Domestic Violence and the Law: A New York State-Centric Overview and Update

By Dorchen Leidholdt and Lynn Beller

Over the past three decades, domestic violence has emerged as an urgent priority of public health professionals, government leaders, and human rights proponents alike. Once misunderstood as the product of individual pathology and minimized as “trifling,” domestic violence is now recognized as a widespread, devastating societal problem, with consequences that reach far beyond the family. During this time, our understanding of domestic violence has evolved from a focus on individual incidents of physical violence to an awareness that domestic violence is, first and foremost, a gender-based pattern of control and an acute form of gender-based discrimination, manifested not only in acts of physical and sexual violence but also in abuse that takes psychological, emotional, sexual, economic, legal, and other forms. At the same time, there has been a growing recognition of the severity of its harm to victims and their children, to extended families, and to communities, and its cost to our economy and key institutions, especially those addressing public health and criminal justice.

Despite groundbreaking advances in understanding and policy that have led to a dramatically improved response to victims in many countries, including our own, domestic violence remains a significant problem world-
wide and throughout the U.S. A World Health Organization study\(^2\) found that domestic violence is pervasive in all cultures, with about 1 in 4 women having experienced physical and/or sexual intimate partner violence in their lifetime.\(^3\) In the U.S., on average, 20 people per minute are victims of physical violence by an intimate partner (more than 10 million individuals annually).\(^4\) In New York State in 2013, there were 84,577 reported incidents of domestic violence (likely understated due to the high number of incidents that go unreported).\(^5\) A recent report noted that although the overall homicide total in New York City has declined significantly over the past 25 years, the number of homicides resulting from domestic violence has climbed.\(^6\)

New York has been in the forefront of the efforts to fight domestic violence, with the formation of the New York State Governor’s Task Force on Domestic Violence in 1983, which led to the creation of the New York State Office for the Prevention of Domestic Violence (OPDV) in 1992. The New York City Mayor’s Office to Combat Domestic Violence was founded in 2001. In many respects, New York State’s judiciary has been ahead of the curve, with the establishment of the first specialized felony domestic violence court in Brooklyn in 1996 and now 75 domestic violence courts in jurisdictions across the state, handling more than 32,000 cases each year. Attorneys throughout the state increasingly recognize that domestic violence directly impacts their practices and that in order to effectively and zealously represent their clients they must understand domestic violence, the role it plays in their cases, and the evolution of the law and the legal system’s response. Many of these attorneys are taking cases pro bono on behalf of victims who cannot afford legal representation, greatly enhancing victim protection and safety. This article reviews this journey, reveals how a strengthening response to domestic violence has affected key practice areas under New York law, and highlights emerging issues in the field.

Criminal Law
Law Enforcement

For much of history, under law and social custom, domestic violence was considered to be the privilege of the husband, who had the right to physically “chastise,” i.e., batter, his wife.\(^7\) Until the 1990s, abuse of victims by their intimate partners was largely treated by the justice system as a private, family matter; police officers were encouraged to “engage in the resolution of conflict . . . without reliance upon criminal assault” statutes.\(^8\) In New York State, the family courts had original jurisdiction over domestic violence cases. It was not until 1977 and the landmark case of 

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of *Bruno v. Codd*, a mandamus action brought by legal services lawyers against New York City for its systemic failure to protect “battered wives” – in this case economically disadvantaged women, most of color – that this state of affairs faced challenge.\(^9\) Here, suit was brought on behalf of women who had received no assistance from the police after being brutally attacked by their intimate partners (one victim was actually being strangled at the time of the police visit). In several of the cases, the police officers actually condoned the abuse. “Thus, one woman, whose arm had just been sprained by her husband’s attack, requested his arrest, and says she was informed by a police officer that ‘there is nothing wrong with a husband hitting his wife if he does not use a weapon.’” Another woman, who was slapped and struck with a knife by her husband, reported that the officer, who refused to arrest her husband, said to him, “Maybe if I beat my wife, she’d act right too.”\(^10\) Although the case was settled when the police department agreed to a consent decree in which it pledged to treat domestic violence investigations like those of other crimes, police officers were still allowed to use their discretion in arresting abusers and continued their unofficial policy of failing to protect domestic violence victims.\(^11\)

This approach came under increasing pressure as police departments faced civil lawsuits from victims of domestic violence alleging failure to protect.\(^12\) Although New York’s Office for the Prevention of Domestic Violence promulgated a pre-arrest policy, law enforcement resisted.\(^13\) Statewide reform remained elusive until the passage of New York State’s Family Protection and Domestic Violence Intervention Act of 1994 (DVIA),\(^14\) followed by the federal Violence Against Women Act (VAWA),\(^15\) passed in the same year. DVIA amended N.Y. Criminal Procedure Law to reduce police discretion in domestic violence incidents by mandating arrest of perpetrators in felony and criminal contempt cases, a reform carried out in many other states at the time as well. While encouraging arrest, this nuanced statute continued police discretion in the investigation of misdemeanor crimes, the vast majority of domestic violence cases.\(^16\)

Such pro-arrest law began to change police behavior, resulting in increased rates of arrest of domestic violence perpetrators, increased prosecution, and a lower rate of recidivism.\(^17\) The laws decreased pressure on victims by placing the burden of an arrest fully on the government and confirming the status of the abused as a victim of a crime rather than as an equal participant in an abusive relationship. Advocates reported the beginning of a sea change in criminal justice response to victims, which continues to this day.

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Immediately after the implementation of New York State’s domestic violence arrest statute, advocates bore witness to an unintended consequence. Faced with counter allegations of abuse when arriving at the scene of a domestic violence call, police began to implement an unofficial policy of “dual arrest,” arresting both parties alleging domestic violence and leaving the courts “to sort it out.” As a result, many victims were wrongfully arrested, which deepened their harm and chilled the likelihood of their calling the police again. In order to combat this problem, the New York State legislature enacted the Primary Aggressor Law in 1998,\textsuperscript{18} which mandated that when there are such dueling allegations law enforcement must consider certain criteria to determine who should be arrested. These criteria include any history of domestic violence, existence of protective orders, the relative severity of the injuries to each party, and whether one party was acting in self-defense.\textsuperscript{20} This law ameliorated but did not eliminate the problem of dual arrest, or retaliatory arrest, particularly when a victim is non-English speaking.\textsuperscript{20}

Concern that mandatory arrest would result in a disproportionate arrest rate for men of color was alleviated when a study commissioned by OPDV demonstrated that the implementation of mandatory arrest laws in New York State actually resulted in a greater percentage of white men being arrested for crimes of domestic violence, and a study conducted by the National Institute of Justice in 19 states found that arrest occurred more frequently in cases where the offender was white.\textsuperscript{21}

**Prosecutors**

Mandatory arrest also had an impact on the prosecution of abusers since victims often try to withdraw criminal charges against their abusers due to such factors as pressure from the abuser and his family, fear of retaliation, concern for their children, and financial dependency on the abuser. Initially, prosecutors adopted “no drop” policies, and too often forced uncooperative victims to testify against their abusers, sometimes threatening or even jailing them to secure cooperation.\textsuperscript{22} Recognizing the harsh, traumatizing impact of such tactics on victims, prosecutors in the early 1990s, led by then-San Diego County Attorney Casey Gwinn, began to turn to a new approach: evidence-based prosecution.\textsuperscript{23} This new methodology recognized that such evidence as photographs of a victim’s injuries, physical and other evidence from the police crime scene investigation, medical records, social media communications, and 911 calls can enable prosecutors to build strong cases against domestic violence perpetrators without having to rely on victim participation.

Prior to 2004, New York courts readily permitted 911 tapes and other “excited utterances” – powerful evidence of domestic violence – as exceptions to the hearsay rule. In 2004, the Supreme Court decided *Crawford v. Washington*,\textsuperscript{24} holding that the use in a criminal trial of a recorded statement made during a police interrogation by the complainant, who did not testify at trial, violated the defendant’s Sixth Amendment right to be confronted with the witness against him. The decision had an immediate effect on the ability of prosecutors to prove their cases through the use of evidence that had previously been deemed admissible through exceptions to the hearsay rule. In particular, the decision negatively affected domestic violence prosecutions, and prosecutors found that courts were dismissing more domestic violence cases due to evidentiary issues.\textsuperscript{25}

A subsequent decision, *Davis v. Washington*,\textsuperscript{26} clarified that statements such as 911 calls and other statements during an ongoing emergency are considered non-testimonial and thereby are admissible. Nevertheless, the courts are continuing to define testimonial statements, and prosecutors in domestic violence cases must carefully evaluate whether potential testimony will be allowed.

**Defense Attorneys**

A parallel revolution took place in the understanding of domestic violence in the context of cases in which abused women severely injured or killed their abusive partners. In 1979, Dr. Lenore Walker published a groundbreaking book, *The Battered Woman*,\textsuperscript{27} which articulated a theory about domestic violence and the psychology of its victims called the “battered woman syndrome.” Dr. Walker’s theory was embraced by many attorneys defending domestic violence victims in cases in which the victim used deadly physical force under circumstances in which the deadly physical force used by their abusers was arguably not imminent. Many advocates and experts in the psychology of domestic violence victims ultimately rejected “battered woman syndrome” as an overly narrow category that tended to exclude economically and racially marginalized victims and contributed to pathologizing domestic violence survivors generally. Today “battered woman syndrome” has been largely replaced by theories about post-traumatic stress disorder. Nonetheless, defense attorneys continue to use expert witnesses to explain to courts and juries why some domestic violence victims feel so trapped in an abusive relationship that, in their belief, their only avenue to safety requires the use of deadly physical force.

Advocates for incarcerated domestic violence victims began to push for clemency for victims who had been convicted of killing their abusers, pointing to research demonstrating that the average prison sentence for men who kill their female partners is two to six years while the average sentence for women who killed their male partners is 15 years, despite the fact that “most women who kill their partners do so to protect themselves from violence initiated by their partners.”\textsuperscript{28} These efforts have met with mixed success, as evidenced by *In re Niki Rossakis*.\textsuperscript{29} Ms. Rossakis has spent more than 20 years in prison for killing her abusive husband, during which time she obtained two associate’s degrees, successfully completed most rehabilitative programs offered to her, and was a model prisoner. She sought and was denied parole three times, most recently because the parole board...
contended that her statements about suffering domestic violence at the hands of her husband were inconsistent with her protestations of remorse. In 2015, the Appellate Division, First Department, strongly rejected this claim and affirmed the lower court's finding that the Parole Board "acted with irrationality bordering on impropriety and therefore arbitrarily and capriciously denied petitioner parole. . . . It fails to recognize that the petitioner may legitimately view herself as a battered woman, even though the jury did not find that she met New York's exacting requirements for the defense of justification."

A proposed New York State law, the Domestic Violence Survivors Justice Act, which has widespread support among domestic violence victim advocates and others intent on bringing about reform in the criminal justice system, would allow judges to sentence domestic violence survivors to fewer years behind bars or to alternative-to-incarceration programs when their abuse was "a significant contributing factor" in their crime.

Emerging Issues: Cyberstalking and Revenge Porn
In 1999, after a decade-long effort by advocates, the New York State Legislature passed the Anti-Stalking Act, finally providing domestic violence victims in New York with a criminal remedy to an insidious, terrifying, and often subtle form of abuse. Recent refinements to the statute have recognized the increasing prevalence of cyberstalking, amending the definition of "following" to include "tracking . . . through the use of a global positioning system." A variant of cyberstalking, "e-sexual abuse," or "revenge porn," is a new weapon both for abusers intent on humiliating their victims and destroying their reputations and websites that profit from this abuse. Thirty-four states currently have laws against this crime, and a bill has been brought before the House of Representatives. Although New York does not yet have an e-sexual abuse statute, a campaign is mobilizing for such a remedy for victims. In the meantime, prosecutors have pursued criminal cases against perpetrators for aggravated harassment, dissemination of an unlawful surveillance image, and public display of offensive sexual material. Victims have also sought protection from increasingly aware and responsive family court judges in cases for civil protective orders alleging such family offenses as harassment, disorderly conduct, coercion, and reckless endangerment.

A Changing Infrastructure for Justice
Prior to the DVIA, victims had three days in which to choose whether to seek an order of protection in family court or in criminal court— they could not do both. The DVIA amended the Family Court Act to establish concurrent jurisdiction over family offenses in both family courts and courts presiding over criminal cases. While this change in the law increased the relief available to victims, it meant that a victim could find herself litigating a civil protective order case before a judge in family court while serving as a complainant in a criminal case on an identical set of facts before a separate judge. A matrimonial action might bring her before a third judge. In 1995, Chief Judge Judith Kaye, recognizing the burden on domestic violence victims of having to pursue protection in different courts from multiple judges as well as the negative impact of this state of affairs on judicial economy, opened the first Integrated Domestic Violence Court (IDV), dedicated to a "one family— one judge" model and aspiring to a greater level of responsiveness to the safety needs of victims and their children and a higher degree of monitoring of offenders. There are now more than 40 Integrated Domestic Violence Courts throughout New York State.

An important parallel development has been the inception and growth throughout the country of Family Justice Centers, "one stop shops" for survivors of domestic violence, initiated by Casey Gwinn in 1989, that bring together under one roof domestic violence prosecutors with civil legal service providers, social service providers, and representatives of community-based organizations. This collaborative, multi-disciplinary model works to promote not only the safety of victims and their families but their healing and economic empowerment. Under the leadership of the Mayor's Office to Combat Domestic Violence, the first Family Justice Center opened in Brooklyn, New York in 2005. Today, there are Family Justice Centers in all five counties of New York City as well as in Erie and Westchester counties.

The Family Court has recently implemented a pilot program to allow electronic filing of petitions for temporary orders of protection and for the issuance of such orders by audio-visual means from remote locations. This provides relief for victims who cannot travel to court, or for whom appearing in the courthouse creates risk of harm.

Family Law
Orders of Protection
While pundits have denigrated orders of protection as "meaningless pieces of paper," research has demonstrated that civil orders of protection, like their criminal counterparts, can be powerful vehicles for deterring repeat incidents of domestic violence. Under Article 8 of the Family Court Act, victims can pursue a wide array of forms of relief—from temporary orders of child support to orders that require abusers to stay away from victims and their places of education and employment, and exclude abusers from their victims' homes—so that safety from domestic violence does not lead to the victim's homelessness. With a finding of aggravating circumstances, family court judges can issue orders of protection up to five years in duration, and recent changes to the Family Court Act permit judges to extend civil protective orders before they expire upon a showing of "good cause." The legislature's recognition of a growing number of domestic violence-related crimes as "family offenses"—from sexual misconduct and criminal mischief to coercion and identity theft—has meant that victims can
pursue protection in family court for the growing array of
tactics that deviously creative abusers employ.\textsuperscript{43} One of the most important legislative changes in Article 8 of the Family Court Act took place in 2008, when the New York State Legislature changed the requirements for who has standing to pursue a civil order of protection. While any crime victim could be the beneficiary of a criminal protective order, until 2008 civil protective orders could be obtained only by those who were married to their abusers, who were close blood relations to their abusers, or who had children in common with them. This meant that the doors of family court were closed to many urgently in need of protective orders, most notably unmarried heterosexual couples without children together and couples in same-sex relationships, who at that time were unable to marry in New York State. The 2008 passage of the law known as Fair Access to Family Court considerably expanded the protections available to domestic violence victims in nontraditional relationships.

As victims’ attorneys quickly came to learn, the choice of forum is important to consider in fashioning the most protective legal strategy for one’s client. While filing a protective order petition in family court puts the victim, as a party to the litigation, squarely in control of the case – a welcome state of affairs for many – it also means that she or he must appear in court, literally face the abuser on multiple court appearances, and take days off from work for each.\textsuperscript{44} Abusers quickly learned to manipulate this situation by cross-filing for their own orders of protection or for custody of or extensive visitation with the children. To avoid such a situation, a victim may wish to pursue a criminal protective order instead by reporting the violence to law enforcement and thus initiating a criminal case.\textsuperscript{45}

\textbf{Custody, Visitation and the Hague Convention}

Although there is a growing awareness on the part of courts of the importance of responding swiftly and appropriately to domestic violence in the context of criminal and family offense cases, judges have been reluctant historically to recognize its significance in matters of child custody and visitation.\textsuperscript{46} In reversing a lower court award of custody, for example, the Appellate Division noted, “the Family Court gave inexplicably little weight to its own findings regarding the father’s domestic violence against the mother.”\textsuperscript{47} Many courts have been reluctant to acknowledge the extent to which abusers can use visitation and custody proceedings to continue their abuse, often through the children, or use court appearances to stalk and maintain contact with victims.\textsuperscript{48}

To address this situation, in 1996 the New York State Legislature mandated that trial courts take into consideration proof of domestic violence in child custody and visitation disputes. Pointing in its legislative findings to the growing body of research demonstrating the negative impact on children of exposure to domestic violence (“Studies indicate that children raised in a violent home experience shock, fear, and guilt and suffer anxiety, depression, low self-esteem, and development and socialization difficulties”), the legislature stated that domestic violence “should be given a weighty consideration” when courts analyze the best interest factors in making custody and visitation determinations.\textsuperscript{49} In 2009, New York statutes were further amended to require courts to include and state on the record how findings, facts and circumstances of domestic violence were factored into custody decisions.\textsuperscript{50}

Court decisions that have been reported since 1996 indicate that some judges deciding custody cases are giving considerable weight to allegations of domestic violence.\textsuperscript{51} In \textit{E.R. v. G.S.R.}, for example, the court declined to accept either the expert’s recommendation, because he “skims over the many episodes of domestic violence,” or the law guardian’s, because she “discounted the history of domestic violence.”\textsuperscript{52} The Second Department has reversed and remanded cases when lower courts failed to consider sufficiently the mother’s allegations of domestic violence perpetrated against her by the father.\textsuperscript{53} Appellate courts have consistently held that domestic violence witnessed by a child is a significant factor in determining custody and visitation.\textsuperscript{54}

A longstanding area of concern is accusations against victims of domestic violence perpetrators of “parental alienation,” a problematic spin on the best interest factor, “unfriendly parent.” Typically this allegation is a strategy employed by an abuser to pathologize the victim and make her or his protective actions appear to be wrongful interference in parental rights. Although New York’s appellate courts continue to reject this theory as a valid psychological phenomenon, there have been cases in which domestic violence victims have been threatened with loss of custody of their children because such allegations have not been confronted vigorously.\textsuperscript{55}

\textbf{Relocation and the UCCJEA}

The Uniform Child Custody Jurisdiction Enforcement Act (UCCJEA)\textsuperscript{56} became effective in 2011 and has been adopted by every state,\textsuperscript{57} including New York.\textsuperscript{58} The UCCJEA vests exclusive and continuing jurisdiction for child custody litigation in the courts of the child’s “home state,” which is defined as the state where the child has lived with a parent for six consecutive months prior to the commencement of the proceeding, or since birth. This act becomes significant in domestic violence cases in situations in which victims must flee for their or their children’s safety. While the act enables victims to petition for “emergency jurisdiction,” such a grant is usually temporary, and the court in the jurisdiction from which the victim fled is vested with the ultimate determination of whether she or he must return.

The act also addresses situations in which abusers wrongfully take the children to another jurisdiction and keep them there, providing victims with affirmative defenses to the abusers’ claims that the location in which they wrongfully took the children is now their home state. In such situations, victims can assert that the entire period of the wrongful taking of the children was “a period of
temporary absence,” that the children are not in the care of someone acting as a legal custodian (if, for example, the abuser has deposited them with relatives), or that there is a lack of respect for human rights in the new jurisdiction, if the abuser has taken them to a country that does not protect due process and women’s rights.

The Hague Convention on the Civil Aspects of International Child Abduction (“Hague Convention”) is a multilateral treaty, signed by 94 countries, intended to protect children from wrongful removal or retention across frontiers by mandating return to the child’s “place of habitual residence,” and preserving custody arrangements in place prior to wrongful removal. While drafters of the Hague Convention envisioned the abducting parent as a disgruntled non-primary caretaking father, the more representative scenario has involved a primary caretaking mother fleeing with her child to a jurisdiction where she believes that she will have a greater degree of safety and protection. Domestic violence victims in this situation can assert affirmative defenses to the application of the Convention, alleging “there is a grave risk that her or his return would expose the child to physical or psychological harm or otherwise place the child in an intolerable situation” (Article 13(b)). In Elyashiv v. Elyashiv, the court found that the three children of a mother who had fled from Israel to New York to escape her husband were habitual residents of Israel. Crediting the testimony of a child psychiatrist who had conducted a forensic evaluation documenting that the husband had battered the mother and abused the older two children, the court determined that returning the children to Israel would subject them to a “grave risk of harm” and denied the father’s petition for the return of the children.

Immigration Law

Immigrant victims of domestic violence often face additional barriers to safety and independence, including lack of family or community support, language barriers, lack of information about the legal system, cultural stigma of divorce, and economic hardship. For those who are undocumented or partially documented these barriers can be magnified. Domestic violence victims dependent on an abusive spouse for immigration status may believe that they must stay in the abusive relationship in order to obtain immigration protection and relief. For others – in abusive relationships with undocumented individuals or on their own – basic survival may be in jeopardy. Fortunately, significant progress has been made in providing remedies for immigrant victims, and it is more incumbent than ever for attorneys to identify these remedies and assist their clients in accessing them.

Family-based immigration is the most common way for foreign-born individuals to gain permanent legal status in the United States. Annual caps on visas based upon familial relationships create long waits, depending on the country of origin. Individuals married to a U.S. citizen are not subject to annual caps so can avoid the wait. Perpetrators of domestic violence who are U.S. citizens or permanent residents often use the power that their immigration status confers on them as a tool of power and control over the spouse they are sponsoring – holding the threat of deportation above the victim’s head. Federal law provides remedies for spouses of abusive U.S. citizens or permanent residents.

For victims married to U.S. citizens or lawful permanent resident spouses, two forms of relief exist: the Violence Against Women Act (VAWA) Self-Petition and the Battered Spouse Waiver. A Self-Petition allows current or former spouses of U.S. citizens or lawful permanent residents to seek permanent residence, regardless of whether the abusive spouse has ever initiated an immigration petition. The Battered Spouse Waiver allows victims who already hold or have held conditional residence based on having been petitioned for by their spouse to apply. Another relief option is the VAWA Cancellation of Removal, which allows an immigration judge to grant a stay to a victim facing removal or deportation proceedings who is either married to or has a child in common with an abusive citizen.

These remedies offer protection to relatives of U.S. citizens, but cannot be used by victims who lack a qualifying family relationship or those whose batterers lack legal status in the U.S. Fortunately, remedies may exist for these victims, in particular the U Nonimmigrant Status, or “U visa,” which affords lawful status to victims of domestic

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violence and other qualifying crimes who cooperate with the investigation or prosecution of criminal activity when such cooperation has been certified by a law enforcement official, such as a police officer, an assistant district attorney, a Child Protective Services supervisor, or a judge. Upon approval of U visa status, the victim will receive four years of lawful status in the U.S. and an employment authorization document. After three years, she may apply for lawful permanent residency.

Like the U visa, the T Nonimmigrant Status, or “T visa,” is also a remedy for immigrant victims, providing relief to victims of human trafficking. Applicants need to demonstrate that they are victims of a severe form of human trafficking: sex trafficking in which a commercial sex act is induced by force, fraud or coercion or in which the victim is a minor, or the recruitment, harboring or transporting of a person for labor or services through the use of force, fraud or coercion for the purpose of subjecting to involuntary servitude. Because domestic violence and human trafficking often overlap, the T visa can be a valuable remedy for an immigrant victim of domestic violence.

An additional remedy is asylum. Domestic violence victims, as victims of gender-based persecution, may be able to demonstrate that they are members of a “particular social group” and therefore are being persecuted based on membership in this group. U.S. immigration law offers protection to women fleeing severe family violence, such as female genital mutilation, forced marriage, honor killing, and prostitution. There is a growing body of case law supporting asylum as a remedy for domestic violence victims. In Matter of R-A, a Guatemalan woman sought asylum after suffering severe, ongoing violence at the hands of her husband, a former soldier. After the Guatemalan authorities rejected her plea for help, she fled to the United States and was placed in deportation proceedings. An initial decision by the nation’s highest immigration tribunal, the Board of Immigration Appeals (BIA), in 1999 concluded that RA did not have membership in a “particular social group” for asylum purposes. However, in 2003, the Attorney General certified Matter of R-A to himself to decide, pending the issuance of final regulations on gender-based asylum claims, and ordered briefing on RA’s eligibility for relief. The Department of Homeland Security prepared a brief which essentially adopted many of the points long articulated by domestic violence advocates, including the formulation of RA’s membership in a particular social group. The Immigration Court ultimately granted the applicant asylum based on a stipulation between the parties, without addressing the issue of the particular social group, and has no precedential value. Nevertheless, the government’s brief on RA’s eligibility had a profound impact on the adjudication of domestic violence-based asylum claims, and enabled immigrant women fleeing domestic violence to seek and prevail in their asylum claims.

In a groundbreaking precedential decision, issued on August 26, 2014, Matter of A-R-C-G, the Board of Immigra-

Conclusion

Throughout the past three decades, advocates for victims of domestic violence, working in partnership with judicial leaders, prosecutors and public defenders, members of the private bar, and leaders in state and local government, have brought into force a body of statutory and decisional law that has greatly advanced the rights of victims of domestic violence in New York State and nationally, while providing much needed protections to their children. At the same time, these leaders have made extraordinary progress in creating infrastructure and improving systems that provide victims with vastly improved avenues to protection and justice. While important hurdles remain, especially for victims rendered vulnerable by lack of immigration status, youth and age, nonconforming sexual identity or orientation, racial or ethnic marginalization, disability, and economic disadvantage, the progress has been undeniable. All New Yorkers, especially those in the legal profession, can lift our heads with pride in our achievement of furthering the safety and independence of those among us at greatest risk of harm.

9. 90 Misc. 2d 1047 (1977), rev'd on other grounds, 64 A.D.2d 582 (1978), aff'd, 47 N.Y.2d 582 (1979). See also Duda oh v. City of Allentown, 665 F. Supp. 381, 386 (E.D. Pa. 1987) (quoting the police report: "It has been our policy not to get involved in matters of this nature. Usually the parties are told to bring private prosecution because most times they get back together after the incident causing the separation.").

10. Bruno, 90 Misc. 2d at 1050.


14. 1994 N.Y. Laws ch. 222, as revised.


17. Id. at 57.

18. Id. at 53.

19. Id.

20. Id. at 58.


30. Id. at 29.

31. Introduced both in the New York State Senate and the Assembly (bill numbers A.7874-A/S.5436) on May 20, 2011.

32. Id.


34. Penal Law § 120.45.


36. Id.

37. Criminal Procedure Law § 530.11; Family Court Act § 812.


39. Id. at 27.


41. Id.

42. Family Court Act § 842.


44. Id. at 92.

45. Id.

46. Lawyer's Manual, supra note 5, at 164.

47. Id. at 164 quoting Matter of Rodriguez v. Guerro, 28 A.D.3d 775, 777 (2d Dep't 2006).

48. Victoria Law, For Domestic Violence Survivors, Family Court Becomes Site of Continued Abuse, Truthout, March 6, 2016.


50. Lawyer's Manual, supra note 5, at 165.

51. Id. at 165.


53. Id.

54. Id.


57. Except Massachusetts.

58. N.Y. Dom. Rel. Law, §§ 75 et seq.


60. Id.


63. Lawyer's Manual, supra note 5, at 112.


67. Id.

68. Lawyer's Manual, supra note 5, at 184.

69. Beller supra note 64.

70. Lawyer's Manual, supra note 5, at 270.

71. Id. at 273-74.

72. Id. at 274.

73. Id. at 275.

74. Id.


76. Id. at 917.

77. Lawyer's Manual, supra note 5, at 277.
