

# A HOPELESS CASE?: ESCAPING THE PROOF PITFALL IN POWER-DEPENDENT PARADIGMS\*

*e. christi cunningham*†

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## I. INTRODUCTION

She had been hospitalized on several occasions. Broken ribs. Internal bleeding. Concussions. His beatings had become a way of life. She had become astute at reading his moods because her survival depended on it. When he was tired. . . . When he was intoxicated. . . . When he was playful. . . . When he had had a bad day. . . . But his moods could change suddenly, without explanation or warning. She had lost more than one child – miscarriages caused by a sudden change of mood.

These mood changes nested within a cycle of violence—in-sults, humiliation, beatings that gradually grow in intensity until she is very badly beaten or hospitalized, or flees to a neighbor’s or relative’s house. Then, he apologizes and laments, regrets his behavior and promises never to do it again. Shaking his head in disbelief, how could he have been so cruel? He charms and courts her, offering trinkets as reparation. He promises her a better future and that all of that is in his past. She has hope.

On this particular occasion, like previous occasions, he had

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\* This article is one of six written for CUNY Law Review’s inaugural cross-textual dialogue. The author was invited to write a short piece in response to the following quotation: “When you say racism, they say: it could have been something else. Sometimes you just know when it is racism. It is as tangible as hitting a wall, that the problem is you; that part of you that makes you the person they do not want or expect, the part of you than makes you stand out from the sea of whiteness. Sometimes you are not sure. And you begin to feel paranoid. That is what racism does: it makes you question everything, the whole world, the world to which you exist in relation. Heterosexism and sexism are like that too: are they looking at me like that because of that? Is that why they are passing us over, two women at the table? You are not sure.” Sara Ahmed, Evidence, FEMINISTKILLJOYS (July 12, 2016, 2:00 PM), <https://feministkilljoys.com/2016/07/12/evidence/> [<https://perma.cc/T39A-28S3>].

† Professor and Director of Education Rights Center at Howard University School of Law. The author would like to thank the editors of the CUNY Law Review.

repented of his past abuses. They had talked. So when he made the comment, she was devastated. For her, this was how it started. For him, it was just a comment. He didn't mean anything by it. It was no big deal. Why was she so serious and sensitive about everything? It was nothing.

A passage in Professor Sara Ahmed's article, *Evidence*, reflects a similar conversation in the context of racial oppression.<sup>1</sup> She writes:

When you say racism, they say: it could have been something else. Sometimes you just know when it is racism. It is as tangible as hitting a wall, that the problem is you; that part of you that makes you the person they do not want or expect, the part of you [that] makes you stand out from the sea of whiteness.<sup>2</sup>

Like the woman who attempts to convince her battering husband not to beat her, Professor Ahmed's observations represent an ongoing conversation about how to convince dominant society that racism is real or relevant.<sup>3</sup> This conversation while perhaps necessary may be similarly futile. And if not futile, then it is limited in what it can accomplish when pleas for just treatment are submitted to institutions that sustain systems of oppression. As Professor Ahmed observes:

Sometimes you are not sure. And you begin to feel paranoid. That is what racism does: it makes you question everything, the whole world, the world to which you exist in relation. Heterosexism and sexism are like that too: are they looking at me like that because of *that*? Is *that* why they are passing us over, two women at the table? You are not sure.<sup>4</sup>

The maddening nature of this conversation, asking the abuser to acknowledge, judge, and repent from the abuse that empowers him, is an aspect of the abuse.

Is it a hopeless case? Presenting evidence of violence to free oneself and others from cycles of violence—centuries of slavery to emancipation and Reconstruction<sup>5</sup> to lynchings and Jim Crow<sup>6</sup> to

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<sup>1</sup> Sara Ahmed, *Evidence*, FEMINISTKILLJOYS (July 12, 2016, 2:00 PM), <https://feministkilljoys.com/2016/07/12/evidence/> [https://perma.cc/2M62-KGCJ].

<sup>2</sup> *Id.*

<sup>3</sup> See, e.g., Tanya Kateri Hernandez, Response, *The Value of Intersectional Comparative Analysis to the "Post-Racial" Future of Critical Race Theory: A Brazil-U.S. Comparative Case Study*, 43 CONN. L. REV. 1407 (2011).

<sup>4</sup> Ahmed, *supra* note 1.

<sup>5</sup> Reconstruction is the period following the Civil War, 1865 to 1877, when southern Blacks enjoyed relative social and political freedom, even holding public office. See Rhonda V. Magee Andrews, *The Third Reconstruction: An Alternative to Race Consciousness and Colorblindness in Post-Slavery America*, 54 ALA. L. REV. 483 (2003).

Black is Beautiful,<sup>7</sup> the War on Poverty,<sup>8</sup> and the Civil Rights Movement<sup>9</sup> to trickle down economics,<sup>10</sup> the War on Drugs and the New Jim Crow<sup>11</sup> to President Obama's hope<sup>12</sup> and Black Lives Matter<sup>13</sup> to President-elect Trump's hopelessness.<sup>14</sup>

In a power-dependent relationship, the idea that what is lacking is the necessary evidence of her condition is one of the many pitfalls of her oppression.<sup>15</sup> She complains about the latest episode of emotional abuse to her battering husband. He may deny that the episode ever happened. He may assert that his words or actions were true and therefore merited. He may blame her for provoking his words or actions. He may even admit that his actions were wrong or hurtful. But regardless of the outcome of that particular conversation, she loses because the power in her relationship to

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<sup>6</sup> Jim Crow was a period, following the Reconstruction era in the late 1800s, of resurgent white supremacy re-codifying racial segregation, enforced by racial violence. *But see* James W. Fox Jr., *Intimations of Citizenship: Repressions and Expressions of Equal Citizenship in the Era of Jim Crow*, 50 *How. L.J.* 113 (2006) (describing aspects of Black resistance during Jim Crow).

<sup>7</sup> "Black is Beautiful" was a slogan of the Black power movement of the 1960s. *See* Imani Perry, *Buying White Beauty*, 12 *CARDOZO J.L. & GENDER* 579, 608 (2006).

<sup>8</sup> The War on Poverty was a program of President Lyndon Johnson in the 1960s to commit federal resources to combatting poverty. *See* Francine J. Lipman and Dawn Davis, *Heal the Suffering Children: Fifty Years After The Declaration of War on Poverty*, 34 *B.C. J.L. & Soc. JUST.* 311 (2014).

<sup>9</sup> The Civil Rights Movement of the 1950s and 1960s halted *de jure* segregation of the Jim Crow era through judicial, legislative, and social action. *See* Christopher W. Schmidt, *Conceptions of Law in the Civil Rights Movement*, 1 *U.C. IRVINE L. REV.* 641 (2011).

<sup>10</sup> Trickle down economics was the economic approach of President Ronald Reagan that supported wealth expansion for the rich under the guise that it would trickle down to the middle class and poor. *See generally* Athena D. Mutua, *The Rise, Development and Future Directions of Critical Race Theory and Related Scholarship*, 84 *DENV. U. L. REV.* 329, 386-87 (2006) ("This tendency uninterrupted by policy decisions to curb it or disrupt its lopsided material distributions, has increasingly created and cemented vast economic inequalities in the social system, widening and hardening the gap between the rich and the poor.").

<sup>11</sup> MICHELLE ALEXANDER, *THE NEW JIM CROW* (2010).

<sup>12</sup> BARACK OBAMA, *THE AUDACITY OF HOPE* (2006).

<sup>13</sup> The Black Lives Matter movement for racial justice began in opposition to police and state-sponsored brutality against Black people, starting with the 2014 death of Michael Brown in Ferguson, Missouri. *See* Elahe Izadi, *Black Lives Matter and America's Long History of Resisting Civil Rights Protestors*, *WASH. POST* (Apr. 19, 2016), <https://www.washingtonpost.com/news/the-fix/wp/2016/04/19/black-lives-matters-and-america-long-history-of-resisting-civil-rights-protesters/> [<https://perma.cc/ZF63-3E67>].

<sup>14</sup> Following the election of Donald Trump, First Lady Michelle Obama lamented a new era of hopelessness. *Michelle Obama Says America Is Entering a Time of Hopelessness*, *N.Y. TIMES: WOMEN IN THE WORLD* (Dec. 16, 2016), <http://nytlive.nytimes.com/womenintheworld/2016/12/16/michelle-obama-says-america-is-entering-a-time-of-hopelessness/> <https://perma.cc/SA7K-CG5L>].

<sup>15</sup> *See* Ahmed, *supra* note 1 (discussing the role of evidence).

him and the parameters of her being in a relationship with him remain the same.

This article hypothesizes that the search for proper evidence, proof of oppression in power-dependent relationships, is a trap to ensnare the oppressed in their condition. While the presentation of sound evidence of racism, sexism, religious and ethnic oppression, heterosexism, xenophobia, and other forms of oppression may be an unavoidable exercise, it is essential that individuals and communities appreciate that the likely outcomes of this exercise are limited and that the efforts of this exercise may be in some ways counterproductive, preserving the relationship and dynamic that is the source of oppression.<sup>16</sup> I am not asserting that all claims of discrimination are valid. Nor am I arguing that plaintiffs should not be required to prove their cases. Instead, I am positing that even if all claims were valid and perfectly proven, the current system of laws addressing identity-based oppression is not designed to alter the fundamental distribution of power or the power-dependent nature of those relationships. This article hypothesizes, instead, the possibility of an exit strategy from power-dependent relationships to intentional practices that de-center dominant oppression and engage cross-cultural visioning and creativity.

Part II explores the nature of power-dependent relationships, some of the tools that sustain them, and Professor Ahmed's concept of proof in that context. Part III hypothesizes an exit strategy from this paradigm and these relationships.

## II. POWER-DEPENDENT RELATIONSHIPS

A power-dependent relationship is one in which the controlling individual or class draws its identity and status from the exercise of power over the oppressed individual or group.<sup>17</sup> In other words, in a power-dependent relationship, subjugation of another is essential to the controlling individual's or group's understanding of self. The controller is defined by the power he exerts in the relationship. The battering husband is powerful only to the extent that she is powerless. Whiteness has status and value to the extent that blackness, brownness, Muslim, and other identities do not. Not all people who are privileged or benefit from power-dependent rela-

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<sup>16</sup> See Derrick Bell, *Racial Realism*, 24 CONN. L. REV. 363 (1992) (arguing that racism cannot be eliminated through the use of law and legal remedies).

<sup>17</sup> See e. christi cunningham, *Exit Strategy for the Race Paradigm*, 50 How. L.J. 755, 780 (2007).

tionships condone, perpetuate, or endorse their privilege.<sup>18</sup> Therefore, of course, not all white people are white supremacists, not all men are misogynist, not all Christians are anti-semitic or Islamophobic or vice versa, and not all heterosexuals are homo or transphobic. Nevertheless, white supremacy, for example, needs non-white subjugation in order to exist, and white people and other members of dominant groups, whether complicit or not, are defined by that oppression.

There are many ways that a defined individual or group maintains identity and status in a power-dependent relationship. Force, violence, and controlling resources and information are perhaps the most obvious. Two less evident, but powerful tools of oppression are: 1) the illusion of co-dependence and 2) the perpetuation of engagement.

A. *The Illusion of Co-dependence*

The dominant group is defined by its oppression of the defining group.<sup>19</sup> The illusion of co-dependence means that the defined individual or group projects an illusion, rather deception, that the defining individual or group is similarly dependent upon the relationship of oppression for their identity.<sup>20</sup> An illusion, for example, may be that identity for some is *necessarily* juxtaposed to whiteness, as blackness, whether or not that identity neatly fits or is sufficiently dynamic or excludes many others. The illusion is that identity for some requires a white reference point.

Similarly, the defined group in power-dependent racial, religious, sexual, ethnic, or other relationships projects an illusion that the defining or controlled group is dependent on the relationship for their identity.<sup>21</sup> The deception is that the identity of others is juxtaposed with the oppressor's domination, and that deception cloaks the emergence of identity and status unbounded by oppression. Race was created as an artificial distinction in order to facilitate power and control.<sup>22</sup> Co-dependence manifests as the defining

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<sup>18</sup> See Alex Wagner, *White People vs. White Privilege*, ATLANTIC (May 27, 2016), <https://www.theatlantic.com/politics/archive/2016/05/white-people-vs-white-privilege/484355/> [<https://perma.cc/GYD7-VQ7D>].

<sup>19</sup> Arvin Lugay, Book Review, *"In Defense of Internment": Why Some Americans Are More "Equal" Than Others*, 12 ASIAN L.J. 209, 221-22 (2005) (describing the insider group perspective).

<sup>20</sup> See Cunningham, *supra* note 17.

<sup>21</sup> See Gabriel J. Chin, *Race and the Disappointing Right to Counsel*, 122 YALE L.J. 2236, 2241 n.10 (2013) (discussing racial paternalism).

<sup>22</sup> See Gloria Sandrino-Glasser, *Los Confundidos: De-Conflicting Latinos/as' Race and Ethnicity*, 19 CHICANO-LATINO L. REV. 69 (1998).

or oppressed group integrating the instrument of oppression as an essential aspect of their identity.

The concept of the illusion of co-dependence means that dominant groups need subordinated groups to perceive that their identity exists in relation to the dominant group's identity in order to sustain power and control. So, because bias occurs according to certain irrational parameters, targeted at a particular group, for example, the response to that bias corresponds to those parameters. Evidence is gathered and defenses are drafted according to the parameters set by the dominant group's bias.<sup>23</sup> This illusion of co-dependence on the language and terms set by the power-dependent paradigm fortifies it.

Male domination depends on female subordination.<sup>24</sup> A host of oppressive ideologies and practices enforce male privilege. Disproportionate male governance globally in both business and government, sex-segregation of certain occupations, sexual violence and commodification, and sex-based wage disparities for the same work ensure that men control policies and that resources are distributed in ways that take into account dominant male identity and interests, whether or not female interests, children's interests, trans or intersex interests, or interests of men who are not in the dominant group are considered.<sup>25</sup> Hyperbolized images of heterosexual male sexual fantasy objectify and demean women, making women primarily targets for sexual violence.<sup>26</sup>

The illusion of co-dependence coerces women's acceptance that certain work is not for them or that certain work is only for them, that their leaders are male, their bodies sold or controlled, and that the mother planet that holds us can be raided, stripped, or fracked.<sup>27</sup> At times, the deception of co-dependence means that

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<sup>23</sup> See Kimberlé W. Crenshaw, *From Private Violence to Mass Incarceration: Thinking Intersectionally About Women, Race, and Social Control*, 59 UCLA L. REV. 1418, 1434 (2012).

<sup>24</sup> CATHARINE A. MACKINNON, *FEMINISM UNMODIFIED: DISCOURSES ON LIFE AND LAW* (1987).

<sup>25</sup> Christopher C. Joyner & George E. Little, *It's Not Nice to Fool Mother Nature! The Mystique of Feminist Approaches to International Environmental Law*, 14 B.U. INT'L L.J. 223 (1996); Press Release, World Bank, Report Finds 400 Million Children Living in Extreme Poverty (Oct. 10, 2013), <http://www.worldbank.org/en/news/press-release/2013/10/10/report-finds-400-million-children-living-extreme-poverty> [<https://perma.cc/P6CB-NEHG>].

<sup>26</sup> See CATHARINE A. MACKINNON, *TOWARD A FEMINIST THEORY OF THE STATE* 195-214 (1989).

<sup>27</sup> Vicki Schultz, *Telling Stories About Women and Work: Judicial Interpretations of Sex Segregation in the Workplace in Title VII Cases Raising the Lack of Interest Argument*, 103 HARV. L. REV. 1749, 1756 (1990) (“[C]ourts have missed the ways in which employers

women internalize that they are less powerful and worth less.<sup>28</sup> In Rajasthan, India, the government has set up 67 cradles around the state to collect the hundreds of baby girls that are abandoned yearly.<sup>29</sup> In the United States the illusion of co-dependence occurs through the commodification and marketing of women's objectification, ensuring that women's oppression is profitable and normalized. President Trump's initial nominee for Labor Secretary, a restaurant tycoon, told *Entrepreneur* in 2015, "I like our ads. I like beautiful women eating burgers in bikinis. I think it's very American."<sup>30</sup> It reinforces an essential aspect of dominant male identity and privilege, relative freedom of movement in the world, for men compared to women or non-male individuals.<sup>31</sup> This marketed illusion of dependence on hyperbolized dominant male imagining renders female-centered sexual pleasure invisible.<sup>32</sup> It also obscures heterosexual male pleasure that is not based in women's objectification and oppression.<sup>33</sup>

Not only is non-oppressive heterosexual male sexuality disadvantaged by a power-dependent paradigm, the paradigm also creates a caste system of men who are entitled to its privilege and men who are not, or who threaten it. Subjecting certain groups of men

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contribute to creating women workers in their images of who 'women' are supposed to be. Judges have placed beyond the law's reach the structural features of the workplace that gender jobs and people, and disempower women from aspiring to higher-paying nontraditional employment." (footnote omitted)); Sara Jerving, *The Fracking Frenzy's Impact on Women*, PRWATCH (Apr. 4, 2012, 8:44 AM), <http://www.prwatch.org/news/2012/04/11204/fracking-frenzys-impact-women> [https://perma.cc/QQ6S-AX4H] (describing impact of fracking on women's health and violence).

<sup>28</sup> See William M. Wiecek & Judy L. Hamilton, *Beyond the Civil Rights Act of 1964: Confronting Structural Racism in the Workplace*, 74 LA. L. REV. 1095, 1115 (2014) (discussing "internalized subordination").

<sup>29</sup> Shaifali Agrawal, *Cradles in Rajasthan for India's Unwanted Babies*, AL JAZEERA (Dec. 26, 2016), <http://www.aljazeera.com/indepth/features/2016/12/cradles-rajasthan-india-unwanted-babies-161205080218497.html> [https://perma.cc/9R4R-PJ8W].

<sup>30</sup> Emily Peck, *Trump's Labor Secretary Pick: 'I Like Beautiful Women Eating Burgers in Bikinis'*, HUFFINGTON POST (Dec. 8, 2016, 3:46 PM), [http://www.huffingtonpost.com/entry/andy-puzder-women\\_us\\_5849b59ce4b04002fa80660c?j0wg4dseuf4dkj4i](http://www.huffingtonpost.com/entry/andy-puzder-women_us_5849b59ce4b04002fa80660c?j0wg4dseuf4dkj4i) [https://perma.cc/N6RA-VGD6].

<sup>31</sup> Senator Joseph R. Biden, Jr., *The Civil Rights Remedy of the Violence Against Women Act: A Defense*, 37 HARV. J. LEGIS. 1, 23 (2000) ("Gender-based violence and the threat of such violence significantly impair women's freedom of movement and economic opportunities by deterring them from using public accommodations, sidewalks, streets, parking lots, and transportation—the very channels and instrumentalities of interstate commerce.").

<sup>32</sup> Mary Becker, *Women, Morality, and Sexual Orientation*, 8 UCLA WOMEN'S L.J. 165 (1998).

<sup>33</sup> *Id.* at 191-92 ("Andrea Dworkin and Catharine MacKinnon see much sexuality in our culture as male objectification of women; what is erotic for many men and women is male dominance over and objectification of women.").

to forcible rape, incarcerated men of color, for example, is oppression that strips them of the adult male privilege in the power-dependent paradigm to be free from sexual violence.<sup>34</sup> Diverse sexuality is attacked because it presents a challenge to the paradigm that objectifies women by opening the possibility of male objectification, male vulnerability to sexual violence, and a narrative contrary to hyperbolized heterosexual male fantasy.<sup>35</sup>

The illusion of identity co-dependence propagates assumptions about the nature of government and business that skew toward systems of domination. For example, despite the fact that these forms of government, business, and governance have produced continual warring, human suffering, and unprecedented harm to the planet,<sup>36</sup> a deception that oppressed people are dependent on these systems prevails.

One of the central racial struggles reflects an illusion of dependence on white-centered identity. Equality as a goal assumes the illusion that the dominant group is the standard. What does it mean for an oppressed group to be equal to the oppressor? Some of the most powerful universities, banks, and businesses currently in the United States were built on slave labor and investment.<sup>37</sup> What illusion makes their ideology, education, wealth, consumption, and ability to dominate admirable? If the evidence demonstrates the negative reality of systems of oppression, then it is a delusion of co-dependence that ties us to the goal of equality.

### B. *The Perpetuation of Engagement*

Another less evident instrument of oppression that is related to the illusion of co-dependence is the perpetuation of engage-

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<sup>34</sup> JOANNE MARINER, HUMAN RIGHTS WATCH, NO ESCAPE: MALE RAPE IN U.S. PRISONS (2001), <https://www.hrw.org/reports/2001/prison/voices.html> [<https://perma.cc/N3PW-3SSV>]; James Nickerson, *Slavery Trafficking Victims Crippled by Fear in UK*, AL JAZEERA (Jan. 3, 2017), <http://www.aljazeera.com/indepth/features/2016/12/slavery-trafficking-victims-crippled-fear-uk-161231111517043.html> [<https://perma.cc/8HGE-QET6>] (describing sexual violence against trafficked men in the UK).

<sup>35</sup> Ramona L. Paetzold, *Same-Sex Sexual Harassment: Can It Be Sex-Related for Purposes of Title VII?*, 1 EMP. RTS. & EMP. POL'Y J. 25, 59-60 (1997) (discussing reaction to sexual coercion in homosexually-oriented male pornography).

<sup>36</sup> Tracy Dobson, *Loss of Biodiversity: An International Environmental Policy Perspective*, 17 N.C. J. INT'L L. & COM. REG. 277, 299 (1992) (explaining that reductionist science supports capitalism and "reduces the environment, women, and non-white males to commodities to be dominated by white men").

<sup>37</sup> See, e.g., Rachel L. Swarns, *Insurance Policies on Slaves: New York Life's Complicated Past*, N.Y. TIMES (Dec. 18, 2016), <https://www.nytimes.com/2016/12/18/us/insurance-policies-on-slaves-new-york-lifes-complicated-past.html> [<https://perma.cc/B34T-BGRJ>].

ment. In order to maintain their identity and survive as dominant, the defined individual or group must remain engaged with the defining individual or group. Sustaining the relationship is essential to the oppression.

In order for the abusive husband to maintain his power, he must remain engaged in the relationship with his wife.<sup>38</sup> If she leaves, then so does his power and control.<sup>39</sup> For this reason, one of the most dangerous experiences for a woman in an abusive relationship is the process of disengaging from the relationship.<sup>40</sup> For many women, the decision to disengage has proven fatal.<sup>41</sup>

Attempting to convince her battering husband that he is, in fact, abusing her, that it is physically and emotionally harmful to her, that it is not something that she desires, deserves or provokes, and that his abuse matters and should change are activities that are necessary to her survival.<sup>42</sup> In Lebanon, for example, after years of grassroots and social activism, legislatures have taken first steps toward repealing a law that allows a rapist to escape prosecution if he marries his victim.<sup>43</sup> Activism saves lives. However, even if such advances provide momentary reprieve in the cycle of violence, appeals to power-dependent authority nevertheless keep the oppressed group engaged in the power-dependent relationship. Professor Ahmed's article on evidence provides many illustrations of the tactics used to maintain engagement in oppressive paradigms and the frustrations and complications for individuals and groups participating in the exercise of proving the facts in the context of the ebbs, flows, and cycles of oppressive relationships.<sup>44</sup>

Perhaps, in power-dependent relationships, discourse with the oppressor about the oppression functions to preserve the relationship and therefore the paradigm and the oppression. This hypothesis is supported by one of the central themes of Professor Ahmed's article, "that the evidence we have of racism and sexism is

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<sup>38</sup> See Jane Kim, Note, *Trafficked: Domestic Violence, Exploitation in Marriage, and the Foreign-Bride Industry*, 51 VA. J. INT'L L. 443, 461 (2011).

<sup>39</sup> Marisa Silenzi Cianciarulo & Claudia David, *Pulling the Trigger: Separation Violence as a Basis for Refugee Protection for Battered Women*, 59 AM. U. L. REV. 337, 342 (2009).

<sup>40</sup> Susan J. Elliott, *Getting Out of the Abusive Relationship*, PSYCHOL. TODAY (Aug. 12, 2015), <https://www.psychologytoday.com/blog/getting-back-out-there/201508/getting-out-the-abusive-relationship> [<https://perma.cc/XP3U-LQEW>].

<sup>41</sup> See Cianciarulo & David, *supra* note 39, at 351.

<sup>42</sup> See Kelly Grace Monacella, Comment, *Supporting a Defense of Duress: The Admissibility of Battered Woman Syndrome*, 70 TEMP. L. REV. 699, 704-09 (1997).

<sup>43</sup> Joel Williams, *Lebanon Takes First Step to Abolish Marriage Rape Law*, CNN (Dec. 12, 2016, 1:27 PM), <http://www.cnn.com/2016/12/08/middleeast/lebanon-moves-to-abolish-marriage-rape-law/index.html> [<https://perma.cc/THT7-9HWD>].

<sup>44</sup> Ahmed, *supra* note 1.

deemed insufficient *because* of racism and sexism.”<sup>45</sup> Efforts to explain, characterize, and prove racism, sexism, and many other forms of oppression have been exhaustive and exhausting. Professor Ahmed illustrates this exhaustion through the story of a “diversity worker’s” struggle to implement a pro-diversity policy: “A diversity worker: she ends up exhausted because despite all her efforts the same thing is still happening. Sometimes you stop because it is too hard to get through. So she might leave, or turn her energy toward something else: a new policy, a new document, a new job.”<sup>46</sup> In power-dependent paradigms, ending the oppression is not a matter of evidence. The problem is not that the oppressed individual or group has failed to characterize, name, or prove their oppression; it is not that they did not say “no”; it is not their fault.

Professor Ahmed articulates the suspicion that ending oppression is not a matter of evidence or properly presented proof

No matter how much evidence you have of racism and sexism, no matter how many documents, communications, encounters, no matter how much research you can refer to, or words you can defer to, words that might carry a history as an insult, what you have is deemed as insufficient. The more you have to show the more eyes seem to roll.<sup>47</sup>

Not only is more evidence not what we need, but the efforts of gathering and presenting evidence continue the conversation and engagement. Cycles of oppression continue. And despite our efforts, little changes in the overall distribution of power and control. The proof pitfall is that work that is intended to fight oppression functions to legitimate it and maintain power-dependent relationships.<sup>48</sup>

### III. AN EXIT STRATEGY

Despite the perilous nature of the decision to disengage from a power-dependent relationship, individuals and groups subjected to such relationships must execute an exit strategy. This article does not attempt to provide an entire blueprint for an exit strategy. Power-dependent relationships that have been created and maintained over the course of hundreds or thousands of years will take time, though perhaps not an equal amount of time, to leave. And

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<sup>45</sup> *Id.*

<sup>46</sup> *Id.*

<sup>47</sup> *Id.*

<sup>48</sup> Anthony Paul Farley, *Law as Trauma and Repetition*, 31 N.Y.U. REV. L. & SOC. CHANGE 613, 618 (2007).

the solutions necessarily require collective design. Instead, this article merely suggests a few steps in the plan.

### *Practice*

Practice means that exiting is a process. Mistakes and failures should be anticipated as part of the process. Many early attempts at leaving an abusive relationship fail.<sup>49</sup> But the first few unsuccessful attempts are not conclusive of failure, and failures may inform what is needed for the next attempt.<sup>50</sup> A practice approach encourages patience and tolerance and facilitates imperfect and evolutionary alliances in the escape process.

### *Independence*

Rather than co-dependence, an exit strategy requires intentional rejection of the parameters and identities set by power-dependent relationships. What does liberated identity look like? Not only does independence require demystification of the illusion of co-dependence, but also envisioning non-power-dependent identity, communities, and relationships.<sup>51</sup> What does community not based on responding to issues of oppression or power-dependent identity look like? How do we begin to envision and create new traditions and free our spirituality from power-dependent human contaminations?

### *Exit*

An exit strategy requires an eventual exit from the power-dependent relationship. Leaving the relationship, in this case, does not mean an actual physical departure. Instead, leaving the relationship means becoming disengaged from the conversation and developing new focuses, new conversations, and new relationships. How do we practice initiating these conversations? What do mutually supportive, non-power dependent societies look like?

In the meantime, to make our environments as safe as possible, we will continue to engage in power-dependent conversations

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<sup>49</sup> Terry Lyons, *When Reasonable Efforts Hurt Victims of Abuse: Five Years of the Adoption and Safe Families Act of 1997*, 26 SETON HALL LEGIS. J. 391, 396 (2002).

<sup>50</sup> cunningham, *supra* note 17, at 586 (discussing practicing new identity formation); see generally Warren Binford, *How To Be the World's Best Law Professor*, 64 J. LEGAL EDUC. 542, 543 (2015) (discussing learning from failure); see also Guy Winch, *The 4 Keys to Learning from Failure*, HUFFINGTON POST: THE BLOG (Oct. 10, 2013, 8:46 AM), [http://www.huffingtonpost.com/guy-winch-phd/learning-from-failure\\_b\\_4037147.html](http://www.huffingtonpost.com/guy-winch-phd/learning-from-failure_b_4037147.html) [<https://perma.cc/G35E-CW8P>].

<sup>51</sup> cunningham, *supra* note 17, at 826.

and relationships. We will continue to appeal to oppressive systems and institutions to stop hurting us. Even though “[w]hen [we] say racism, they say: it could have been something else.”<sup>52</sup> We will continue to gather and present evidence of the fact and effects of their oppression.

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<sup>52</sup> Ahmed, *supra* note 1.