000 fine).
72. *See* NATIONAL INST. OF JUSTICE, U.S. DEP'T OF JUSTICE, DOMESTIC AND SEXUAL VIOLENCE DATA COLLECTION: A REPORT TO CONGRESS UNDER THE VIOLENCE AGAINST WOMEN ACT, 13-14, 17 (July 1996). It is difficult to collect data on domestic violence offenses because any violent act may be considered domestic violence if an intimate relationship exists between the offender and the victim. On the other hand, sexual violence is usually defined more narrowly as a crime that is determined by a specifically prohibited sexually-related act taken by a perpetrator against another person.
73. *See* Joyce Klemperer, *Programs for Battered Women – What Works?*, 58 Alb. L. Rev. 1171, 1192 (1995).
74. *See* VAWA *supra*, note 1.
75. *See* 42 U.S.C. § 13981; VAWA provides civil rights for women, creating the first civil rights remedy for violence. This statute protects "the civil rights of victims of gender motivated violence," 42 U.S.C. § 13981(a), and provides, "[a]ll persons within the United States shall have the right to be free from crimes of violence motivated by gender…." 42 U.S.C. § 13981(b).
76. *See* 42 U.S.C § 13931.
77. *See* 42 U.S.C. § 13951.
78. *See* 42 U.S.C. § 13042.
79. *See* 42 U.S.C. § 13991.
80. *See* VAWA, 18 U.S.C. § 2265. Protection orders are defined as injunctions or other orders by courts issued for the purpose of preventing "violent or threatening acts or harassment against, or contact or communication with ior physical proximity to, another person …" 18 U.S.C. § 2266. For a discussion of protection orders, see Catherine F. Klein, *Full Faith and Credit: Interstate Enforcement of Protection Orders Under the Violence Against Women Act of 1994*, 29 Fam. L.Q. 253, 254-55 (Summer 1995) ("Without full faith and credit statutes, a state only has the power to protect victims of domestic violence within its boundaries, limiting the protection afforded to victims if they are forced to move or flee to another state.").
81. *See* 18 U.S.C. § 2262 (b).
82. 18 U.S.C. § 2262 (a)(1).
83. 18 U.S.C. § 2262 (a)(2).
84. *See* 18 U.S.C. § 2261(b)
85. 18 U.S.C. § 2261(a)(1)

86. 18 U.S.C. § 2261 (a)(2)
87. 18 U.S.C. § 2261.
88. Hunter, *supra* note 3, at 565-66.
89. Raymond C. O'Brien, *Domestic Partnership: Recognition and Responsibility*, 32 San Diego L. Rev. 163, 165 (1995).
90. *See* Craig A. Bowman & Blake M. Cornish, *A More Perfect Union: A Legal and Social Analysis of Domestic Partnership Ordinances*, 92 Colum. L. Rev. 1164, 1164, 1188-92 (1992) (documenting twelve United States cities that have passed domestic partnership ordinances).
91. See *id*., at 1192-93.
92. *See generally* Lisa R. Zimmer, Note, *Family, Marriage, and the Same-Sex Couple*, 12 Cardozo L. Rev. 6781, 681 (1990) ("[T]he shell of that 'traditional' family structure has begun to crack.").
93. 42 U.S.C. § 13981(c).
94. 42 U.S.C. § 13981(b).
95. *See* 42 U.S.C. § 13981 (e)(2).
96. *See* 42 U.S.C. § 13981(c)
97. *See* 42 U.S.C. § 1988(b)
98. 935 F. Supp. 779 (W.D.Va. 1996), *rev'd*, 132 F .3d 949 (4th Cir. 1997)
99. *Id*. at 784-85.
100. *See* 42 U.S.C. § 13981(d)(1).
101. Brzonkala, 935 F. Supp. At 784-85.
102. 42 U.S.C. § 13981(d)(2)(A).
103. Brzonkala, 935 F. Supp. At 801.
104. Brzonkala v. Va. Polytechnic & State Univ., 132 F.3d 949 (4th Cir. 1997).
105. Constitutional challenge was also brought in Doe v. Doe, 929 F. Supp. 608 (D. Conn. 1996) (upholding the constitutionality of VAWA). *Compare* Kerrie E. Maloney, Note, *Gender-Motivated Violence and Commerce Clause: The Civil Rights Provision of the Violence Against Women Act After Lopez*, 96 Colum. L. Rev. 1876, 1878 (1996) (arguing that the civil rights provisions of VAWA is constitutional), with Mary C. Carty, Comment, Doe v. Doe and the Violence Against Women Act: A Post-Lopez Commerce Clause Analysis, 71 St. John's L. Rev. 465, 485 (1997) (arguing that civil rights remedy of VAWA as a proper exercise of Congress's power under Commerce Clause is "questionable").
106. 514 U.S. 549 (1995).
107. Rep. Patricia Schroeder, *VAWA Symposium, supra* note 9, at 380-81. Rep. Schroeder ws one of the authors of the original act.
108. *See generally* NATIONAL INST. OF JUSTICE, U.S. DEP'T OF JUSTICE, DOMESTIC VIOLENCE, STALKING, AND ANTISTATLKING LEGISLATION: AN ANNUAL REPORT TO CONGRESS UNDER THE VIOLENCE AGAINST WOMEN ACT 1 (April 1996) [hereinafter *Stalking*].
109. *See* Kathleen Krueger, *Panel Presentation on Stalking*, 25 U. Tol. L. Rev. 903 (1993-94).
110. *See Stalking, supra* note 108. Some state antistalking statutes have been challenged on constitutional grounds because of murky distinctions between lawful activity and criminal stalking activity.
111. *See* 18 U.S.C. § 2261A.
112. *Id.*
113. *See* 42 U.S.C. § 14031.
114. Joan Zorza*, Recognizing and Protecting the Privacy and Confidentiality Needs of Battered Women,* 29 Fam. L.Q. 273, 275 (Summer 1995).
115. *See Stalking, supra* note 108.
116. *See id.*
117. *See id.* at 9.
118. *See id.* at 5-6.
119. *See generally* Shelly Rosen, *Gender Attributes That Affect Women's Attraction to and Involvement in Cults*, 14 Cultic Stud. J. 22, 26 (1997).
120. *See id.* at 37; Alexandra Stein, *Mothers in Cults: The Influence of Cults on the Relationship of Mothers to Their Children*, 14 Cultic Stud. J. 40, 53 (1997) ("It is important to remember, however, that many mothers are unable to leave cults.").
121. Rosen*, supra* note 119, at 37.
122. *See Stalking, supra* note 108. at 6.
123. *See id.*
124. *See* Lalich *supra note* 4, at 8-9.

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