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## Naming the Judicial Terrorist: An Exposé of an Abuser's Successful Use of a Judicial Proceeding for Continued Domestic Violence

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**NAMING THE JUDICIAL TERRORIST<sup>SM</sup>: AN EXPOSÉ OF AN ABUSER'S  
SUCCESSFUL USE OF A JUDICIAL PROCEEDING FOR CONTINUED DOMESTIC  
VIOLENCE**

***Donna J. King\****

**I. INTRODUCTION**

Many abusive men, previously involved in intimate relationships, utilize the United States' judicial system to continuously torture their victims long after separation and divorce with "institutionally entrenched . . . judicial strategies" that subordinate and subjugate abused women.<sup>1</sup> Protracted judicial proceedings cause the United States' judicial system to become the ideal weapon for abusers to indefinitely deploy coercive control against their victims.<sup>2</sup> Although the

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<sup>1</sup> See, e.g., KATHLEEN S. SULLIVAN, CONSTITUTIONAL CONTEXT: WOMEN AND RIGHTS DISCOURSE IN NINETEENTH-CENTURY AMERICA 136 (The Johns Hopkins University Press 2007); accord, e.g., Barry Goldstein, *Recognizing and Overcoming Abusers' Legal Tactics*, in DOMESTIC VIOLENCE, ABUSE, AND CHILD CUSTODY 18-2 (Mo Therese Hannah & Barry Goldstein eds., 2010) ("Male supremacist groups have worked to create a backlash to the progress made by the movement to end [domestic violence]."); Jan Kurth, *Historical Origins of the Fathers' Rights Movement*, in DOMESTIC VIOLENCE, ABUSE, AND CHILD CUSTODY, *supra*, at 4-14, to -15 (explaining that the Fathers' Rights Movement was launched to regain "real or imagined supremacy" over women by men who radically reassert their patriarchal privilege); Evan Stark, *Reframing Child Custody Decisions in the Context of Coercive Control*, in DOMESTIC VIOLENCE, ABUSE, AND CHILD CUSTODY, *supra*, at 11-14 (discussing abusers' utilizing coercive control "after couples are physically separated").

<sup>2</sup> See, e.g., Mike Brigner, *Why Do Judges Do That?*, in DOMESTIC VIOLENCE, ABUSE, AND CHILD CUSTODY, *supra* note 1, at 13-12; Janet Normalvanbreucher, *Practicing Law Without a License – A Pro-Se Army, Stalking Through the Courts* (1999), <http://www.thelizlibrary.org/liz/FRtactic.html> ("[B]atterers learn to use the judicial process itself as a weapon to continue the battering relationship . . .").

widespread, torturous tactics of coercive control appear every day within the United States' judicial system, the abusive behavior goes widely unnoticed, remains unregulated, and often gets rewarded by the courts.<sup>3</sup> This denial of the existence of this type of domestic abuse, coupled with the lack of proper identification of victims by judges, attorneys, and other court personnel, is socially normative; however, the problem itself is grounded in societal ignorance.<sup>4</sup> Many abused women, who often do not disclose their abuse status, seek refuge from their abuser through dissolution of marriage proceedings rather than from law enforcement and domestic violence shelters.<sup>5</sup> Consequently, empowered fathers' rights groups have evolved and developed as "a dangerous movement . . . against women's demands to be free from domestic violence."<sup>6</sup> These extremist fathers' rights groups advocate a collective worldwide political agenda that includes "abolishing abuse prevention legislation."<sup>7</sup>

Contemporary focus on the physical assault attributes of domestic abuse limits society's ability to appreciate the "multidimensionality of oppression in personal life" that abused women suffer as a result of coercive control tactics.<sup>8</sup>

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<sup>3</sup> See, e.g., Goldstein, *supra* note 1, at 18-2, -31 (discussing non-physical and legal patterns of abuse that courts are slow to recognize); Joan Zorza, *Child Custody Practices of the Family Courts in Cases Involving Domestic Violence*, in DOMESTIC VIOLENCE, ABUSE, AND CHILD CUSTODY, *supra* note 1, at 1-10 (discussing rewards of abuse "in a society that largely fails to hold abusers accountable"); Joan Zorza, *Batterer Manipulation and Retaliation Compounded by Denial and Complicity in the Family Courts*, in DOMESTIC VIOLENCE, ABUSE, AND CHILD CUSTODY, *supra* note 1, 14-2 to -4 (discussing abusers continued behavior through family court).

<sup>4</sup> See Kara Bellew, *Silent Suffering: Uncovering and Understanding Domestic Violence in Affluent Communities*, 26 WOMEN'S RTS. L. REP. 39, 40 (2005).

<sup>5</sup> See, e.g., *id.* at 40; Kathleen Waits, *Battered Women and Family Lawyers: The Need for an Identification Protocol*, 58 ALB. L. REV. 1028, 1031 (1995).

<sup>6</sup> E.g., Normalvanbreucher, *supra* note 2, at *Historical Background of the Father's Rights Movement*; accord Kurth, *supra* note 1, at 4-25.

<sup>7</sup> E.g., Normalvanbreucher, *supra* note 2, at *Differentiating Legitimate Fatherhood Groups from Illegitimate "Father's Rights" Groups*; accord JOCELYN ELISE CROWLEY, *DEFIANT DADS: FATHER'S RIGHTS ACTIVISTS IN AMERICA* 5 (Cornell University Press 2008).

<sup>8</sup> EVAN STARK, *COERCIVE CONTROL* 8-10 (2007); accord United Nations Division for the Advancement of Women, *Good Practices in Legislation on Violence Against Women*, 3, 6, (May 26-28, 2008)

Abusers violate millions of American women's human rights and liberties through "regimes of intolerance" due to society's constant reinforcement of women's inequality and its emphasis on patriarchal authorities.<sup>9</sup> Well-established "sociocultural constructions of gender and heterosexuality" within American society enable men who use "intimidation, coercion, threats, and force" to command control over women.<sup>10</sup> These coercive control tactics are predicated upon the social inequalities between men and women, effectively depriving a victim of her autonomy and her ability to achieve independence from the implications of patriarchal authorities.<sup>11</sup> Contrary to the general principles applicable to the domestic violence affecting various interpersonal relationships, including those among same-sex couples, "male prerogatives" are the driving force behind coercive control.<sup>12</sup> Its success depends upon society's emphasis on the sexual inequalities between a man and a woman.<sup>13</sup>

The purpose of this paper is to identify and label, as judicial terrorists, abusers who utilize the United States judicial system for the purpose of continued domestic abuse against their victims. To accomplish this goal, Part II of this paper illustrates how abusers torture their victims using the non-violent tactics of

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[http://www.un.org/womenwatch/daw/egm/vaw\\_legislation\\_2008/Report%20EGMGPLVAW%20\(final%2011.11.08\).pdf](http://www.un.org/womenwatch/daw/egm/vaw_legislation_2008/Report%20EGMGPLVAW%20(final%2011.11.08).pdf) [hereinafter Good Practices].

<sup>9</sup> *E.g.*, STARK, *supra* note 8, at 13, 60, 197, 210; *accord* Good Practices, *supra* note 8, at 6; *see generally* Isabel Marcus, *Reframing "Domestic Violence": Terrorism in the Home*, in THE PUBLIC NATURE OF PRIVATE VIOLENCE 31-34 (Martha Albertson Fineman & Roxanne Mykitiuk eds., 1994) (discussing the "striking parallels and similarities" between domestic abuse and political terrorism and "the political and cultural context of gender-based power and control" that causes domestic abuse to persist).

<sup>10</sup> MARY P. KOSS ET AL., NO SAFE HAVEN 4 (1994).

<sup>11</sup> *See, e.g.*, Marcus, *supra* note 9, at 31-34; STARK, *supra* note 8, at 198, 210.

<sup>12</sup> STARK, *supra* note 8, at 391-97 (explaining the differences in the sexual inequality dynamics of coercive control and same-sex abuse "[b]ecause [in same-sex abuse] both parties share an identical sexual status"); *accord* Marcus, *supra* note 9, at 11-12 (discussing domestic violence's occurrence among various family members).

<sup>13</sup> *E.g.*, STARK, *supra* note 8, at 16; *see also* CATHARINE A. MACKINNON, SEX EQUALITY: FAMILY LAW 715 (Robert C. Clark et al. eds., 2001) (quoting "Male violence against women . . . connects relations of power between women and men in the family and the inequality of the sexes in society as a whole.").

coercive control. This section highlights the fact that abuse victims do not necessarily experience physical acts of violence. To further explain an abuser's ability to utilize the United States' judicial system for continued domestic abuse after separation and divorce, Parts III and IV establish how abusers manipulate courts to maintain power and control over their victims even though abusers are no longer in their victims' physical presence. Part V of this paper examines the motivations that compel abusers to utilize judicial proceedings for coercive control. It also compares abusers' motivations to that of political terrorists. In conclusion, Part VI provides solutions for regulating coercive control in judicial proceedings.

## II. DISTINGUISHING COERCIVE CONTROL FROM DOMESTIC VIOLENCE

Although President Bill Clinton declared domestic violence “the most important criminal justice issue in the United States” when signing the Violence Against Women Act in 1994, “a huge population of otherwise normal women” still exists as prisoners to male domination in every facet of their day-to-day lives.<sup>14</sup> “The terror [coercive control] incite[s] is unintelligible, even crazy.”<sup>15</sup> Indeed, this intangible form of domestic abuse transcends physical acts of violence, mental and verbal abuse, or even psychological harm.<sup>16</sup> Coercive control is the most common and devastating form of abuse as it incorporates brainwashing techniques similar to those used against prisoners of war, hostages, and cult members.<sup>17</sup>

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<sup>14</sup> *E.g.*, STARK, *supra* note 8, at 21, 199 (quoting President Bill Clinton); *accord* Frances E. Chapman, *The Compliant Victim of the Sexual Sadist and the Proposed Canadian Defence [sic] of Coercive Persuasion*, 11 (July 2008) <http://www.isrcl.org/Papers/2008/Chapman.pdf> (discussing the constant “environment of fear” that causes victims to feel dependent on abusers).

<sup>15</sup> STARK, *supra* note 8, at 199.

<sup>16</sup> *E.g.*, *id.* at 275-78.

<sup>17</sup> *See, e.g.*, *id.* at 201, 276, 278, 332 (discussing abusers' coercive control tactics and the similarities of those used against hostages or brainwashed prisoners of war); Chapman, *supra* note 14, at 10.

### A. *The Non-Violent Tactics of Coercive Control*

Some survivors of coercive control do not realize they are victims of domestic abuse.<sup>18</sup> For those who do, they recognize that “violence [isn’t] the worst part” of the abuse they experience.<sup>19</sup> It is the abuser’s controlling behavior that forces a victim “to do something she does not want to do, prevents her from doing something she wants to do, or causes her to be afraid” that distinguishes coercive control.<sup>20</sup> Although violence is one of the tactics utilized in coercive control, intimidation, isolation, and control remain independent of violence for their effectiveness.<sup>21</sup>

Intimidation describes a threat directed at a person with the intent of placing that person in fear of bodily harm or death, regardless of whether the speaker intended to carry out the threat.<sup>22</sup> Subtle forms of intimidation deployed in coercive control include “the silent treatment, physical or emotional withdrawal,” or even an abuser’s threat of suicide.<sup>23</sup> More overt intimidation tactics accomplished through threats, surveillance, and degradation often rise to the level of torture when they are intentionally inflicted upon a person through “rationing food, money, clothes, medicine, or other [basic necessities].”<sup>24</sup> This tactic causes “severe pain or suffering, whether physical or mental.”<sup>25</sup>

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<sup>18</sup> See, e.g., Lois Schwaebler, *Recognizing Domestic Violence: How to Know It When You See It and How to Provide Appropriate Representation*, in DOMESTIC VIOLENCE, ABUSE, AND CHILD CUSTODY 2-4, *supra* note 1 (discussing the common statement of “I didn’t know it was abuse” made by victims during consultation); STARK, *supra* note 8, at 11.

<sup>19</sup> See STARK, *supra* note 8, at 12 (quoting “the earliest shelter residents” as they described their experiences with coercive control).

<sup>20</sup> *Id.* at 201.

<sup>21</sup> E.g., *id.* at 228, 278.

<sup>22</sup> *Virginia v. Black*, 538 U.S. 343, 360 (2003).

<sup>23</sup> STARK, *supra* note 8, at 253.

<sup>24</sup> See *id.* at 206, 249, 253; accord Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, art. I, ¶ 1, *opened for signature* Dec. 10, 1984, 1465 U.N.T.S. 113 (entered into force June 26, 1987), <http://treaties.un.org/doc/Publication/UNTS/Volume%201465/volume-1465-I-24841-English.pdf> [hereinafter Convention Against Torture].

<sup>25</sup> Convention Against Torture, *supra* note 24.

Consequently, coercive control victims experience feelings of fear, dependence, confusion, and shame comparable to the mental torment of brainwashed prisoners of war and other victims of torture.<sup>26</sup>

Threats used in coercive control mentally torment a woman and have the chilling effect of denying her “physical and psychic security and tranquility.”<sup>27</sup> For example, animal abuse, including threats of killing or injuring family pets or farm animals, is frequently used to obtain obedience from victims.<sup>28</sup> Another form of threat, surveillance—including stalking—denies a woman her privacy and reminds her of her abuser’s superiority and omnipresence.<sup>29</sup> Tactics include stalking or “going through drawers, pocketbooks, diaries, or closets to monitoring time, phone calls, bank accounts, checkbooks, and stealing identity.”<sup>30</sup> Additionally, degradation denies victims’ self-respect and establishes abusers’ moral superiority by dehumanizing victims “through a process of ‘mental disintegration or depersonalization.’”<sup>31</sup> Degradation tactics, often used in public, include swearing at the victim, ordering her around, and repetitively referring to the victim with names “of sex hatred, such as ‘whore,’ ‘bitch,’ ‘fat pig,’ or ‘cunt.’”<sup>32</sup>

Isolation is another tactic abusers utilize towards women to strip them of their selfhood, social authority, and personal identity.<sup>33</sup> Isolation tactics include forbidding women from leaving their homes, causing women to lose or quit their jobs, “pulling the phone out of the wall” to prevent contact with friends and family, and destroying victims’ personal photographs and family heirlooms.<sup>34</sup> Similarly, captors often isolate prisoners of war as a form of torture; however, in

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<sup>26</sup> See, e.g., STARK, *supra* note 8, at 206, 249; Chapman, *supra* note 14, at 6.

<sup>27</sup> See STARK, *supra* note 8, at 250; accord Chapman, *supra* note 14, at 5.

<sup>28</sup> Zorza, *supra* note 3, at 14-15.

<sup>29</sup> STARK, *supra* note 8, at 255-57.

<sup>30</sup> *Id.* at 257.

<sup>31</sup> See Chapman, *supra* note 14, at 7 (quoting JOOST A.M. MEERLOO, THE RAPE OF THE MIND 49 (1956)); accord STARK, *supra* note 8, at 258.

<sup>32</sup> STARK, *supra* note 8, at 259-60, 392.

<sup>33</sup> E.g., *id.* at 262.

<sup>34</sup> Stark, *supra* note 1, at 11-13; accord STARK, *supra* note 8, at 262-65.

coercive control, the effects of isolation are “more dangerous and mentally debilitating” because someone intimately related to the victim implements the isolation.<sup>35</sup>

Finally, control creates a power differential between the abuser and victim, causing the intimate relationship to “resemble a prison or concentration camp or torture chamber” with intensified effects due to the abuser’s ability to capitalize on his individualized knowledge of his victim.<sup>36</sup> An abuser achieves control through “deprivation, exploitation, and command” over the victim’s basic needs, requiring her to comply with his demands for “specific acts of prohibition or coercion.”<sup>37</sup> This type of control can extend to every facet of a victim’s life, including the often “taken-for-granted arenas of autonomy such as toileting, eating,” or bathing.<sup>38</sup>

**B. *Violation of a Woman’s Liberties and Human Rights Through Coercive Control***

“[A] victim’s personhood is the main target in coercive control.”<sup>39</sup> It denies basic liberties such as “speech, movement, or access to money” that women do not agree to relinquish when they enter into intimate relationships.<sup>40</sup> In *Planned Parenthood of Southeastern Pennsylvania v. Casey*, the United States Supreme Court recognized the meaning of liberty as “the right to define one’s own concept of existence” and stated that “[t]he destiny of the woman must be shaped . . . on her own conception of . . . her place in society.”<sup>41</sup> Yet, today’s laws do not regulate the non-violent tactics of coercive control and the effect they have in preventing a woman from maintaining her personhood.<sup>42</sup>

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<sup>35</sup> See Chapman, *supra* note 14, at 13; accord STARK, *supra* note 8, at 206.

<sup>36</sup> See Chapman, *supra* note 14, at 12-13; accord STARK, *supra* note 8, at 206.

<sup>37</sup> STARK, *supra* note 8, at 229.

<sup>38</sup> Stark, *supra* note 1; accord STARK, *supra* note 8, at 271-72.

<sup>39</sup> STARK, *supra* note 8, at 376.

<sup>40</sup> See *id.* at 363, 381; accord *Planned Parenthood of Se. Pa. v. Casey*, 505 U.S. 833, 898 (1992).

<sup>41</sup> *Planned Parenthood of Se. Pa.*, 505 U.S. at 851-52.

<sup>42</sup> See, e.g., Good Practices, *supra* note 8, at 6; STARK, *supra* note 8, at 92-95.



The *Planned Parenthood* Court identified as forms of “devastating” abuse: “verbal harassment, threats of future violence, the destruction of possessions, physical confinement to the home, [and] the withdrawal of financial support”;<sup>43</sup> however, it failed to recognize the cumulative effect of domestic abuse on the victim as its single most critical feature.<sup>44</sup> The law’s reliance on incident-specific acts of physical abuse causes courts to ignore the effects of multiple non-violent harms inflicted against victims by the same person on an ongoing basis.<sup>45</sup> Although coercive control violates women’s liberties and human rights, current state and federal laws do not regulate the non-violent tactics of coercive control,<sup>46</sup> as “most abused persons are still unprotected.”<sup>47</sup>

### III. COERCIVE CONTROL IS A POLITICAL CRIME

The effects of coercive control harm not only the individual; they harm society as a whole.<sup>48</sup> In doing so, the abuser commits a crime against society rather than a crime against an individual victim.<sup>49</sup> To understand the political effects of coercive control, “one must [first] understand why men believe they are entitled to control women.”<sup>50</sup>

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<sup>43</sup> *Planned Parenthood of Se. Pa.*, 505 U.S. at 893.

<sup>44</sup> *See id.*; *cf.* STARK, *supra* note 8, at 92-94 (discussing “the assumption that abuse consists of discrete acts that can be sharply delineated and so managed within a tight temporal frame” and recognizing that “the single most important characteristic of woman battering is that the weight of multiple harms is borne by the same person, giving abuse a cumulative effect that is far greater than the mere sum of its parts”).

<sup>45</sup> STARK, *supra* note 8, at 10, 378-80.

<sup>46</sup> STARK, *supra* note 1, at 11-4.

<sup>47</sup> STARK, *supra* note 8, at 378.

<sup>48</sup> Marcus, *supra* note 9, at 11; *accord* STARK, *supra* note 8, at 16. Some communities justify coercive control towards women by classifying it as “keeping order” in the individual home—even if the control becomes violent. However, any justified form of abuse shines a negative light on the community as a whole, not just the individual household. *Id.*

<sup>49</sup> *E.g.*, Marcus, *supra* note 9, at 11-12.

<sup>50</sup> *See* KOSS, *supra* note 10.

**A. *A Response to the Women's Rights Movement: Encouragement of Coercive Control by the Court***

An exclusively masculine ideal of liberty, including “the legal nonentity of women,” provided the basis for the modern American common-law doctrine that supplies the source for most United States’ marital laws used in today’s family court system.<sup>51</sup> Women’s constitutional rights and liberties evolved in direct conflict with the common law, causing the United States Supreme Court to repeatedly assert that marriage “belongs to the laws of the States and not to the laws of the United States.”<sup>52</sup> Resultantly, “women continue to suffer injustices which are imposed . . . by law” as the States’ marital laws remain impervious to constitutional law concepts of the protection of personal liberties.<sup>53</sup> This

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<sup>51</sup> *E.g.*, Blanche Crozier, *Constitutionality of Discrimination Based on Sex*, in 1 WOMEN AND THE AMERICAN LEGAL ORDER 1-2, 18-19 (Karen J. Maschke ed., 1997); *accord* MACKINNON, *supra* note 13, at 689 (quoting “Family law . . . is principally state law, and sex equality law has largely been federal constitutional law”).

<sup>52</sup> *McCarty v. McCarty*, 453 U.S. 210, 220 (1981) (quoting *Hisquierdo v. Hisquierdo*, 439 U.S. 572, 581 (1979) (quoting *In re Burrus*, 136 U.S. 586, 593-94 (1890))); *accord* Crozier, *supra* note 51 (discussing the “complete contradiction” between the principles of liberty and equality set forth in the Constitution).

<sup>53</sup> *E.g.*, Judith A. Baer, *Women's Rights and the Limits of Constitutional Doctrine*, in 1 WOMEN AND THE AMERICAN LEGAL ORDER 300, *supra* note 51; *accord* Crozier, *supra* note 51, at 19. In 1937, the United States Supreme Court, in *Palko v. Connecticut*, recognized a violation of one’s “liberty” as any practice of an “‘oppressive and arbitrary’ character” that would require “judicial enforcement of the asserted right” in order to “materially contribute to ‘a fair and enlightened system of justice.’” *See* *McDonald v. City of Chicago*, 130 S. Ct. 3020, 3096 (2010) (Stevens, J., dissenting) (quoting *Palko v. Connecticut*, 302 U.S. 319, 327, 325 (1937)). The *Palko* Court clarified “the domain of liberty . . . [to] include liberty of the mind as well as liberty of action.” *Palko*, 302 U.S. at 327. In taking into consideration the chronological history of the decision in *Palko* against the enactments of the Fourteenth and Nineteenth Amendments, it seems unconstitutional to suggest that women’s rights are not protected under the Fourteenth Amendment. *See* U.S. CONST. amend. XIV; U.S. CONST. amend. XIX. Yet, increasing numbers of Americans, including well-versed conservative, originalist legal scholars influenced by Supreme Court Justices such as Justice Antonin Scalia, continue to assert such a claim. *See* Penny Starr, *Feminist, Democrats Say Justice Scalia's Remarks Make It Essential to Pass Constitutional Amendment for Women's Rights*, CNSNEWS.COM (Jan. 7, 2011), <http://cnsnews.com/news/article/feminists-democrats-say-justice-scalia-s-remarks-make-it->

imbalance of power, whereby men exert power and control over women, remains pervasive throughout United States' family courts and thus allows domestic abuse to persist.<sup>54</sup>

**B. *The Politics of the Fathers' Rights Movement: Advancing Coercive Control in the Courtroom***

Due to the “alarming level of antifeminism and overt negativity toward women,” the Fathers’ Rights Movement arose as a backlash to the Women’s Rights Movement.<sup>55</sup> The Fathers’ Rights Movement appears, on its face, to be associated with legitimate male groups who work together to protect children or encourage the advocacy of positive paternal involvement in children’s lives.<sup>56</sup> The majority of these fathers’ rights groups, however, are comprised of abusers who seek to undermine the progress of domestic violence advocates who wish to establish stronger legislation for victims’ protection.<sup>57</sup> Dissatisfied with the extent of the states’ control, these groups battle government power in order to fight for their ideological beliefs which include “reduc[ing] or eliminat[ing] child support, minimiz[ing] the enforcement of [domestic violence] laws, and in some cases justify[ing] or encourag[ing] incest.”<sup>58</sup> This seething underbelly of the Fathers’ Rights Movement, often referred to as “male supremacist groups,” collectively prevents abuse victims from attaining equal justice and representation

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essential-pass-constitutional (last visited Apr. 22, 2012) (“Recently, Supreme Court Justice (Antonin) Scalia stated his opinion that no provision in the Constitution, or the 14th amendment, would provide full and true equality to women and give them protection against sex discrimination,’ Rep. Carolyn Maloney (D-N.Y.) said. ‘He also said that if laws were enacted sanctioning discrimination, they would be constitutional.’ Scalia, in a recent magazine interview, said it’s the job of lawmakers, not the Constitution, to reflect the wishes of an evolving society: ‘Certainly the Constitution does not require discrimination on the basis of sex. The only issue is whether it prohibits it. It doesn’t,’ Scalia said in the interview with *California Lawyer* magazine.”).

<sup>54</sup> E.g., Molly Dragiewicz, *Gender Bias in the Courts: Implications for Battered Mothers and Their Children*, in DOMESTIC VIOLENCE, ABUSE, AND CHILD CUSTODY 5-4, *supra* note 1.

<sup>55</sup> E.g., CROWLEY, *supra* note 7, at 11; accord Kurth, *supra* note 1, at 4-2.

<sup>56</sup> See, e.g., CROWLEY, *supra* note 7, at 2-3; Normalvanbreucher, *supra* note 6.

<sup>57</sup> E.g., Goldstein, *supra* note 1.

<sup>58</sup> See, e.g., *id.*; accord CROWLEY, *supra* note 7, at 172.

throughout American courts by systematically working against the court system itself.<sup>59</sup>

*1. Regaining Patriarchal Control: The Ideological Political Agenda of Fathers' Rights Groups*

The ideological agenda of fathers' rights groups stems from their "omnipresent distrust of the state."<sup>60</sup> Believing that "the state itself engages in activities that are both abusive and corrupt," some members of the father' rights groups advocate for an elimination of all state involvement in decisions about their families.<sup>61</sup> These men maintain that the husband and wife should control separations and divorces; however, such a result would provide an abuser even greater authority to wreak havoc in the life of his victim, eliminating the threat of state intervention for an abuser.<sup>62</sup> Accordingly, the primary objective of fathers' rights groups is to reform the family law system into one that would not require state oversight for resolution of divorces, child custody, or child support.<sup>63</sup> This approach is reminiscent of ancient Roman law whereby all legal power, including "life and death decisions about family members," was granted to the fathers of Roman families.<sup>64</sup>

Although legal professionals would argue that "[b]ias is intolerable in any court,"<sup>65</sup> fathers' rights groups insist that "domestic violence laws need to be reformed" because the laws unjustly favor women.<sup>66</sup> The basic premise behind

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<sup>59</sup> See Goldstein, *supra* note 1, at 18-2 & n.2; accord Lundy Bancroft, *Organizing in Defense of Protective Mothers: The Custody Rights Movement*, in DOMESTIC VIOLENCE, ABUSE, AND CHILD CUSTODY 17-2 to -3 & n.1, *supra* note 1.

<sup>60</sup> See CROWLEY, *supra* note 7, at 11-12.

<sup>61</sup> See *id.* at 10-12, 155, 161.

<sup>62</sup> See, e.g., *id.* at 10; Kurth, *supra* note 1, at 4-19 to -21.

<sup>63</sup> CROWLEY, *supra* note 7, at 248-49 (discussing the pervasive antistatist belief system of fathers' rights groups "consistent with the emergence of neo-conservatism in recent American politics" which "supports freedom as its highest value, a principle understood in its purest form as the right of individuals to interact with each other without interference from the state").

<sup>64</sup> Normalvanbreucher, *supra* note 2, at *Is There Bias in the Courts?*.

<sup>65</sup> See Kurth, *supra* note 1, at 4-3.

<sup>66</sup> E.g., CROWLEY, *supra* note 7, at 7.

their argument for reformation of the laws is that women often falsely allege domestic violence, stripping men of the right to custody or visitation of their children.<sup>67</sup> While exceedingly rare cases of legitimate “fatherhood discrimination”<sup>68</sup> do exist, “the [Fathers’ Rights] movement’s basic ideological indifference to [domestic violence]” creates an environment of overwhelming collective “contempt or dismissal of violence towards women” that is disproportionate to the isolated instances of injustice experienced by men.<sup>69</sup>

During the mid-1990s, a formal political document petitioning “for the repeal of women’s right to vote and a restoration of full father rule,” which included a retraction of women’s reproductive freedom, surfaced on the World Wide Web.<sup>70</sup> This controversial political document, known as the Father’s

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<sup>67</sup> E.g., Bancroft, *supra* note 59, at 17-2 n.1.

<sup>68</sup> See Normalvanbreucher, *supra* note 64.

<sup>69</sup> See, e.g., Kurth, *supra* note 1, at 4-22, 22-25 (discussing the fact that members of fathers’ rights groups have not experienced the same “systematic discrimination or oppression” as members of other social movements, resulting in a lack of “group cohesion”); accord Normalvanbreucher, *supra* note 64.

<sup>70</sup> E.g., Kurth, *supra* note 1; accord Normalvanbreucher, *supra* note 2, at *The “Father’s Manifesto” – A Political Platform to Repeal the 19th Amendment*:

We Signatories to the Fathers' Manifesto, responding to natural and Biblical laws, in defense of our nation and our families, hereby declare and assert our patriarchal role in society. America is an experiment in freedom, and the feminist experiment in freedom, under the guise of 'equality,' unleashed a panapoly of social ills which have become a cancer on our land, led to the moral and economic destruction of our nation, made America a house divided unto itself, created a vast underclass with a bleak and bankrupt future, and is the greatest national disaster we have ever faced.

Recognizing patriarchy to be the greatest creator of wealth, prosperity, and stability civilization has ever known, we hereby demand that our children, homes, lives, liberty, and property be unconditionally restored to us. We hereby demand replacement of the doctrine of Parens Patria with the Biblical doctrines upon which this nation was founded. We hereby recognize and reaffirm that patriarchy is the order established under God and His Natural Law.

We, the posterity of this nation, hereby reclaim our ancestral liberties and God-given rights.

(quoting *1997 Reaffirmation of the Father's Manifesto*).

Manifesto, still drives the true political agenda of fathers' rights groups.<sup>71</sup> The 1997 Reaffirmation of the Father's Manifesto compares women's equality to the American "experiment in freedom" that the United States was founded on and blames the "feminist experiment in freedom" for all of today's social ills.<sup>72</sup> Consequently, fathers' rights groups target the Nineteenth Amendment for repeal and argue that Supreme Court opinion providing equal protection for women under the Fourteenth Amendment was inappropriately applied.<sup>73</sup> Indeed, the political ideology of fathers' rights groups seeks to strip women of their fundamental rights through their assertion that there is a need to return to traditional family values.<sup>74</sup> Society must realize the misogynist design of the fathers' rights groups and their determination in undermining women's fundamental rights.<sup>75</sup> If successful, their political agenda will "turn the clock back on women's [fundamental] rights,"<sup>76</sup> creating a political atmosphere in which "the feminist experiment in freedom" is abolished.<sup>77</sup>

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<sup>71</sup> See *Become a Signatory to the Fathers' sm Manifesto*, THE CHRISTIAN PARTY, (Aug. 17, 1995), <http://fathersmanifesto.net/manifest.htm> (last modified Nov. 2, 2010).

<sup>72</sup> See *supra* note 70 and accompanying text.

<sup>73</sup> See, e.g., *Repeal the Nineteenth Amendment*, THE CHRISTIAN PARTY (Sept. 19, 1998), <http://fathersmanifesto.net/19th.htm>; *Equal Protection*, THE CHRISTIAN PARTY, <http://fathersmanifesto.net/14th.htm> (last modified Nov. 2, 2010) (quoting "In 1971 in Reed v. Reed the COURT, not the appropriate authority, falsely claimed that the original authors actually intended for [the Fourteenth Amendment] to apply to women.").

<sup>74</sup> See, e.g., CROWLEY, *supra* note 7, at 260; Kurth, *supra* note 1, at 4-15; see also Henry Makow Ph.D., *The Hoax of Female Empowerment (Reprise)*, SAVE THE MALES (Mar. 30, 2011), <http://www.henrymakow.com/001170.html> (quoting "Female empowerment is a cruel hoax. It flatters and lures young women with money and recognition and paints marriage and family as oppression. . . . The purpose of female empowerment is to dissolve the family and to increase our dependence on the media and government").

<sup>75</sup> See, e.g., Normalvanbreucher, *supra* note 70; Tom Shine, *Rep. Darrell Issa Bars Minority Witness, a Woman, on Contraception*, ABC NEWS (Feb. 16, 2012), <http://abcnews.go.com/blogs/politics/2012/02/rep-darrell-issa-bars-minority-witness-a-woman-on-contraception-2/> (Apr. 11, 2012) (noting "[Rep. Carolyn Maloney, D-N.Y.] criticized the Republican committee chairman, Rep. Darrel Issa, for wanting to 'roll back the fundamental rights of women'").

<sup>76</sup> Normalvanbreucher, *supra* note 70.

<sup>77</sup> *Id.* (quoting 1997 Reaffirmation of the Father's Manifesto).

## 2. *One Man's Fathers' Rights Group is Another Woman's Terrorist Organization*

Members of fathers' rights groups "often have deeply rooted psychological issues and live, breathe, and exist solely to strike back at the women whom they perceive have robbed them of their God-given right to dominate society."<sup>78</sup> These men form the "core membership of radical extremists hostile to the feminist movement."<sup>79</sup> They often use "reactionary politics and confrontational (if not outwardly terroristic) tactics" similar to those utilized by terrorist organizations to further their ideological beliefs.<sup>80</sup> This "contingent of fathers' rights activists hold[ing] disturbing personal views both about the role of women in their lives and about women in society more generally"<sup>81</sup> attempted to kidnap the son of former Prime Minister Tony Blair, assaulted former United Kingdom Education Secretary Ruth Kelly, and attacked "a family law conference in October 2004 with smoke bombs and flares."<sup>82</sup> Emulating terrorist organizations, these groups not only plan public displays of aggression, they also train abusers in "guerilla litigation tactics" for deployment of coercive control within the context of judicial proceedings.<sup>83</sup>

Fathers' rights-based websites, such as the Intellectual Conservative, provide information titled "Guide: How Fathers Can Win Child Custody."<sup>84</sup> Provocative headings, such as "Perseverance—Money and Emotional Stress Will Wear Your Ex Down," "You Need to Build Up a Substantial Case Against Your Ex," and "Watch Out for Domestic Violence and Restraining Orders (also known

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<sup>78</sup> Normalvanbreucher, *supra* note 2, at *Mein Kampf—Indoctrination Tactics of the Fathers' Rights Movement*.

<sup>79</sup> *Id.*

<sup>80</sup> See Kurth, *supra* note 1, at 4-9.

<sup>81</sup> CROWLEY, *supra* note 7, at 260.

<sup>82</sup> Kurth, *supra* note 1, at 4-9 (discussing the direct actions of Fathers 4 Justice).

<sup>83</sup> See Normalvanbreucher, *supra* note 2, at *Attacking her Credibility*.

<sup>84</sup> See Rachel Alexander, *Guide: How Fathers Can Win Child Custody*, INTELLECTUAL CONSERVATIVE, <http://www.intellectualconservative.com/how-fathers-can-win-child-custody-a-book-in-progress> (last updated Jan. 22, 2006); accord Kurth, *supra* note 1, at 4-25 & n.83.

as Orders of Protection),”<sup>85</sup> entice members of the “father-supremacy movement” to deploy coercive control tactics in judicial proceedings to preserve their patriarchal privileges from the apparent threat of women’s independence.<sup>86</sup> Additionally, “abusers and father-supremacists” employ grassroots campaigns to further their political agenda by “wear[ing] down resistance to the [fathers’ rights] stand” using “relentless hammering” techniques, executed in concert with the terrorist activities of their extremist members “to persuade the public that these men must be suffering genuine injustices.”<sup>87</sup> Consequently, the simultaneous execution of coercive control’s intimidation, isolation, and control tactics, both inside and outside of the courtroom, effectively undermines the United States’ judicial system causing abused women to suffer “severe human rights abuses.”<sup>88</sup>

#### IV. THE DYNAMICS OF SEPARATION AND DIVORCE: AN ABUSER’S CONTINUED COERCIVE CONTROL THROUGH A JUDICIAL PROCEEDING

Abusers, experts at manipulation, use judicial proceedings to continue victimizing women by creating “endless opportunities to prolong and delay a case or retry it for years.”<sup>89</sup> Fathers’ rights groups train abusers to delay divorce proceedings by representing themselves and “engaging in frivolous litigation tactics.”<sup>90</sup> Abusers successfully deploy intimidation, isolation, and control under the guise of litigation strategies that “[t]he court system itself encourages.”<sup>91</sup>

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<sup>85</sup> See Alexander, *supra* note 84; accord Kurth, *supra* note 1, at 4-25 & n.83.

<sup>86</sup> E.g., Bancroft, *supra* note 59; accord STARK, *supra* note 8, at 13, 196.

<sup>87</sup> See Bancroft, *supra* note 59.

<sup>88</sup> See *id.*

<sup>89</sup> E.g., EUGENE D. WHEELER & ROBERT E. KALLMAN, STOP JUSTICE ABUSE 20 (1986); accord Zorza, *supra* note 3, at 14-8; see also Kalmanson v. Nofziger (*In re Nofziger*), 361 B.R. 236, 240 (Bankr. M.D. Fla. 2006) (quoting “The [Kalmanson] divorce action has lasted years, has involved innumerable contested matters, and is still ongoing.”).

<sup>90</sup> Normalvanbreucher, *supra* note 78; see also Kalmanson v. Kalmanson, 796 So. 2d 1249, 1251 (Fla. 5th Dist. Ct. App. 2001) (testimony of wife’s counsel) (“Mr. Kalmanson will not comply with the rules of procedure. He will not abide by the orders of the court. It is impossible . . . to cut corners and to save time”).

<sup>91</sup> See WHEELER & KALLMAN, *supra* note 89, at 38; accord Stark, *supra* note 1, at 11-12 to -14; see generally T. J. Sutherland, *High Conflict Divorce or Stalking by Way of Family Court*, MINCAVA ELECTRONIC CLEARINGHOUSE,



“[T]hrough sheer perseverance,” an abuser learns that “the emotional stress of receiving pleadings” and continually having to appear in court “will wear down [his victim’s] resolve to fight.”<sup>92</sup>

Fathers’ rights groups claim that, “judges detest family court.”<sup>93</sup> The legal community considers family courts among the least prestigious and least important courts of the United States’ judicial system, yet these courts often hear highly complex litigation between extremely contentious parties.<sup>94</sup> The combined effect of the family courts’ lack of attention and complicated proceedings make them “difficult or dangerous for victims to litigate [their] case[s].”<sup>95</sup> Abusers “engage in extensive, irrelevant discovery aimed at stalling and delaying”<sup>96</sup> litigation resting on the assumption that “lazy and incompetent” family law judges will assist them in “delaying [their] cases.”<sup>97</sup> The effect of these abusive tactics causes family courts to deny women equal protection of the law in such subtle ways that victims often do not realize the violation of their rights, thus preventing them from addressing the injustice.<sup>98</sup>

#### ***A. The Deployment of Coercive Control Through Absolute Privilege***

Under the rule of absolute privilege, an attorney may “publish defamatory matter concerning another” during the course of litigation or in connection with

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<http://www.mincava.umn.edu/documents/linda/linda.html> (last modified Mar. 25, 2009) (providing a case study of a high-conflict divorce involving a wealthy batterer who was provided “the locus of control” by the court through its “deliberate or fortuitous” comments baiting him into continuing the litigation).

<sup>92</sup> See Alexander, *supra* note 84.

<sup>93</sup> *Id.*

<sup>94</sup> See, e.g., LOIS G. FORER, MONEY AND JUSTICE 132 (1984); LAWYERS CONFERENCE TASK FORCE ON REDUCTION OF LITIGATION COST AND DELAY, JUDICIAL ADMINISTRATION DIVISION, AMERICAN BAR ASSOCIATION, DEFEATING DELAY 47 (1986); see also Kalmanson, 361 B.R. at 240 (quoting “To say that Kalmanson’s divorce was contested is a huge understatement”).

<sup>95</sup> Zorza, *supra* note 3, at 1-6.

<sup>96</sup> Normalvanbreucher, *supra* note 2.

<sup>97</sup> See WHEELER & KALLMAN, *supra* note 89, at 101, 110; accord Alexander, *supra* note 84.

<sup>98</sup> See, e.g., FORER, *supra* note 94, at 22; Stark, *supra* note 1, at 11-4.

contemplated litigation with which he is associated and receive absolute immunity from liability.<sup>99</sup> This rule of absolute privilege, derived through common law doctrine, was originally intended to protect attorneys, witnesses, judges, and parties;<sup>100</sup> but today, *pro se* abusers utilize this rule of law to “hostilely fight[]” their victims.<sup>101</sup> These “perfectly legal” litigation strategies allow an abuser to continue to intimidate, isolate, and control his victim through coercive control’s threats and degradation tactics<sup>102</sup> “without fear of consequences.”<sup>103</sup>

Abusers understand that “[m]ost people . . . are terrified of having papers filed against them in court.”<sup>104</sup> “[I]rrespective of his purpose in publishing the defamatory matter, his belief in its truth, or even his knowledge of its falsity,” an abuser utilizes the absolute privilege to threaten, humiliate, degrade, harass, and intimidate his victim, her family, her friends, and any of her associates.<sup>105</sup> Fathers’ rights groups train abusers to use the inflexibility of the rule of absolute privilege to intimidate and humiliate victims, causing them to forego their legal rights to “avoid the continuous stress of court.”<sup>106</sup> Even when a victim has left

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<sup>99</sup> RESTATEMENT (SECOND) OF TORTS § 586 (1977).

<sup>100</sup> *Post v. Mendel*, 507 A.2d 351, 353-54 (Pa. 1986) (quoting *Kemper v. Fort*, 67 A. 991, 992-94 (Pa. 1907)).

<sup>101</sup> *E.g.*, Alexander, *supra* note 84.

<sup>102</sup> *See* Goldstein, *supra* note 1, at 18-5; *see also* Kalmanson v. Nofziger (*In re Nofziger*), 361 B.R. 236, 239 (Bankr. M.D. Fla. 2006) (referring to “a very contested divorce” that lead to bankruptcy claims made by the ex-husband against acquaintances of his ex-wife due to their assistance of her during their divorce proceedings).

<sup>103</sup> *See Post*, 507 A.2d at 355 (quoting *Greenberg v. Aetna Ins. Co.*, 235 A.2d 576, 578 (Pa. 1967)); *see also* Kalmanson v. Nofziger (*In re Nofziger*), 2006 U.S. Dist. LEXIS 30503, at \*10 (M.D. Fla. May 18, 2006) (“Kalmanson’s arguments . . . rely almost entirely on irrelevancies, invective, and unsubstantiated hearsay”).

<sup>104</sup> *See* Alexander, *supra* note 84.

<sup>105</sup> *See* RESTATEMENT (SECOND) OF TORTS § 586 cmt. a (1977); *see also* Normalvanbreucher, *supra* note 2 (“[Fathers’ rights] groups encourage their members to file numerous false allegations against the victims, her support network . . . and even her attorney”).

<sup>106</sup> *See* Alexander, *supra* note 84; *accord, e.g.*, *Post*, 507 A.2d at 354 (quoting *Kemper v. Fort*, 67 A. 991, 993 (Pa. 1907)); Normalvanbreucher, *supra* note 7; *see also* Normalvanbreucher, *supra* note 83 (“Already victimized once by the batterer, the woman seeking to escape from an abusive relationship becomes victimized a second time when her abuser places her ‘on trial’. . . . [T]he

her abuser, she cannot stop his coercive control tactics deployed “in the course of any judicial proceeding.”<sup>107</sup>

**B. *Why Doesn't She Just Settle?: Prolonged Abuse Through the Control of Financial Resources***

Women are often criticized for failing to leave an abusive relationship with the repeatedly asked question, “Why didn't she just leave?”<sup>108</sup> However, because “[l]itigation is frequently used as a powerful instrument of abuse by those who can afford it against those who cannot,” a victim's option to leave her abuser is often determined by her ability to achieve economic independence prior to fleeing.<sup>109</sup> Indeed, one of the most powerful means to continue controlling a victim once she has left the physical presence of an abuser is through the control of financial resources.<sup>110</sup> Coercive control's absolute control over economic resources poses the most devastating effect on a victim's ability to achieve independence and autonomy.<sup>111</sup> Abusers will often cause themselves financial hardship in a quest “to drive [their victims] into economic ruin.”<sup>112</sup> Consequently,

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Fathers' Rights movement actively encourages it's [sic] members to smear the credibility of the victim both on the stand and in the community”).

<sup>107</sup> See *Post*, 507 A.2d at 354 (quoting *Kemper*, 67 A. at 993); see also *Zorza*, *supra* note 3, at 14-3 (“[M]any abuser accusations lack such specifics, courts often fail to hold them to the same pleading requirements [as they do in other court proceedings]. Indeed, it is not uncommon for courts to never actually have an evidentiary hearing [on such accusations]”).

<sup>108</sup> See *Schwaeber*, *supra* note 18, at 2-15 (discussing the fact that victims often have no choice but to remain in an abusive relationship and that “victims are held captive by their abusers by the use of threats” and lack of support from outside sources).

<sup>109</sup> See *Brigner*, *supra* note 2; accord *Schwaeber*, *supra* note 18, at 2-16.

<sup>110</sup> See, e.g., *Brigner*, *supra* note 2; *Bellew*, *supra* note 4, at 51 (“[F]inancial arrangements that emerge from a divorce settlement or are imposed by a court offer sometimes-potent means for an abusive partner to continue to manipulate and harass his former spouse”).

<sup>111</sup> E.g., *Goldstein*, *supra* note 1, at 18-27.

<sup>112</sup> E.g., *Zorza*, *supra* note 3, at 14-18; see also *Kalmanson v. Kalmanson*, 796 So. 2d 1249, 1252 (Fla. 5th Dist. Ct. App. 2001) (quoting “[T]he husband specifically told an acquaintance that he would ‘drag this [dissolution proceeding] out as long as he could because he has a lot more money than she does and he'd eventually just bleed her dry. She can't live without money.’” (quoting the testimony of Charles Davis)).

once a victim leaves the physical presence of her abuser and coercive control manifests itself through control over financial resources with respect to the costs of a judicial proceeding, the victim is instead criticized and blamed and the question then becomes “Why doesn’t she just settle?”

Fathers’ rights groups encourage and train abusers to utilize “every tactic [they] can try”<sup>113</sup> in order to keep their victims in court “every single month for the next 15 years or so.”<sup>114</sup> These coercive control tactics are designed to intimidate, isolate, and control victims by causing them “to lose days out of work and undermine [their] financial stability.”<sup>115</sup> Abusers, who have been served restraining orders, maintain contact with their victims by issuing subpoenas requiring them to appear in court multiple times per week.<sup>116</sup> Seeing their estranged partners motivates abusers to go to court; however, family court judges often coerce parties into settlements to hasten proceedings and avoid trials, forcing victims into situations in which they “run out of money . . . well before the litigation is over.”<sup>117</sup> As a result, existing divorce laws systematically cause women to live at or below the poverty level, further assisting abusers in their agenda “to ‘prevent’ their former intimate from leaving.”<sup>118</sup>

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<sup>113</sup> See Alexander, *supra* note 84.

<sup>114</sup> See *id.*

<sup>115</sup> See Normalvanbreucher, *supra* note 2, at *Father’s Rights Advocates in High Places*; accord STARK, *supra* note 8, at 271.

<sup>116</sup> Normalvanbreucher, *supra* note 78.

<sup>117</sup> *E.g.*, Goldstein, *supra* note 1, at 18-27; accord, *e.g.*, FORER, *supra* note 94, at 17; Normalvanbreucher, *supra* note 78; see also Robinson v. Kalmanson, 882 So. 2d 1086, 1088 (Fla. 5th Dist. Ct. App. 2004) (“[T]he Former Wife asserts that she did not have the benefit of full litigation discovery . . . . [T]he trial court . . . cut[] off discovery before at least one party felt it was fully exhausted”).

<sup>118</sup> *E.g.*, Normalvanbreucher, *supra* note 78; accord Baer, *supra* note 53, at 286.

**V. NAMING THE ABUSER A JUDICIAL TERRORIST<sup>SM</sup>: THE CORRELATION BETWEEN COERCIVE CONTROL IN JUDICIAL PROCEEDINGS AND POLITICAL TERRORISM**

“Naming is a political act” that helps to market social problems.<sup>119</sup> Names and definitions bring attention to a particular social issue that otherwise may go unnoticed; thus, resolution of social problems occurs through associating abhorrent conduct with its consequences.<sup>120</sup> An abuser who deploys coercive control bears attitudes and behaviors resembling that of a political terrorist. As a social fact, coercive control is empirically and sociologically more important than terrorism and political kidnapping.<sup>121</sup> Consequently, coercive control comports with the widely accepted definitions of terrorism that include intentional intimidation and coercion of civilian populations.<sup>122</sup> Applying moral judgment to abhorrent behavior assists others in adopting a similar moral viewpoint.<sup>123</sup> Accordingly, an abuser using coercive control to manipulate a judicial proceeding is a judicial terrorist<sup>SM</sup>.

Terrorism exists because of the failure of political systems to manage certain pathological groups within its society.<sup>124</sup> “Terrorists truly believe they are working toward a better world” where their goals in seeking special privileges and exemption from rules<sup>125</sup> “challenges the very legitimacy of government itself.”<sup>126</sup> Similarly, fathers’ rights groups claiming to seek equality, in reality, challenge the legitimacy of government “under the guise of ‘equality’”<sup>127</sup> and work towards

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<sup>119</sup> STARK, *supra* note 8, at 369.

<sup>120</sup> *Id.*

<sup>121</sup> *Id.* at 200, 210.

<sup>122</sup> See JEREMY WALDRON, TORTURE, TERROR, AND TRADE-OFFS 50 (2010).

<sup>123</sup> *E.g., id.* at 49.

<sup>124</sup> Stephen P. Cohen, *Terrorism and Genocide*, in TERRORISM AND THE LAW 8 (Yonah Alexander & Edgar H. Brenner eds., 2001).

<sup>125</sup> *What is Terrorism?*, AMHERST MASS. POLICE DEP’T, <https://www.amherstma.gov/index.aspx?NID=1014> (last visited May 18, 2011).

<sup>126</sup> WAYNE MCCORMACK, UNDERSTANDING THE LAW OF TERRORISM 6 (2007).

<sup>127</sup> *E.g.,* Normalvanbreucher, *supra* note 70 (quoting 1997 Reaffirmation of the Father’s Manifesto); accord CROWLEY, *supra* note 7, at 160.

overthrowing existing laws they believe “to be corrupt, non-authoritarian, non-representative or immoral.”<sup>128</sup> In order to distinguish terrorism from ordinary crime, terrorists’ political motivations must be understood; the worldview of fathers’ rights groups “is overtly hostile to the state and all of its allies.”<sup>129</sup>

The cumulative effect of coercive control results in “a hostage-like state of physical paralysis, subjugation, and chronic fear that has no counterpart in any other crime in private or public life.”<sup>130</sup> Like a political terrorist, a judicial terrorist uses “[t]he injection of high levels of fear into the ordinary round of daily life” as a means to terrorize his victim.<sup>131</sup> Fathers’ rights groups encourage and support abusers’ use of “inappropriate litigation tactics as a [] pro se litigant[s]” to further coercive control.<sup>132</sup> This standpoint pales in comparison to the stature of the “men [who] are the frontrunners of the Father’s Rights movement.”<sup>133</sup> Without the appearance that the judicial system is behind him, the abuser cannot achieve his immediate goal of intimidating his victim.<sup>134</sup>

Experts believe coercive control’s individual nature distinguishes it from political terrorism.<sup>135</sup> The collective agenda of fathers’ rights groups, however, provides an abuser the political motivation necessary to justify labeling him a judicial terrorist<sup>SM</sup>. Abusers covertly deploy coercive control tactics using the United States’ judicial system as a weapon of mass destruction. The result is

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<sup>128</sup> See *What is Terrorism?*, *supra* note 125; *cf.* Normalvanbreucher, *supra* note 70 (discussing the political agenda of the Father’s Manifesto, including repealing the Nineteenth Amendment of the Constitution).

<sup>129</sup> See CROWLEY, *supra* note 7, at 173; *cf.* MCCORMACK, *supra* note 126, at 8, 11-12 (discussing the necessity of political motivation for acts to be considered terroristic in nature).

<sup>130</sup> STARK, *supra* note 8, at 244.

<sup>131</sup> See *id.* at 200, 211; *cf.* JOHN T. ROURKE, INTERNATIONAL POLITICS ON THE WORLD STAGE 13 (Michael Ryan et al. eds., 12th ed. 2008) (describing Americans’ recognition that terrorism is a part of their daily lives since September 11, 2001).

<sup>132</sup> See Normalvanbreucher, *supra* note 64.

<sup>133</sup> See Normalvanbreucher, *supra* note 70.

<sup>134</sup> *Cf.* MCCORMACK, *supra* note 126, at 18 (quoting “If terrorism can be made to appear as if the power of the state is behind it, then the intimidation of civilian populations can be even more overwhelming than when the terrorist acts are clearly the work of renegade bands”).

<sup>135</sup> See STARK, *supra* note 8, at 206.

“more cases of severe human rights abuses” against abused women by American family law courts than ever before.<sup>136</sup>

## VI. RAISING THE AWARENESS: UTILIZING THE TERM JUDICIAL TERRORIST<sup>SM</sup> TO HELP REGULATE COERCIVE CONTROL

Victim advocates must admonish the continued abuse of women within the social, political, and legal spheres of the United States and stifle the continued success of fathers’ rights groups.<sup>137</sup> “Addressing a problem of this magnitude requires new laws” and a fresh approach to identify the central issues causing coercive control’s prevalence in judicial proceedings.<sup>138</sup> Development of “a far-reaching public dialogue that brings those who have survived coercive control together with the multiple constituencies determined to end it” is necessary.<sup>139</sup>

The term judicial terrorist<sup>SM</sup> provides an initial talking point that the general public, legislature, and judiciary can understand.<sup>140</sup> It identifies the “domination itself” and gives meaning to “what perpetrators do” rather than focusing on the victims.<sup>141</sup> The term focuses attention on the most misunderstood and neglected aspects of abuse occurring after separation, that is, litigation between an abuser and his victim.<sup>142</sup> Through awareness and understanding, the

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<sup>136</sup> *E.g.*, Bancroft, *supra* note 59, at 17-2; accord Brigner, *supra* note 2, at 13-5 (quoting “[A]buse weapons are often wielded against women *by judges* as well as by their abusers”).

<sup>137</sup> *See* STARK, *supra* note 8, at 362-65 (quoting “[I]n the United States, there is a growing willingness to regulate women’s choices . . . . [S]tate institutions will try to accommodate women’s needs in ways that frustrate their larger interest in full equality and independence”); *see also* Bancroft, *supra* note 59, at 17-4 (“[A]busers and their allies have succeeded at positioning themselves as the people who are seeking equality and fairness”).

<sup>138</sup> *E.g.*, STARK, *supra* note 8, at 367; accord Bancroft, *supra* note 59, at 17-3 to -4.

<sup>139</sup> STARK, *supra* note 8, at 367.

<sup>140</sup> *See, e.g.*, Bancroft, *supra* note 59, at 17-4 (discussing the “lack of focus” in “the most *central* principle” of the battered women’s movement).

<sup>141</sup> STARK, *supra* note 8, at 198.

<sup>142</sup> *See* Goldstein, *supra* note 1, at 18-2 to -4.

judicial system can provide appropriate responses to this form of domestic abuse.<sup>143</sup>

Using the term judicial terrorist<sup>SM</sup> garners national media attention to assist survivors of coercive control and their advocates in speaking out about their experiences within the judicial system.<sup>144</sup> Even though the media is an excellent “vehicle for social change,” they often ignore “significant human rights issues.”<sup>145</sup> Thus, a sound bite-ready term, such as ‘judicial terrorist’, provides advocates a title to “constantly reiterate that these problems are systemic and endemic” and not “isolated and happenstance.”<sup>146</sup> The term provides the “persuasive power” that invokes the type of “cage-rattling, defiant movement” necessary to attract the media, the public, and feminist activists alike.<sup>147</sup>

Invoking change requires reawakening women’s rights activists through federally funded “[p]ublic awareness-raising campaigns” that focus on the pervasive litigation tactics of judicial terrorists and the effects they have on “discriminatory attitudes which perpetuate violence against women.”<sup>148</sup> “[S]ocietal condemnation”<sup>149</sup> of the widespread “gender-justice” implications of the acts of judicial terrorists is crucial to developing an understanding of their calculated and intentional manipulation of the United States’ judicial system for the purposes of “spreading vituperative statements about feminists.”<sup>150</sup> “[T]he

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<sup>143</sup> See Bancroft, *supra* note 59, at 17-5.

<sup>144</sup> See, e.g., *id.* at 17-1, -4; Garland Waller, *The Yuck Factor, the Oprah Factor, and the “Stickiness” Factor: Why the Mainstream Media Has Failed to Expose the Custody Court Scandal*, in DOMESTIC VIOLENCE, ABUSE, AND CHILD CUSTODY 15-27, *supra* note 1 (discussing the possibility of a major TV or movie actress starring in a “movie about family court corruption”).

<sup>145</sup> Waller, *supra* note 144, at 15-4.

<sup>146</sup> *Id.* at 15-26 to -27 (discussing how abused women need to present “clean, clear, and concise” details as “sound bites” to the press).

<sup>147</sup> See Bancroft, *supra* note 59, at 17-4 to -5.

<sup>148</sup> E.g., Good Practices, *supra* note 8, at 32; accord Bancroft, *supra* note 59, at 17-12.

<sup>149</sup> Good Practices, *supra* note 8, at 32.

<sup>150</sup> See Bancroft, *supra* note 59, at 17-2 & n.1, -12; accord STARK, *supra* note 8, at 398 (discussing the need for “a revitalized political movement that tackles the roots of women’s vulnerability by advancing sexual equity and political justice for women”).



true mindset of the Father's Rights movement" is that "[f]eminists should be charged with nothing less than Crimes Against Humanity, sentenced, and summarily executed in public squares."<sup>151</sup> Without a call to women's rights activists to reassess and reinvigorate the demand for equality, the future of the human rights protections of abused women is, most assuredly, tenuous.<sup>152</sup>

Finally, the term judicial terrorist<sup>SM</sup> beckons a response from the international community because of "the legitimacy gained by human rights law."<sup>153</sup> A more recent, radical approach to human rights law holds any State accountable for the actions of its individual citizens regardless of whether the abuses were committed on behalf of the State.<sup>154</sup> The human rights movement places an expectation upon a State "to respect and ensure the human rights of its inhabitants through its own legal system."<sup>155</sup>

In "both public and private violence," international customary law binds all nations to certain prohibitions and protections against "torture or inhuman and degrading treatment."<sup>156</sup> The international community advocates holding State governments accountable under the United Nations Convention Against Torture for their failure "to exercise due diligence to prevent, investigate and punish" domestic violence.<sup>157</sup> Indisputably, violence that appears to be condoned by the State creates a question of its authority and generates the perception that the State is not in control of activities within its borders; and, more specifically, its

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<sup>151</sup> Normalvanbreucher, *supra* note 70 (quoting Nick Szabo).

<sup>152</sup> See STARK, *supra* note 8, at 397 (stating that "The domestic violence revolution is stalled and the interventions it has spawned are largely ineffective because it has failed to come to grips with coercive control").

<sup>153</sup> See ROGER J. R. LEVESQUE, *CULTURE AND FAMILY VIOLENCE* 25 (2001).

<sup>154</sup> *Id.* at 125.

<sup>155</sup> *Id.* at 165.

<sup>156</sup> *Id.* at 141.

<sup>157</sup> See *End Domestic Violence. End Torture.*, AMNESTY INTERNATIONAL USA (Aug. 25, 2005), [http://www.amnestyusa.org/women/pdf/DV\\_as\\_Torture\\_Fact\\_Sheet.pdf](http://www.amnestyusa.org/women/pdf/DV_as_Torture_Fact_Sheet.pdf); accord Good Practices, *supra* note 8, at 3.

courtrooms.<sup>158</sup> Labeling an abuser as a judicial terrorist<sup>SM</sup> provides internationally recognized terminology to facilitate new legislation regulating coercive control tactics utilized against abused women within judicial systems.<sup>159</sup> The judicial terrorist<sup>SM</sup> label is intended to facilitate “a multidisciplinary approach to addressing violence against women” that allows an “effective use of a range of areas of the law.”<sup>160</sup>

## VII. CONCLUSION

The human rights principles of liberty and equality were not incorporated into fundamental law for the sake of popularity and convenience.<sup>161</sup> Indeed, the denial of these human rights to a certain class of citizens under a representative government is only possible if the majority of the population determines that the denial of such rights is justifiable and not arbitrary.<sup>162</sup> Using the term judicial terrorist<sup>SM</sup> could succinctly describe this abhorrent conduct and spur the action of a global community of activists who are able to immediately effectuate change and will hold States accountable.<sup>163</sup> It carries with it a universally recognizable global stigma that holds judicial systems accountable, and in turn, holds abusers accountable.<sup>164</sup>

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<sup>158</sup> See MCCORMACK, *supra* note 126, at 28; *cf.* Bancroft, *supra* note 59, at 17-2 to -3 (discussing the pressure fathers’ rights groups put “on judges, other court personnel, and community members to side with fathers who are accused of abuse” at the expense of abused women).

<sup>159</sup> See Good Practices, *supra* note 8, at 7.

<sup>160</sup> *Id.* at 15.

<sup>161</sup> See Crozier, *supra* note 51, at 33.

<sup>162</sup> See *id.* at 32.

<sup>163</sup> See Waller, *supra* note 144, at 15-26; see also *End Domestic Violence. End Torture.*, *supra* note 157.

<sup>164</sup> See WALDRON, *supra* note 122, at 49.

