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**Violence Against Women and the Problem of Male Power:
The Personal is Political (is Social is Historical)**

Brian Ripley

Honors 490

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HONORS THESIS

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Introduction: A Woman's Home, A Man's Castle

In the United States, the image of the ideal American family has seen reinforcement in the mass media on a steady, on-going basis during the latter half of the twentieth century. Although the phrase "a man's home is his castle" is rarely heard in contemporary America, the patriarchal ideology from whence it came has scarcely disappeared. At a time when politicians loudly proclaim the urgent need for "family values" as a means of restoring the nation's domestic tranquillity, the ancient Biblical injunction to "respect, honor and obey" one's spouse seems to constitute the underlying basis for the concept of a "new" contemporary moral compass. Republicans and Democrats alike gain political capital by advancing the notion that, if only the present-day American family possessed the requisite moral values, the nation's moral fiber would not be so badly frayed and there would be no need for governmental intrusion into the privacy of a man's "castle." As the prominent feminist social historian Del Martin writes, the American family home ideally provides "refuge from the stormy turbulence of the outside world."¹

Ideally, then, the American family home represents a sort of shelter from the cold, cruel world, a place where family members can relax and enjoy the relative comfort and safety of life after a difficult, demanding day of tension and stress in the hectic public sphere. Unfortunately, as is so often the case, the prevailing image belies the reality, creating a false facade which seems to surround the American family. Rather than representing a social safeguard, the door to the American household sometimes constitutes a metaphorical prison-cell door. In her critique of the Great American Family, Del Martin explains that "the door behind which the battered wife is trapped is the door to the family home."²

Radical feminist literature often addresses the issue of violence against women by asserting that the family itself constitutes a potential form of physical

and emotional harm to American women. To phrase it another way, the man's "castle" sometimes becomes the woman's nightmare. Wife battery, according to the prominent radical feminist Kathleen Barry, illustrates how the family sometimes "institutionalizes male power and authority" by keeping the abuse of women "in the home, private, and therefore, inaccessible to scrutiny."³

Socialist feminist theorist Sheila Rowbotham concurs with Barry's perspective, adding that wife beating stems from the socially constructed duality of the American home. Rowbotham views the family as a social dualism, representing a much-needed "sanctuary" on the one hand, and a potential scene of "thrashing, battery, [and] remorseless violence" on the other.⁴ When the requisite American socio-economic values are adhered to, Rowbotham claims, the capitalist "sexual division of labor" relegates child care to women and often allows men to shirk any childrearing responsibilities whatsoever. "If care were truly social," Rowbotham states, "there would be no need for defensive homes as castles."⁵

Care, compassion, and nurturance constitute important values which have been traditionally ascribed to women. Yet the concept of social androgyny entails the notion that people of either gender can (and should) possess similar positive character traits. Feminism rejects the devaluation of American women which so often results from patriarchal male standards, and it emphasizes the crucial role women have traditionally played in maintaining the cohesiveness of the American family. As family therapist Ron Thorne-Finch writes, feminists maintain that by "cooking, cleaning, and nurturing, women through the ages have played the important role of keeping families together," and therefore these activities "should not be devalued simply because they have been of little interest to men."⁶ Feminists have radically enlarged the contemporary scope of womanhood by recognizing that society has allowed men to exploit women by characterizing the importance of passivity, dependence, and deference as if they were an integral part of women's "true" nature. As Thorne-Finch explains, feminists have met with some degree of success in fostering a healthy self-

image among women by encouraging them to be "independent, self-reliant, and assertive."⁷

Traditional notions of masculinity entail the view that the public marketplace constitutes a man's "appropriate" sphere, and so men have traditionally expected their wives to operate within the separate sphere of private domestic life with all its daily drudgery. The public / private dichotomy, according to feminist legal theorist Elizabeth Schneider, has often been viewed as "an important construct for understanding gender."⁸ Paradoxically, however, although men have traditionally led a public life in the realm of the market economy, the previously mentioned concept that "a man's home is his castle" has also held sway, and so women have been kept virtually absent from the public sphere while being subordinated and oppressed in men's "private castles." As Schneider argues, the "notion of marital privacy has been a source of oppression to battered women and has helped to maintain women's subordination within the family. However, a more affirmative concept of privacy may be developed."⁹

Given the fact that privacy as it is currently conceptualized actually promotes violence against women within the home, part of the task of feminist theory today entails a deconstruction of male-defined notions of privacy as the antithesis of the public realm, the central premise of the traditional "either / or" dichotomy which arbitrarily (and falsely) places every event and every lived experience within a socially constructed binary system of logic. Schneider argues that privacy as it is presently defined "encourages, reinforces, and supports violence against women, [because] privacy says that violence against women is immune from sanction, that it is permitted, acceptable and part of the basic fabric of American family life."¹⁰ Patriarchal American society overtly focuses on women-as-victims in a manner which "perpetuates the power of patriarchy" by not only failing to scrutinize the batterer and his motives, but by actually allowing him to effectively deny his role as the batterer and thereby maintain a degree of male privilege and domination.¹¹

Male dominance and corresponding images of battered women as the survivors of an unconscionable, immoral and unjust series of severely harmful actions carry a clearly delineated message which speaks to the power of heterosexuality as an overwhelming source of oppression. As feminist Carol Gilligan has written, a case can be made that "stereotypes of males as aggressive and females as nurturant, however distorting and however limited, have some empirical claim."¹² The validity of such gender-based images, according to Gilligan, are overtly reflected in the "overwhelmingly male composition of the prison population and the extent to which women take care of young children," two straightforward examples of the aforementioned stereotypes.¹³

As feminist activist Michele Bograd has articulated, although there is "no unified feminist perspective on wife abuse," all feminist researchers seek to answer the question 'Why do men beat their wives?' by analyzing the general nature of heterosexual relationships in society while refusing to accept the widely-held notion that male violence against women constitutes a set of "random, irrational acts."¹⁴ Feminists view wife abuse as a pattern of social control which becomes understandable "only through examination of the social context" within which the pattern remains pervasive. The cultural ideal of the American family home as a "peaceful haven in a heartless world" does not obtain, from a feminist perspective; rather, as Bograd explains, feminist theory effectively draws "empirical links between the personal and the political," thereby leading to the conclusion that "wife abuse is not a private matter but a social one."¹⁵

The influence of feminists who have worked to ameliorate the pervasive plight of battered women in contemporary society has constituted a crucial component of the recent transformation of public perceptions regarding the issue of violence against women. In some respects, a "public dimension" of the problem has been added, largely due to the efforts of feminist public activists who have worked directly with battered women, and who also have been vocal in

demanding gender justice in the nation's court system. As Schneider observes, the efforts of political activists has resulted in "a recognition by governmental bodies, speaking with a public voice, that they must acknowledge and deal with the problem...As work on battered women has evolved, social meanings of what is private and public, and the relationship between them, have become more complex."¹⁶ Hence, a new and more complicated "zone" between the overlapping "public" and "private" spheres of society has combined with a heightened social consciousness among Americans, the vast majority of whom deplore family violence, to create a much-needed "public dimension" to the issue.

Evidence of the developing awareness among "mainstream" society of the public dimension of the problem of battered women includes an expanded range of available legal remedies and a widespread increase in statutes specifically designed to deal directly with the problem.¹⁷ Civil remedies such as restraining orders, protective orders, and "no-contact" orders provide women with a means of legally enjoining men not only from beating them, but also from coming to their homes, or even telephoning them. Also, criminal statutes presently exist which result in the arrest of batterers who either beat a woman, or who break the law by violating a restraining order.¹⁸ Perhaps the best evidence of the important new public dimension of violence against women as a social and political issue can be seen in the fairly wide number of court decisions handed down on the matter in recent years, including decisions rendered as the result of batterers striving to cloak themselves behind the Bill of Rights and its implicit "right to privacy" in order to escape prosecution on charges of battery and sexual assault.¹⁹

The outcomes of several court cases provide a degree of hope for a crucial transformation of the legal system from a strictly adversarial system to a "kinder, gentler" sort of judiciary, one whose present-day focus on the plight of battered wives has largely stemmed from an increase in feminist activism on the issue, coupled with the entrance of a number of influential feminist attorneys into

the nation's legal arena. Ironically, the decisions which resulted from a male plaintiff suing for his civil liberties after he had been either charged or convicted of battery or sexual assault have actually led to positive results for women.¹ In the case of *Commonwealth v. Shoemaker*, 359 Pa. Super. 111, 528 A.2d 591 (1986), an appellate court set an important precedent by rejecting a male defendant's "privacy challenge" in concluding that, because all individuals possess a "fundamental right to control the integrity of [their] own bod[ies]," any alleged "right" to privately rape one's spouse must be overridden by the state's compelling interest in protecting the personal freedom of individuals to maintain the integrity of their own bodies in an unimpaired condition.²⁰ Other related cases involving male-initiated "privacy challenges" to criminal convictions for battering women have led to even stricter interpretations of the law, including the important position that "marital privacy was never intended to cover nonconsensual acts."²¹ Significantly, an important judicial analogy has been established in a case where the court held that "just as a husband cannot invoke a right to marital privacy to escape liability for beating his wife, he cannot justifiably rape his wife under the guise of a right to privacy."²²

The "public dimension" of the problem of battered women in America does not entail a meaningful decrease in its occurrence, however. As Schneider points out, there exist "serious problems in the enforcement and implementation" of the current legal remedies available to battered women.²³ In an influential essay, the popular radical feminist Andrea Dworkin has publicly and honestly set forth the tragic consequences of the fact that, in far too many cases, the available system of legal sanctions against violence against women does not deter a batterer from physically and emotionally attacking the woman who sought legal protection from him. In her "Letter from a War Zone," Dworkin effectively explicates the on-going violent atrocities being committed against

¹ Although the terms "battery," "sexual assault," and "rape" cannot be said to be precise synonyms, rape can be seen as a "subset" of battery. As Susan Brownmiller argues, the "typical American perpetrator of forcible rape is an aggressive, hostile youth who chooses to do violence to women." (See Brownmiller, *Against Our Will*, Simon & Schuster, Inc., 1975, Chapter Six, "The Police Blotter Rapist").

women, explaining that in the United States, a "woman is beaten every eighteen seconds: by her husband or the man she lives with, not by a psychotic stranger in an alley."²⁴

The seriousness of contemporary violence against women has actually reached crisis proportions in America, a fact which ought to mobilize socially concerned citizens to unite against the injustice. Although most Americans are probably ill-informed with regard to the prevalence of the problem, the fact that feminists have enabled the issue to become a subject of discourse within the public domain provides a potential starting-point from which meaningful social change can occur. The facts as they stand entail an obvious need for prioritizing the issue, among the dominant society as well as among feminist activists. "Woman beating, the intimate kind, is the most commonly committed violent crime in the country," writes Dworkin. To make matters worse, a woman is raped every three minutes in the United States, and over forty percent of adult women in America have been raped at least once.²⁵

The general perception among most Americans holds that, not long ago, there existed a time when most families were happy and homogenous, albeit anxious, living as they were under the perceived threat of nuclear annihilation at the hands of the Soviet Union. The 1950s inform contemporary American politics via the model of the Great American Family, a socially constructed ideal utopian nuclear family which adhered to "traditional" values in a world of relative innocence. In retrospect, one can readily understand the nostalgia for a return to the bygone era when, in the words of social historian Stephanie Coontz, "Gang warfare among youths did not lead to drive-by shootings, the crack epidemic had not hit yet; discipline problems in the schools were minor; [and] no 'secular humanist' movement opposed the 1954 addition of the words 'under God' to the Pledge of Allegiance."²⁶ The tactics in use today among many politicians seeking public office through the use of the New Right rhetoric of "family values" reinforce the widespread notion that the 1950s represent the

nation's "good old days," "good" because American households seemed to live in a state of relative bliss and harmony.

Yet, the so-called "traditional" family of the 1950s had no actual precedent in the nation's history, and thus constituted a "qualitatively new phenomenon" whose public image belied its private reality. As Coontz explains in her myth-shattering book *The Way We Never Were*, the reality of the American family of the 1950s was "far more painful and complex than situation comedy reruns or the expurgated memories of the nostalgic would suggest. Contrary to popular opinion, 'Leave it to Beaver' was not a documentary."²⁷

As Coontz points out, behind the polished facade of the Great American Family of the fifties existed "violence, terror, or simply grinding misery that only occasionally came to light." Family violence occurred on a regular, on-going basis, but the family "ideal" to which Americans look today with great nostalgia was maintained as the result of a conscious and deliberate pattern of concealment of domestic strife and marital disharmony which helped serve the nation's defense interests in the early years of the Cold War. According to Coontz, the nation's foremost journal of American family sociology "did not carry a single article on family violence between 1939 and 1969," and wife battering was not even viewed as a "real crime" by most Americans in the fifties.²⁹ The legendary family of the 1950s actually represented a source of blatant oppression for many housewives; when women were beaten, according to historian Elizabeth Pleck, psychiatrists often regarded the battered woman as a "masochist who provoked her husband into beating her."³⁰

Such scurrilous pronouncements by experts from within the medical profession served to foster male dominance over women at a time when the hedges and driveways of suburbia effectively concealed "tragedies of madness, suicide, and—most prevalent of all—chronic and severe alcoholism."³¹ Mothers and their offspring played a critical role in furthering the false facade by "keeping up appearances," having been pressed by the dominant American capitalist

patriarchy into serving as "happy smiling fronts, emissaries of family normalcy, cheerful proof that 'nothing was really wrong' at the Joneses."³²

Something really was wrong, however; although the myth of the traditional family of the fifties constitutes an important political tool by which present-day politicians convince people to vote for them, a return to the fifties does not entail a return to "normalcy." The prevalence of the psychological approach to addressing family strife served to help maintain male patriarchal power over women. As Pleck argues, many women who were either physically or sexually assaulted by their husbands understandably tended to refuse their husbands' subsequent demands for sex, a fact which meant that women and not men needed therapy (!) to "bring out their anxieties about sex activities."³³ Further, the psychiatric profession literally added insult to injury by declaring that *women* were responsible for much of the familial discord which took place, including inter-family violence; as one prominent physician wrote in 1953, behind the "mask of placidity" and the "outwardly feminine appearance" of many American housewives, there hid "an inwardly tense and emotionally unstable individual seething with hidden aggressiveness and resentment."³⁴

Whether or not white middle-class housewives were "seething with anger" because they grew tired of being physically assaulted, emotionally abused, and socially confined to their places within the home, the false representations of the "traditional" fifties family will not suffice as a realistic image for contemporary American women to model themselves after, nor do they serve any real purpose in the quest to ameliorate contemporary family violence in America. The fictive image of the happy nuclear family in America does, however, provide evidence to suggest that the cultural ideal of the American family home as a peaceful haven in a heartless world belies the fundamental reality of women's subordination at the hands of the male batterer, and that feminists who assert that wife abuse constitutes a social problem rather than a private matter are correct in their assertion.

Feminism integrates practice and theory. As Leslie Bender, Professor of Law at Syracuse University, writes, although there exist “many feminisms, all with distinctive priorities,” certain generalizations can be made with regard to the ideology of feminist women as an aggregate.³⁵ Feminism, as Bender notes, is “political, methodological, philosophical, and intent upon transformation.”³⁶ The prominent U.S. women’s historian Linda Gordon provides a concise “working definition” of feminism: “By feminism,” she writes, “I mean an analysis of women’s subordination for the purpose of figuring out how to change it.”³⁷

Social change from a feminist perspective entails not only exposing patriarchy, but also seeking empowerment for women in the process. With regard to the problem of battered women, feminism seeks to expose batterers within a public socio-political framework which also exposes the tyranny of patriarchy. The term “patriarchy” denotes a system which limits women’s opportunities for empowerment. The term’s definition has gradually evolved through the ages, to finally come to refer to a male-dominated system which operates to exclude the vast majority of women and minority group members from gaining full, equal access to the nation’s powerful social, political, and economic institutions, where they could (at least in theory) receive a full and equal share of the benefits of society. Although Webster’s Dictionary still defines “patriarchy” to designate “a form of social organization in which the father is the head of the family, clan, or tribe, and descent is reckoned in the male line,” Bender provides a definition which implicates the primacy of patriarchy in creating and maintaining the problem of violence against women. “Patriarchy,” writes Bender, “is the feminist term for the ubiquitous phenomenon of male domination and hierarchy, through which men have had the bulk of power and have used that power to subordinate.”³⁸ As Bender explains, male power manifests itself not only in the area of political economics, but it also “governs families and sexual relationships,” in the process providing certain temporary benefits to those it relegates to a marginalized social status, benefits

which are “greatly outnumbered by the permanent and serious harm to [women].”³⁹

The egregious harm women incur when they are battered by men has led some feminists, especially those of the “radical” school of thought, to intervene on behalf of battered women. Radical feminist women have effectively used their roles as counselors, therapists, educators, and students to make feminist emotional counseling more relevant to the needs of all women, especially those women who are interested in forms of therapeutic healing which allow them to retain, or perhaps even to enhance, positive identities of themselves as women, and as human beings. Radical feminism views violence against women as “unnecessary and yet unavoidable, individual yet common, suffering born of the patriarchy and other systemic oppression,” and offers a range of therapy which utilizes consciousness-raising techniques to help women heal.⁴⁰

“Radical therapy” refers to individual counseling as well as the political movement which grew in response to systemic male oppression, and it focuses primarily on “the physical violation of Woman as Body.”⁴¹ One of the more “radical” aspects of radical feminist therapy involves its anti-psychiatric perspective, an interesting viewpoint with regard to mainstream modern medicine which holds that “psychiatry [constitutes] a fundamentally oppressive institution propped up by hegemony and built upon mystification, subordination, and violence.”⁴² Psychiatry, in other words, comprises a form of patriarchal oppression that harms women, at least in the view of most practitioners of radical feminist therapy.

The operant premises of radical feminist counseling are based on radical feminist ideology, as well as the lived experiences of women within patriarchy. There are four primary propositions of radical feminist therapy, and they demonstrate the importance of radical feminist theory in shaping the ways in which feminist activists work within the community. The first premise of radical feminist therapy holds that “women are violently reduced to bodies that are-for-men, and those bodies are then further violated.”⁴³ Significantly, this premise

parallels the language and political rhetoric of an important New York-based "second wave" radical feminist group known as the Redstockings.⁴⁴

As historian Miriam Schneir has written, the women who formed the radical Redstockings feminist organization in 1969 epitomize the values and precepts of second wave feminism from within their place in the sixties women's movement. The Redstockings' name represents a twist on the word "bluestockings," a derogatory term which has been applied to "brainy" women, and the group was formed by two women with keen intellects, Shulamith Firestone and Ellen Willis, during the genesis of the radical feminist movement in America.⁴⁵ The group's belief that male supremacy constitutes "the oldest, most basic form of oppression of one human being by another" forms the basis for the celebrated "Redstockings Manifesto," an interesting list of grievances which demands that all men "give up their male privileges and support women's liberation in the interest of our humanity and their own."⁴⁶

In light of the span of time between 1969, when the Redstockings organized, and the recent advent of radical feminist therapy for battered women, the similarities between the radical Redstockings Manifesto and the four operant premises of radical feminist therapy seem to at least suggest that an ideological continuity, consistent across time, comprises the core of radical feminism and illustrates its dedication to truth as a moral vehicle for understanding the ever-present problem of male supremacy and its insidious grip on women's lives. The Redstockings challenged the prevailing power structure by choosing the public domain as a site of resistance, and they completely refused to accept society's prevalent sexist notions which entail a "public man / private woman" dichotomy.

Recalling the first premise of today's feminist therapy for battered women, that "women are reduced to bodies that are-for-men," the Redstockings' 1969 view that women's oppression is "total, affecting every fact of our lives," and that women's humanity is diminished because women's "prescribed behavior is enforced by the threat of male violence," demonstrates a significant degree of consistency and continuity in radical feminist thought during the past twenty or

thirty years.⁴⁷ The second operant premise of contemporary radical feminist counseling maintains that “violence is absolutely integral to our experience as women.”⁴⁸ This premise constitutes an approximate equivalent of the notion that “men have controlled all political, economic, and cultural institutions and backed up this control with physical force,” a statement issued as part of the Redstockings Manifesto which illustrates an interesting parallel between the two documents, thus reinforcing their value as evidence of continuity and congruity of radical feminist political thought during the past twenty-five years.⁴⁹ Just as the operant premises of contemporary radical feminist *therapy* are written from the perspective of women and their shared experience, the key tenets of radical feminist *theory* (as embodied in the Redstockings Manifesto) are also the result of women’s experiences as well.

Further parallels exist between the third and fourth operant premises of present-day radical feminist therapy, and the key principles of the late sixties “second wave” radical feminist movement. As set forth by Burstow, the third premise states that “extreme violence is the context in which other violence occurs and gives meaning to the other forms, with which it inevitably interacts.”⁵⁰ In their manifesto, the Redstockings agreed with the idea that the context of violence (or, “enforced submission”) characterizes its reality, condemning the idea that “women consent to or are to blame for their own oppression” as if the socially constructed category “woman” contained as part of its essential nature characteristics which render women as being somehow blameworthy, or even complicit, in their own battering. “Women’s submission,” declared the Redstockings, stems from “continual daily pressure from men” and is *not* the result of “stupidity or mental illness.”⁵¹ Finally, the concluding premise of radical feminist therapy which declares that “all women are subject to extreme violence at some time or live with the threat of extreme violence” provides a point of departure from which “women’s liberation” and radical feminist therapy can both be seen as an obvious and flat-out refusal of women to see *themselves* as “the problem.”⁵² Through “consciousness-raising” therapy, radical feminists come to

see their own humanity more clearly delineated in reality, rather than represented solely on society's terms. "Women-as-objects" fails to obtain, other than as a recognition that some human beings (women) are oppressed at the hands of some men (batterers) who see them as sub-human, devalued "objects" in a system where male power is "enforced by the threat of violence."⁵³

The notion that "a man's home is his castle" epitomizes the central claim of batterers inasmuch as it entails the obvious possibility for violent confrontations between batterers and women. At the hands of male tyranny, "women-as-people" do not exist, but instead become obliterated by the batterer's "woman-as-object" mindset. As Coontz has written, "pro-family" conservatives in America today espouse the "ideal family" as a unit which includes "paternal bread-winning, maternal domesticity, repression of female sexuality, and an equation of family privacy with free enterprise, Americanism, and patriotism."⁵⁴ This family pattern, according to Gordon, is "*not* traditional, as is often claimed today."⁵⁵ It also fails to obtain in today's actual world of the late 1990s. Yet the rhetoric of the "pro-family" right invariably strives to promote the image which has, until recent years, been the guiding force for the ideal "paternal breadwinner" family image; today, although more Americans reject "the" traditional family image in pursuit of their own ideal, the notion that "a man's home is his castle" still holds sway in the religious fundamentalist-oriented "pro-family" political right.

The purpose of this essay will be essentially two-fold. For one, it seeks to explore the issue of battered women from a variety of perspectives in order to generate meaningful dialogue with respect to the issue. Also, the essay's author hopes to provide the reader with a fuller understanding of the history and politics behind the present-day phenomenon of battered women. By meeting these two goals, the sole and overriding aim of the essay is to articulate at least a few ideas about what men can do to ameliorate the problem. The Redstockings Manifesto argues, quite correctly, that women "do not need to change themselves, but to change men."⁵⁶ To this it can be added that *men* need to

change *themselves*, partially by changing their notions of what it means to be a man.

Feminism constitutes an important means by which women can become empowered and by which society can become more democratic and less patriarchal, both in practice as well as principle. Social justice demands more than a strong and active feminist women's involvement in the political process, however. Unless men everywhere become politically conscious of the need for meaningful and lasting social and political change, the problem of violence against women will continue unabated because of men's status in the patriarchal social structure as a "forty-nine percent majority group," and because of a variety of historical social and legal precedents which have always, at least until quite recently, functioned as ways of "legitimizing" male violence and tyranny. History and politics serve as disciplines through which the feminist notion "the personal is political" (and hence a part of the public domain) can help create an effective conflation of "public / private" precepts which need re-definition. If this paper helps re-define the aforementioned precepts and delineates a plausible set of ideas with which to replace them, and which could help serve to create a kinder, gentler America whose ethical characteristics would necessarily preclude and prevent gender injustice, then it will have satisfied its author as having been a worthwhile undertaking.

Why They Don't (Have to) Leave

Before embarking on a journey into the social and legal history of wife beating in America, and, to some extent, England, it will be necessary to explore the present-day phenomenon of battered women from the perspective of women's responses to being battered. In attempting to appreciate the lived experiences of battered women, it becomes important to analyze cases, legal or otherwise, in which battered women responded in different ways to different circumstances; such analysis is required to enhance one's awareness of the

variety of issues of gender justice in America and the ways in which the issues are handled by men in power.

Upon examining certain important trials and their outcomes, the legal system reveals itself as an evolving entity, especially when specifically examining a court's "rationale," the legal reasoning behind its decision. For example, feminist law professor Christine A. Littleton describes the case of Jo, a twenty-three year old battered woman whose response to her circumstances was to kill her batterer.⁵⁷

Jo was convicted at her trial for the crime of voluntary manslaughter after the following set of facts occurred. Jo's boyfriend David, who lived with her most of the time, tried to initiate sex with her one night, and she requested that he stop because she felt too fatigued. David instantly became angry and screamed at Jo, then refused to allow her to leave by holding his clenched fist in her face. When Jo sat down, David kicked her swiftly and directly in the back. Jo then responded (rather creatively) by placing a hair pick between her back and David's on-coming foot as he kicked her again. The temporary pain David experienced caused him to grow even angrier, however, and he grabbed Jo by the throat and choked her, and then finally hurled her against the bedroom door.⁵⁸

In response, Jo found her gun and then, in an absolute panic, ran downstairs to place a phone call to her mother, only to discover that the phone had been disconnected. Jo then tried to flee the premises, but David refused to allow her to leave by slamming the door on her foot, at which time Jo retaliated by firing three bullets directly at David with her eyes shut. Soon thereafter, Jo ran to a neighbor's home and phoned the police. When they arrived, Jo was arrested, tried, and finally convicted of the crime of manslaughter.⁵⁹

At her trial, Jo pled "not guilty" and claimed she had acted in self defense. She took the stand and testified that David had beaten her regularly, always telling her afterward that he would never do it again. The beatings became more frequent, however, after Jo moved in with David; yet, Jo always said she

believed David when he told her he would never do it again. She testified that on the night she killed David he had threatened her and she was "scared he would hurt her more than ever before, and that she shot [David] in fear of her life."⁶⁰

The issues at stake in the case of Jo and David defy "black letter law" and illustrate the problematic nature of murder-as-self-defense against a batterer. Jo was not allowed the right to introduce expert testimony at her trial which would have tended to exonerate her by explicating a controversial social phenomenon known as "battered women's syndrome." Without hearing testimony pertaining to the "syndrome," the jury did not learn that women in the throes of battered women's syndrome "believe that their husbands are capable of killing them, that there is no escape, and that if they leave they will be found and hurt even more."⁶¹ The jury at Jo's trial was not informed by an expert from the medical profession that battered women themselves invariably believe that they are in some way blameworthy for their husband's behavior, and they often also believe that it is impossible to escape the batterer, a fact which illustrates the extremely tense atmosphere of a situation in which a battered woman believes she cannot leave, and sometimes experiences such intense fear that she becomes literally immobilized.⁶² Yet the battered woman's response in remaining at the scene with the batterer is largely viewed as "irrational" by the general public; indeed, the thrust of Jo's appeal of her verdict (guilty) centered on the question of whether Jo's belief ("no escape is possible") was *rational*, or whether it constituted an "aspect of women's abnormal psychology."⁶³

Jo's conviction was reversed on appeal by the Georgia State Supreme Court, but even so the court's decision was roundly criticized by advocates for battered women due to its emphasis on the alleged "unreasonableness" of Jo's having remained at the scene of her battering(s). The state supreme court reasoned that the "average layman" would be inclined to believe that the "logical" reaction of a battered woman would be to "call the police or leave her husband or boyfriend," and thus the jury should have been allowed to hear

testimony at Jo's trial pertaining to the "battered women's syndrome."⁶⁴ Battered women, as Littleton writes, are sometimes seen by the court as "alien," their reasoning and actions being incomprehensible to the average reasonable person, the jury member who is actually asked to imagine what *his* response would have been under the "same or similar circumstances."⁶⁵

According to Littleton's account of Jo's case, the appellate court's holding that battered women's "reasoning and actions [are] beyond the ken of the average layman" is plausible in light of the fact that "not only battered women, but all women, may appear *alien* from a male perspective"(itals. added).⁶⁶ The notion that the battered woman's "primary motivation is fear" has been criticized as being "largely irrelevant," although in practice a woman who acts in self-defense must actually convince the jury that she was afraid of the batterer in a way which the jury members will understand, or else she will be imprisoned by the state (instead of by the batterer).⁶⁷ Finally, the "average layman" must also be convinced that a battered woman who did not leave the scene because she believed there was no avenue of escape was actually entitled to her belief because it was "reasonable."⁶⁸ Only expert testimony, in the view of the court, could rationalize the seeming "irrationality" of not leaving, so that the jury can understand its rational basis.

The case of Jo cuts to the heart of the question which invariably (and quite maddeningly) gets raised with regard to all battered women: "Why didn't she just leave?" As Littleton argues in her essay about Jo's trial and conviction, the consequences of whether or not the battered woman's belief that "escape is impossible" is seen as a *rational* belief for a battered woman to have, are numerous and fundamentally interrelated.⁶⁹ Paradoxically, Littleton argues, the law's focus on the personal, subjective nature of a woman's belief that it would be fruitless to flee a batterer, and its failure to credit the belief's rational basis, allows batterers to win at trial if they can show that the individual woman had not yet been "battered enough" to use the "battered women's syndrome."⁷⁰ Although Jo was "battered enough" that the abrogation of her right to expert testimony

about battered women's syndrome served as "reversible error" at her trial, other women have not been so fortunate; in a recent Idaho case, for instance, the exclusion of expert testimony was upheld in a trial where "the defendant testified as to *only one* prior occasion of physical abuse."⁷¹

Different battered women respond in different, contrasting ways to different sets of circumstances. The question of whether it is "rational" for a battered woman to believe she cannot, in any way, possibly hope to escape her plight has managed to work its way to the forefront of criminal matters and civil litigation. As a general rule, people tend to view battered women as "deviant, unusual, perhaps even rare," a view which reinforces notions of male violence as a "woman's problem." When the law focuses on women's psychological responses to battering, it actually becomes easier to blame the battered woman herself for her failure to escape.⁷² Thus the law operates to some extent to make women seem culpable for their own battering. The law maintains an "absolute focus" on whether the battered woman 'chose' correctly between the risk of leaving and the risk of staying, and "away from whether men should be able to impose *either* sets of risk [on women],"⁷³ according to Littleton; as a result, society and its legal system never truly address the issue(s) which can be deemed central to the problem of battered women in America: male violence, male power, and patriarchy.⁷⁴

As Miami University Law Professor Martha R. Mahoney writes, the "shopworn" question (why didn't she leave?) reveals certain implicit yet widely-based assumptions about battered women, assumptions which many people have held without much question or scrutiny. For battered women, the "right solution" entails the separation of one's self from one's own home, if the old shop-worn question demands an answer. Implicit in the question is the notion that it is the *woman's responsibility* to leave, even though the man is the party-at-fault, and that she *could have left* if she had really wanted to.⁷⁵ From this, some anti-feminists ("misogynists") have even claimed that the battered woman (by society's definition "irrational") "rationally" chose to remain with the batterer, and

so either the situation must not have been too greatly abhorrent, or the battered woman carried a share of the guilt for her “role” in the battery: her failure to “just leave.”

The ludicrous, wornout question (why didn't she just leave?) altogether ignores women's role as a peacemaker in the house, a childrearing homemaker, a nurturant mother, and a supportive wife, all of which are important aspects of women's traditional domestic identities. The complexity of a mother's bond to her children and / or her husband becomes trivialized by the question, as if the family always functions quite well in her absence, when she “just leaves.” Of course, the truth regarding wife-beating is that many women actually *do* leave, but their departures tend to be short-lived due to their many responsibilities within the family. As Mahoney writes, “When we ask the woman ‘Exactly what did you do in your search for help?’ the answer often turns out to be that she left—at least temporarily.”⁷⁶

Self-defense cases scarcely constitute the “norm” in battered women's lives, yet they are illustrative of the wide variety of responses to being battered, responses which do not necessarily preclude taking the life of the batterer. Like Littleton, Mahoney also explores the importance of defining “self-defense” in cases where a battered woman killed the batterer. In *State v. Stewart* 763 P.2d 572 (Kansas, 1985), the Kansas State Supreme Court handed down a ruling pertaining to the question “Why didn't she leave instead?” in a case where a woman killed her battering husband in self-defense *while he was asleep*.⁷⁷

The facts in *Stewart* occurred as follows. Peggy and Mike Stewart married in 1974, and Mike became a father to Carla and Laura, Peggy's daughters through her first marriage. As soon as Peggy and Mike became newly-weds, Mike proceeded to abuse Peggy both physically and emotionally, and Peggy entered psychiatric treatment for schizophrenia after she developed emotional problems stemming from her abusive relationship with Mike. Not only did Mike tamper with Peggy's prescription drugs, thus forcing her to do without

her medication, he also severely beat her daughter Carla. Finally, after Mike told Peggy to “kill and bury Carla,” Peggy decided to file for divorce.⁷⁸

The *Stewart* court was divided, but its opinion(s) concurrently chronicled an “extraordinarily violent and abusive marriage” in which Peggy received death threats directly and repeatedly from Mike. In one instance, Mike, according to court records, shot and killed Peggy’s two pet cats, then “held a gun to Peggy’s head, threatening to shoot,” and on another occasion he threatened her with a loaded shotgun.⁷⁹ Peggy confided in her friends, telling them that Mike would kill her one day.

One day, Peggy left after having endured years of repeated episodes which had harmed her physically, emotionally, and psychologically. Peggy moved to another state and lived with her daughter Laura, who had Peggy admitted into a psychiatric hospital for a brief period until Mike came to take her back home to Kansas. During the drive back, Mike told Peggy he would “kill her if she ever ran away again.”⁸⁰

When the couple arrived at home, Mike proceeded to sexually assault Peggy against her will, mentioning that she would “not be there long, and could not take her things where she was going,” a statement which the average reasonable person would construe to mean that Mike planned to kill Peggy.⁸¹ Mike forced Peggy to have sex with him, and then insisted she sleep with him. He fell asleep, and Peggy began experiencing auditory hallucinations which seemed to be saying: “Kill or be killed.”⁸² Peggy then shot and killed Mike as he slept.

In this matter, the Kansas State Supreme Court ruled that Peggy was “in no imminent danger when she shot Mike,” a statement whose seemingly “obvious” nature belies its actual falsity.⁸³ Under the aforementioned set of facts, the court ruled, a battered woman “cannot reasonably fear imminent life-threatening danger from her sleeping spouse.”⁸⁴ The court’s “wisdom” ignored the “imprisoning effect of Mike’s bringing her back from another state” and his threat to kill Peggy if she ever left him again.⁸⁵ To make matters worse, the court

established a precedent for construing “imminent harm” to be the precise equivalent of “immediate harm.”

Such legal nuances as the distinction between “immediate” and “imminent” often inform the outcomes of later court rulings in abuse cases. In *Stewart* the jury was *not* allowed to hear self-defense instructions from the judge because “the woman faced no ‘imminent’ danger of threat or bodily harm.”⁸⁶ Recent legal decisions which conflate the terms “imminent” and “immediate” have also led to problems for women who acted in self-defense after they were battered, since the question of whether a battered woman was in “imminent danger of death or grave bodily harm” offers the most plausible, most likely-to-succeed legal defense in instances where the battered woman responded to an on-going series of batterings by killing the batterer, and especially where it occurred with “premeditation” on her part. Even though Peggy was in no “immediate” danger at the precise point in time at which she shot and killed Mike as he slept, she was in “imminent” danger in the sense that Mike had threatened to kill her in the past, and had subjected her to a systematic and seemingly unabated pattern of physical and emotional abuse.⁸⁷

In her book *Battered Wives*, Del Martin addressed the questions “Why do these wives stay? Why don’t they pack up their bags and walk out?” by acknowledging that they are “fair questions,” given the unhappy fact that nobody can really know what it is like to be a battered woman unless they actually *are* a battered woman.⁸⁸ Experience may be the best, and the cruelest, of all teachers. Only a small percent of battered women take the life of the batterer; the cases of Jo and Peggy illustrate an extreme yet understandable pair of responses to years of battering. Martin’s book effectively chronicles the factors which lead women to remain with a batterer, and the factors can help foster a greater understanding and appreciation of the lived experiences of battered women.

The lived experience of a woman as the “battered one” in America constitutes an arbitrary aggregate of *all* battered women’s experiences; and, of course, such a general grouping contains the inherent problem of not appearing

“inclusive” (another shopworn term) because the presence of women of color in the social scheme is not made visible enough. Such an objection should be dealt with by heeding the voices of women of color, an enterprise with which this section of the essay will conclude. For the present, however, an examination of the American battered woman “in general” can be accomplished by exploring the work of researchers such as Martin, whose 1976 book *Battered Wives* was written from her perspective as coordinator of the NOW Task Force on Battered Women and hence assumed an inherently “liberal” feminist stance. In general, according to Martin, the most understandable (yet paradoxically least recognized) explanation is *fear*.⁸⁹ Fear leads to immobility; terror breeds insanity.

The concept “learned helplessness” has played a crucial and not uncontroversial role in shaping society’s perceptions of battered women in general.⁹⁰ Learned helplessness, according to R. Emerson Dobash, is “meant to explain why women do not leave their violent partners,” although some of its proponents also view it as a sufficient explanation as to why women are battered.⁹¹ “Learned helplessness” as a concept forms the fundamental basis for “battered women’s syndrome,” a term which actually entails dubious consequences for battered women. In the words of Dobash and Dobash, authors of the book *Violence Against Wives*, now regarded as a classic in the field, it “is now recognized that the concepts, ‘learned helplessness’ and ‘battered women’s syndrome’, and especially their use in courts, have fueled orthodox images of the innate incapacities of women, who appear powerless, unable and unwilling to act to help themselves.”⁹² As is so often the case in social science, a well-intentioned theory has backfired against women, and the so-called “learned helplessness” stereotype diminishes women in a dehumanizing, disempowering manner despite its usefulness as a defense in the comparatively small number of isolated instances where battered women kill their batterer.

Battered women who kill batterers have an interesting appeal to their stories which belies the reality of the Average Battered Woman. The *real* average battered woman is not passive, dependent, and helpless, and instead has the strength to live in the face of continued terror. Most battered women, including those who kill their batterer in self-defense, relate stories of fear, love, devotion, and an absence of options.⁹³ As Littleton notes, women who make “better wives, more submissive helpmates, and more compliant sexual partners” do not, in the eyes of society, get their noses broken, their eyes blackened, nor their bodies bruised.⁹⁴ The Average Battered Woman as a stereotype fulfills the required qualities for full categorization under the heading “woman,” but the “real” average battered woman often deviates by not being submissive and compliant, hence “causing” her battering, from the traditional perspective. It was *something about her*, according to this all-too-familiar logic.

Del Martin’s pioneering work deconstructs the image of the Average Battered Woman by examining the nature of society, and the “socially determined” reasons that women often stay with a batterer. Traditional American values play a large role, implying that a woman’s “primary source of satisfaction is her marriage.”⁹⁵ Some women adopt that notion as part of their identity, and actually take full responsibility for a bad marriage even if they were beaten. “Her sense of responsibility will lead her to feel ashamed if her marriage fails,” writes Martin, “and she will try above all else to save face.”⁹⁶

One recently divorced battered mother of five spoke to Martin about the violence she endured at the hands of her batterer over the course of an eighteen-year marriage. “Well-educated, well-to-do people don’t discuss such things [i.e., violence, abuse],” the battered mother said. “I became a super cover-up artist. Shielding five children from the fact their father took snipes at their mother was easy compared to the elaborate excuses designed for friends.”⁹⁷ Further, daily interaction between the batterer and the battered woman does not consistently lead to violence and, in fact, can sometimes seem rather pleasant. As Martin explains, “from time to time [a battered wife] may

have a friendly exchange with her husband," thus generating a source of hope that somehow the battering will end.⁹⁸

A "vicious circle" situation constitutes a not uncommon scenario, during which the battered woman makes attempts at "reasoning" and "rationalizing" her predicament in order to make sense of it. Nurturing women, those most inclined to feel an "attachment" with their batterer because he so commonly "needs her," sometimes do not feel "complete" unless they are caring for another, a "loved one." Upon brief consideration, such women may validly conclude that, the more violent the batterer becomes, the sicker he must be, and so therefore he needs her all the more.⁹⁹ From this tortured logic it can sometimes follow that the more the batterer needs her, the more he *loves* her, and thus the more she "loves" him in return. Martin refers to this as a "peculiar but very common permutation of marital affection."¹⁰⁰

Yet research has identified a general trend toward the likelihood that the average marriage between a batterer and a battered woman will change across time, rather than remain static and self-defeating, as the "battered women's syndrome" would clearly seem to suggest. Considerable change has been reported in terms of the violence itself, patterns of seeking help, and the battered woman's perception of "the problem and her predicament."¹⁰¹ As a result, by today the results of research on the problem shows a marked distinction between "traditional" (family values-oriented) ideas of "domesticity as vocation," and "contemporary" (community-oriented) notions of therapy and active neighborhood networks of assistance, a distinction which is shaped by the difference between the image of the Average Battered Woman, and the reality of average battered women. The popular misconception of the general public regarding the average battered woman portrays a hopeless, helpless woman who "may have a mental problem or something" which leads her to somehow consciously choose men who inevitably batter her during a relationship. This false image serves to move the blame entirely away from the batterer.

As Dobash writes, studies in the U.S. and England have been conducted on the responses of women who have endured “severe, persistent, usually escalating violence,” and the results demonstrate that battered women do *not* remain helpless and inactive, but instead enter the public domain to seek help through a network of agencies, organizations, and individuals. Battered women’s real lives often belie the prevalent notions of “passive, helpless victims” who have an abundance of problems to the extent that it appears as if society believes that battered *women* (not the batterer) need immediate counseling.¹⁰²

The “learned helplessness” stereotype was initially advanced by Professor of Psychology Lenore Walker, whose 1979 bestseller *The Battered Woman* chronicled the “discovery” of a “cycle of violence,” a “discovery” which Walker claims was based on “deduction from the empirical evidence” about the phenomenon.¹⁰³ The theory of “learned helplessness” has seen wide acceptance among the lay public as well as some dissent from within academia, and its tenets have become a culturally constructed “norm” of the Average Battered Woman. In Walker’s theory, battered women experience an on-going three phase cycle which includes tension-building, an explosive battering, and a “calm, loving respite.”¹⁰⁴

Lenore Walker’s theory has become pervasive enough to have actually seen its way into university textbooks as a “satisfactory explanation” of violence against women. The “three-phase cycle theory” seems quite plausible on its face. Elizabeth Schneider’s summary of Walker’s theoretical stages includes a “tension-building stage characterized by discrete abusive events; an acute battering stage characterized by uncontrollable explosions of brutal violence by the batterer; and a loving respite characterized by calm and loving behavior and pleas for forgiveness.”¹⁰⁵

The battered women’s (“learned helplessness”) syndrome contains a certain intrinsic appeal. It has the neat, tidy characteristics of a good popular theory, especially its scientific “ring of truth” and its implicitly determinative view of human nature. After a woman becomes a battered woman, in theory her life is

bound by a pre-determined cycle of three inevitable stages. As Schneider has argued, the fact that expert testimony invariably leads to an attempt to bring Walker's theory into testimony "has shaped judicial treatment of the issue in problematic ways."¹⁰⁶ Although the syndrome's initial focus was on battered women and "learned helplessness" as a legitimate response to being battered, in some measure the battered women's syndrome carries real, major drawbacks. One main problem stems from the fact that the term "battered women's syndrome" has "been heard to communicate an explicit but powerful view that battered women are all the same, that they are suffering from a psychological disability and that this prevents them from acting 'normally.'"¹⁰⁷ Significantly, the battered women's syndrome effectively deflects attention away from the batterer, leaving him lurking enigmatically someplace in the background. Also, since the syndrome stems primarily from the discipline of psychology, it runs an inherent risk of minimizing and neglecting economic and social factors.¹⁰⁸ According to Dobash, the more that women in the battered women's movement adopt the "individual, psychological position on abused women, the greater likelihood that it will dismiss or ignore the political, social and economic issues surrounding the problem of male violence against women."¹⁰⁹

Today, much consensus holds that society would be "better off" if it dealt with the fundamental causes of women getting battered. Enforcing the existing laws is important, but the legal system's numerous drawbacks entail a need for a more humane set of social programs and new, alternative means of dealing with the crisis of battered women in America, preferably by taking aim at its "root causes." This task would be difficult to implement, yet it would probably be worth the undertaking. Reasonable, responsible citizens everywhere would undoubtedly agree that the ultimate elimination of violent sexism is, at the very least, a highly "noble" aspiration.

African American scholar Angela Y. Davis, an avowed socialist political activist and lecturer, addressed the topic "Violence Against Women and the Ongoing Challenge to Racism" in a speech she delivered at Florida State

University in 1985. During her speech, Davis launched directly into the issue of violence against women, stating that “rape, sexual extortion, battering, spousal rape, child sexual abuse and incest are among many forms of overt sexual violence suffered by millions of women in this country.”¹¹⁰ Davis argued in her lecture that “these particular manifestations of violence against women” exist at locations along “a larger continuum of systematic and equally violent assaults on women’s economic and political rights, especially the rights of women of color and their white working class sisters.”¹¹¹

Davis has long been an important spokesperson and a major influential thinker among global feminists, many of whom are women of color and tend to focus on feminist issues from a world-wide global context. Davis’ Tallahassee speech demonstrates this “global aspect” of most third wave feminism today. Davis gave her lecture during the first year of Reagan’s second term, and her speech partially lambasted the president and his policies, and it partially exposed overt male power at its meanest and its harshest.

Citing a veritable “laundry list” of overt sexual violence, Davis mentioned denial of access to abortion rights due to funding, terrorist activity at abortion clinics, bomb threats, the abuse of impoverished women through sterilization, the Dalkon shield and “other potentially fatal methods of birth control,” and “the rights of lesbians to reproduce outside the confines of heterosexual relationships.”¹¹²

“The dreadful rape epidemic of our times,” Davis stated, “ which has come to be so widespread that about one of every three women in this country can expect to be raped at some point during her life, directly affects the deteriorating economic and social status of women today.”¹¹³ Davis continued:

Moreover this rising violence against women is related to domestic racial violence as well as global imperialist aggression. In fact, the conduct of the Reagan administration over the last four and a half years makes clear that it is not only the most sexist government—the only one, for example, to actively oppose the Equal Rights Amendment at the very same time it supports the sexist and homophobic Family Life Amendment; and it is not only the most racist government—persistently attempting to dismantle thirty years of gains by the civil rights movement; but it is also by far the

most fiercely war-mongering government of this century. Indeed for the first time in the history of humankind, we face the very real threat of global nuclear omnicide.¹¹⁴

Professor Davis' lecture demonstrates the global feminist propensity for viewing feminist issues at a macro-level. Davis' speech also demonstrates a working understanding of the problem of male violence against women at a more personal, individual level. This technique of working from a global to an individual level constitutes one of the more intriguing and effective methodological tools of "third wave" feminism and its proponents.

Davis' speech explored some important historical highlights of the effort of the women's liberation movement of the early 1970s to address the issue of male violence, and then examined some of the lived experiences of those who have faced such violence at the individual level. As a speaker, Angela Davis knows no parallel, and her audience at Florida State University listened with intensity as she delivered her lecture, and as she described the unfolding scenario of the 1970s anti-rape movements. "Along with the campaign to decriminalize abortion," Davis explained, "the anti-rape movement proved to be the most dramatic movement associated with the fight for women's freedom."¹¹⁵

As Davis correctly asserts, the anti-rape movement proved to be an effective tool for confronting violence against women; yet the lack of focus on battered women as a "social subset" of violently abused women may have tended to shift the focus away from the problem of battered women to the problem of sexual assault, two intertwined issues which people tend to see as much more separate and distinct than they actually are. Nonetheless, evidence suggests that the anti-rape movement has probably had the more salutary effect of breathing greater life into the battered women's movement, especially with regard to the tremendous need for women's shelters.

Davis discussed the rise of shelters and 24-hour crisis centers in the 1970s, and then examined the individual case of Susan Griffin, whose historical article in a 1971 issue of *Ramparts* opened with the words, "I have never been free of the fear of rape. From a very early age I, like most women, have thought

of rape as part of my natural environment. I never asked why women were raped; I simply thought of it as one of the many mysteries of human nature."¹¹⁶

Societal assumptions regarding rape and battered women entail similar myths, and so it is useful to examine Professor Davis' speech with regard to the means by which she addresses prevalent myths about rape. Feminists in the seventies "militantly refused the myth that the rape victim is morally responsible for the crime committed against her."¹¹⁷ This myth also obtains in the case of battered women, if from a somewhat different perspective. Battered women typically feel an exaggerated sense of responsibility for their fate and their family's fate; in either instance, whether a woman gets raped or gets physically beaten, the unfortunate failure of society to focus on the moral responsibility of men demonstrates the traditional patriarchal tendency in American politics to shift the burden entirely on the person or persons harmed (women), rather than on the person or persons who perpetrated the harm (men).

In Davis' lecture, she effectively deconstructed other myths pertaining to sexual assault, such as the misogynist view that "if a woman does not resist, she is implicitly inviting the violation of her body." Society is much less apt today, as it once was, to see wife beating as a "victim-precipitated crime" in the same sort of manner as sometimes occurs when a woman gets raped, but the legal system's responses to issues of violence against women, including rape, can sometimes reveal the "morally corrupt" nature of the nation's patriarchal legal system. Davis cites a 1977 case where a male Wisconsin judge ruled that a "fifteen year old male's rape of a teenager" constituted a "normal reaction" to the "provocative dress" of the young woman he raped, even though she was dressed in a loose shirt, Levi's, and tennis shoes at the time her rape occurred.¹¹⁸

"Male privilege" in patriarchy entails *male invisibility* in cases of male violence when a batterer demands and receives anonymity, the "spiritual foundation" of all misogynist traditions. Hence, a need exists for a clearer focus on the problem of *men*, preferably from a man's perspective. As a result, this

paper will explore the legal and social history of domestic violence and assault against women, and then will conclude by exploring the problem of battered women as a “men’s” issue. Men, as Davis writes, enjoy anonymity as a privilege inferred by their relatively higher social status, which also effectively protects them from prosecution.¹¹⁹

“But,” asks Davis, “why are there so many anonymous rapists in the first place?”¹²⁰ Upon raising this question, Davis draws an analysis grounded in Marxist theory, which is standard part and parcel of global feminist theory. “The class structure of capitalism,” she asserts, “encourages men who wield power in the economic and political realm to become agents of sexual exploitation. The present rape epidemic occurs at a time when the capitalist class is furiously reasserting its authority in the face of global and internal challenges. Both racism and sexism, central to its domestic strategy of increased economic exploitation, are receiving unprecedented encouragement.”¹²¹ This analysis essentially holds true with regard to the problem of battered women; “Why,” one might plausibly ask, “are there so many anonymous batterers?” The obvious answer, for Davis and her comrades, is the dominant class “and its on-going reassertion of its authority in the face of challenges, global and internal.”¹²²

Rhetoric such as the phrase “the movement... must be situated in a strategic context which envisages the ultimate defeat of monopoly capitalism” probably ultimately detract from Davis’ overall political effectiveness, however.¹²³ As Professor Barbara Epstein pointed out in a recent lecture at Western Washington University, two major factors have taken place globally to undermine the credibility of the “political left” (however one may define it) in general, and its attitude toward capitalism in particular. For one, the globalization of capital has resulted in “capital today whizzing around the globe at high speed... [and] an increase in competition internationally has led to social programs being pared down.”¹²⁴ Also, with the 1991 collapse of the Soviet Union, Epstein remarked, conventional wisdom holds that “capitalism remains the only viable system in the world, and it is hard to defend any other system

today.”¹²⁵ Thus, Davis’ socialism constitutes a practical hindrance to the effectiveness of her global perspective.

The “shopworn question” (why didn’t she just leave?) does not as readily obtain with African American women. It is interesting to note that the question really seems to apply primarily to white women, especially in a stereotyped sense. Its answers do not serve to inform society’s view of battered black women, and Davis’ belief in the view that violent, unbridled white male racism and sexism constitute the true historical cause of social injustice is not entirely atypical or unwarranted as a belief. Davis, who argues *against* the “myth of the black rapist,” argues that in some sense the “oppression of women was identical to the oppression of men” during slavery, but that “women suffered in different ways as well, for they were victims of sexual abuse and other barbarous mistreatment that could only be inflicted on women. When they could be exploited, punished and repressed in ways suited only for women, they were locked into their exclusive female roles.”¹²⁶ The history of domestic violence against women in America clearly includes the experiences of enslaved women, who legally suffered egregiously violent injustice at the hands of their white male owners on a daily on-going basis, a phenomenon which occurred in America for hundreds of years. Of course, it nearly goes unsaid that the question “why didn’t she just leave?” does not obtain with respect to enslaved African American women. The difference is so stark as to be a matter of black and white.

An examination of the history of formal U.S. public policy and informal, private U.S. women’s personal lives will invariably cross the socially constructed barrier between the “personal” and the “political” so often as to challenge the validity of the dualism’s existence as a plausible entity. The history of the problematic issue of battered women delineates a transformation of the “public / private” dichotomy into a much less rigid, much more loose and informal doctrine by which women’s groups can achieve greater gender justice for battered women in American society, and perhaps elsewhere in the world. The history of battered women in America and, to some extent, the nation’s “mother” country

(England) demonstrates the need for men to re-define their roles in the public domain, and to foster positive ethical characteristics among themselves in order to prevent some men from hitting some women.

Battered Women: *History Lessons*

Prior to the recent “discovery” of wife beating and marital rape by women’s liberationists in the early 1970s, two earlier eras of reform of violence against women occurred in the United States. Of these two earlier attempts to address the social phenomenon of wife beating, the first took place in the mid-seventeenth century, and the second occurred during the latter twenty five years of the nineteenth century. In the earlier instance, Puritans at the Massachusetts colony enacted the first laws known to have been passed anywhere in the world against wife beating and “unnatural severity to children.”¹²⁷ Later, in the Victorian-era years between 1874 and 1890, smaller efforts on behalf of battered women occurred within the larger context of a movement aimed at male violence against children, a time when “societies for the preservation of cruelty to children (SPCCs)” were first formed.¹²⁸

The history of battered women in the U.S. actually constitutes an acknowledgment that a percentage of American women have *always been* getting battered. The Puritans were not entirely unfamiliar with English law, and so they brought an unsophisticated sort of “bewildered awareness” of family law with them from the British homeland. As America’s mother country, England and “her” system of common law and social custom played a critical and pivotal role in the development and formation of a new code of law to govern Puritan American society. By the mid-1800s, English reformers successfully worked for the passage of legislation and the establishment of new programs for battered women. As U.S. women’s historian Elizabeth Pleck notes, the term “wife

beating” was actually first coined as part of a political campaign for divorce reform in England.¹²⁹

To understand the problem of battered women in America, it will be necessary to look at the nation’s “mother country” and its laws, since the U.S. legal system relies so heavily on British “common law” as its single most important historical base. The Puritans brought English tradition with them, as did many other groups of immigrants. English law regarding male violence dates back to the appearance of Justices of the Peace, which were established for women who sought protection from violent bodily harm. In a 1581 British Handbook for Justices of the Peace, a legal distinction was drawn between “natural” and “civil” power, with the term “civil power” referring to authority created and sanctioned by law.¹³⁰ As historian Maeve Doggett explains, a “parent’s power over a child fell in the former category [“natural”], and a husband’s over his wife into the latter [“civil”] along with that of a master over his servants, a schoolmaster over his pupils, a jailer over his unruly prisoners and a lord over his vassals.”¹³¹ Hence, during the sixteenth century the state of matrimony constituted a civil institution, constructed by society as a “master-servant” type of relationship between a husband and his wife.

An important precedent regarding wife beating was set in the infamous *Sir Thomas Seymour’s Case* of 1613. In the case, Sir Thomas first threatened his wife, and then he battered her. Afterward, his wife sought a separation and maintenance from Sir Thomas on grounds of his overt cruelty toward her.¹³² Sir Thomas sought prohibition from the civil courts to prevent the ecclesiastical courts from acting on the matter, and he argued that his wife had a legitimate common law remedy through the charge of assault and battery. The judges actually disagreed, declaring that “a wife could have no remedy at common law against a husband who beat her for she was ‘sub virgi viri,’ that is, under the rule of the husband.”¹³³

Although it is widely believed that English law “imposed some kind of restriction on the kind of instrument” with which a wife could be battered, legal

authority is elusive at best (and non-existent at worst) regarding any regulation of such instruments of brutality.¹⁴⁴ The pioneer British feminist Frances Power Cobbe wrote a scathing essay which denounced a statute purportedly enacted during the reign of Charles II, between 1660 and 1685, which “embodied the common laws, and authorized a man to chastise his wife with any reasonable instrument.”¹⁴⁵

As Doggett has written, however, the aforementioned reference to chastisement with “any reasonable instrument” may have been historically inaccurate; nonetheless, it is reminiscent of the more famous, but “equally elusive” legal authority, the “rule of thumb.”¹⁴⁶ Doggett maintains that it “seems unlikely that the statement [‘rule of thumb’] was made in an official capacity”; yet, the fact that these “reasonable instruments” and “rules of thumb” existed in English custom lends credence to the notion that women have long suffered under the violent hands of male authority.¹⁴⁷ Unprovoked, unrestrained male violence cannot be said to constitute a new “discovery,” or a new phenomenon, in any sense.

“Legal” wife beating saw its way into the literature and formal statutory law in England by 1716, and the 1736 publication of Bacon’s *New Abridgment of the Law* proved to be the most influential work of the era. Especially important was the following passage:

The husband hath, by law, power and dominion over his wife, and may keep her by force with burden of duty, and may beat her, but not in a violent and cruel manner.¹⁴⁸

The man had the legal right to batter a woman, so long as the couple lived under the “pains of legal matrimony” and the husband was not *too* violent and cruel. Various sorts of blatant injustice were matters of public policy; of all the English common law concepts to find its way into the legal system and American jurisprudence, the worst was probably the infamous doctrine of Coverture. As Sir William Blackstone stated, a husband’s right to “chastise and refine” his wife arose from Coverture:

As the husband is to answer for his wife's misbehavior, the law thought it reasonable to intrust him with this power of restraining her, in the same moderation that a man is allowed to correct his apprentices or children.¹⁴⁹

Blackstone himself advanced the argument that Coverture was justified due to the fact that the husband was "bound by contracts his wife made in his name; he was liable jointly with her for her torts; and, he could be held criminally responsible for his wife's conduct."¹⁵⁰ While it seems difficult to envision many men suffering very much injustice due to their wife's *torts*, it is interesting that such a phrase would appear in eighteenth century black letter law.

To Blackstone, the unparalleled British legal authority of his day, the "chief legal effects of marriage during the Coverture, even the disabilities which the wife lies under are for the most part intended for her protection and benefit."¹⁵¹ Such "benign correction" constituted a matter of public policy in England, based primarily on the notion that a wife *did not legally exist as a person* when married. According to Blackstone's famous *Commentaries*, by marriage the husband and wife became "one person in law: that is, the very being or legal existence of the woman is suspended during the marriage, or at least is consolidated or incorporated into that of the husband."¹⁵² Hence, paternal patriarchal attitudes toward "protection and benefit" of the wife inspired a monstrous "legal fiction" which functioned to effectively eliminate the legal existence of women, causing each married woman to become an "invisible" social construct from the perspective of the public patriarchal power structure.

The question of whether law reflected, or affected, British society in Blackstone's era can be answered by responding that the law was more than likely a reflection of the existing ideology of British patriarchal power, and the law's effects were therefore an extension of the tentacles of British common law, acting as a "top-down" phenomenon in terms of its adverse impact on women's lives. Legally, of course, women did not *exist* under Coverture, a fact which undoubtedly made it somewhat difficult to face life on life's terms.

In America, the earliest reform movement to openly depict the harsh reality of domestic violence for the lay public was seen in the women's "temperance movement," an indirect attempt to deal with male violence by confronting its perceived cause: alcohol. As Pleck states, temperance reformers "regarded family violence not as a distinct social problem, but as an evil consequence of alcohol."¹⁵³ Thus, eliminating the cause would diminish the tragic consequences of alcohol abuse, including domestic violence against women.

As Pleck observes, nineteenth century temperance reformers and activists firmly believed the link between alcohol and wife beating was clear and direct, and most of them "naively believed that excessive drink was *the* cause of domestic violence, rather than a precipitating factor or convenient excuse for violent behavior." Family violence in the nineteenth century was, in fact, understood in terms of "male brutishness" and "female purity," the battered wife being the victim of a drunken male "brute."¹⁵⁴

According to Pleck, the prevalent image of the "brutish wife beater" seems to "have appeared first in the 1830s."¹⁵⁵ There was actually no more appropriate reform than temperance for women activists in the 1830s, according to the logic of the day; because drink "enbruted" men, those battered women who most gravely felt the direct effects of male brutishness aligned themselves with public temperance activists. Working within the movement, women's influence led directly to "legislative action against alcoholism, lobbying state legislatures through petition campaigns for the passage of laws prohibiting the sale of liquor, establishing dry districts, and imposing saloon closings on Sunday."¹⁵⁶ : Women's temperance activism successfully ushered in the first wave of feminism in the mid 1800s, as feminists began broadening the scope of their demands.

The "first wave" feminists of nineteenth century America adhered to the precepts of classical liberalism and they were well-versed in the political philosophies of men such as John Locke and John Stuart Mill; Mill's speech to the House of Commons in 1867 adamantly denounced the fact that battering, or

“physically tyranny,” could “be inflicted upon women almost without impunity.”¹⁵⁷ Speaking before a large number of British legislators, Mill said: “I should like to have a return laid before thine House of the number of women who are actually beaten to death, kicked to death, and trampled to death by their ‘male protectors.’”¹⁵⁸

Such “male protectors” were, of course, the actual *batterers themselves*, men who arbitrarily became the dominant power in any marital arrangement they entered, solely by virtue of their gender category. In the U.S., the Women’s Christian Temperance Union (WCTU) played a major role in the establishment of an interesting policy to protect battered women. Battered women were not to be directly protected from the batterer himself, under the new policy; instead, women received protection from the *saloonkeeper*. As Pleck writes, “no nineteenth-century court granted a battered woman the right to sue her husband from damages arising from his assault upon her.”¹⁵⁹ In fact, American suffragists and temperance activists apparently never even considered the aforementioned legal remedy, but instead reasoned that “the major enemy of the home was the saloonkeeper,” and so a battered wife “ought to be able to bring suit against the man who served her husband.”¹⁶⁰

As a result of the efforts of the WCTU, New York and Arkansas each passed legislation in 1873 which gave a battered woman the right to sue the saloonkeeper, or the owner, for damages incurred when an intoxicated batterer had been served at a public drinking establishment. Within the next two decades, twenty states had enacted legislation making *saloons* liable for a battered wife’s damages.¹⁶¹ The batterer, it was believed, was the direct victim of “demon rum,” and his behavior while “under the influence” was the responsibility of the person(s) who had served him the liquor.

Feminists of the era advanced the argument that physical and sexual cruelty toward one’s wife arose from “a husband’s ownership of his wife’s body.”¹⁶² Often, nineteenth-century American wives were victimized by a husband’s excessive sexual demands, and marital rape was certainly not

uncommon. Many women began to believe they needed the right to divorce their abusive husbands.¹⁶³ As Pleck observes in her excellent historical account of American family violence *Domestic Tyranny*, it was “not until the twentieth century that statutes exempted women from protection from marital rape,” but “wives in several states had the option of bringing suit for divorce on grounds of ‘sexual brutality.’ It was assumed that a wife who complained of sexual assault by her husband could sue for divorce.”¹⁶⁴ This proved problematic, however, due to Coverture. When a married woman does not legally exist separately from her husband, his actions against her do not constitute an ‘actionable cause’.

In an influential essay from David Kairry’s book *The Politics of Law*, Nadine Taub and Elizabeth Schneider combined their historiographical talents and relied on their strong feminist convictions to develop an insightful analysis of the law’s role in American women’s subordination.¹⁶⁵ Although much has been written about women’s legal exclusion from the formal public sphere, the absence of law and the failure of government to intervene in the private domain (where a man’s home was his castle) led to the seemingly incredible, yet factually true, phenomenon of the law “looking the other way” as women were being cruelly battered in nineteenth century America. This pattern continued unabated into the twentieth century and, to some extent, continues at the present time.

As Taub and Schneider explain, “tort law” may be generally concerned with injuries inflicted on individuals, but in terms of wife beating in America during the nineteenth century, tort law has “traditionally been held inapplicable to injuries inflicted by one family member on another.”¹⁶⁶ Wife beating, according to Taub and Schneider, was “initially omitted from the definition of criminal assault on the ground that a husband had the right to chastise his wife.”¹⁶⁷

Wife beating has generally maintained the tacit approval of the patriarchal American legal system, a system which did not recognize a woman’s civil existence upon marriage due to Coverture. Even today, when the police fail to

respond to “a battered woman’s call for assistance,” or when “a civil court refuses to evict her husband,” the battered woman becomes relegated to self-help resources, while her batterer receives the tacit acceptance of the law.¹⁶⁸

First wave feminists began directly confronting the issue of family violence, although it was typically a part of a much larger “women’s rights” agenda. Stanton and Anthony mentioned family violence during some of their speeches, but it was certainly not the cause for which they have been remembered the most. One particular “relatively conservative” suffragette, Lucy Stone, became known for her diatribes with regard to family violence. Stone, during her day, had the reputation for being “more proper and respectable—more willing to cooperate with male reformers—than Stanton and Anthony.”¹⁶⁹ With Stone, the problem of “crimes against women” found its most respectable possible advocate, a suffragist who could not be “tamed by association with advocates of free love or other radicals.”¹⁷⁰

Shortly following the end of the U.S. Civil War, Stone began editing a women’s rights newspaper, *The Woman’s Journal*. Before Stone took over, the *Woman’s Journal* had featured numerous editorials such as one which proclaimed that divorce, when it was granted, constituted an “escape out of tyranny into freedom.”¹⁷¹ Under Stone’s conservative editorial policy, however, editorials such as the one pertaining to divorce vanished; but, by 1876, the *Woman’s Journal* had begun publishing a weekly account of “crimes against women” in New England. Stone held the view that the law treated battered women unjustly, and was far too lenient in its treatment of batterers.¹⁷²

Stone decided to suspend “standards of propriety” in detailing accounts of male family violence; in every single instance, “male lust” contributed to the victimization of women. Under the *Woman’s Journal* column headed “crimes against women,” readers found stories of wife beating, wife murder, rape and incest.¹⁷³ Stone sought to persuade her middle-class reading audience that it was necessarily the time to take action against wife-beating, and she sought to

demonstrate “how great masculine brutality was” in order to “refute the belief that women provoked violence.”¹⁷⁴

In 1879, Stone introduced a bill in the Massachusetts state legislature designed to protect battered wives from their assailants (husbands). The new law proposed granting a battered wife the legal right to apply for a separation, to receive an order for spousal and child support, and to obtain custody of her children. Stone introduced and lobbied for the proposed legislation in 1879, 1883, and 1891, but it failed to gain enactment each time.¹⁷⁵

The famous English suffragist Frances Power Cobbe provided Stone with the idea for the proposed legislation when she sent Stone a copy of a similar “protection bill” she had helped pass in Parliament.¹⁷⁶ As a prominent public figure in her own right, Cobbe transcended traditional gender boundaries to become a successful journalist, essayist, social critic, philanthropist, theologian, and moralist, and she was deeply devoted to actively seeking meaningful reform on behalf of women of all social classes. When Cobbe challenged the English judiciary so as to affect social change, Cobbe was challenging firmly entrenched Victorian attitudes toward wife-beating in England, a nation whose laws traditionally “mirrored the public acceptance of wife-beating and, in turn, reinforced it.”¹⁷⁷

As an advocate for battered women in England in the latter half of the nineteenth century, Cobbe knew quite well what she and her Victorian feminist allies were up against. As historians Bauer and Ritt have written, Cobbe knew that the Matrimonial Causes Act of 1878, which provided for protection of battered wives by allowing them the possibility of obtaining protective orders which had the legal effect of a judicial separation, and which also provided the legislative model for U.S. feminist Lucy Stone to follow, would be “no more than palliative” because “wife-beating, on its most fundamental level, reflected the underlying disparity between the sexes.” The solution to this disparity, Cobbe believed, was “beyond the scope of any parliamentary act.”¹⁷⁸

Nonetheless, Cobbe championed the 1878 Act because of her tremendous commitment to feminism at a time when English judges still took the opportunity to confirm the legality of ancient male privilege. One particular judge wrote that “there can be no doubt of the general dominion which the law of England attributes to the husband over the wife.”¹⁷⁹ This “general dominion” over a wife allowed a husband to correct her through physical punishment, and to restrict her individual personal freedom so she could not leave.¹⁸⁰

As Cobbe had quietly and realistically predicted, the legislative intent behind the Matrimonial Causes Act of 1878 was adversely manipulated by conservative, traditionalist male judges who were perched in positions of power all throughout the patriarchy. Other English Victorian-era feminists watched and became appalled by the incredible yet widespread leniency judges gave wife beaters. The Act had, by its design, granted judges the “summary jurisdiction” to award orders of separation, but it proved to be a rare event when a judge ruled in a battered wife’s favor. In one notorious case, a husband had been previously found guilty of brutally assaulting his wife on several occasions, yet the wife’s request for a separation order to protect her from further such assaults was denied, and the batterer spent a mere twenty-one days in prison for his most recent violent physical attack against his wife.¹⁸¹

Wife beating has always been deeply rooted in English law. The power of a husband to correct his wife, by physical force if necessary, has historically been justified by British civil and ecclesiastical courts as the legal rendering of a Christian conceptualization of marriage as an arrangement whereby a man must “leave his father and mother, and shall cleave to his wife: and they twain shall be one flesh.”¹⁸² As a *femme couverte*, a wife legally surrendered her services, her property, and her children to her husband’s “protection,” as his vassal under Coverture.¹⁸³ Whether the husband actually provided protection or not, his wife was legally duty-bound to comply with his wishes, since she was not legally viewed as any more “competent” to appear in court than a child. In one ecclesiastical court case in 1395, witnesses testified that Margaret Nettefeld’s

husband had attacked her on several occasions with a knife and a dagger, wounding one of her arms and breaking one of her bones. When Nettefeld's husband informed the judge that his actions were "motivated solely by the desire to preserve her from error," the court ruled in the batterer's favor.¹⁸⁴

By the nineteenth century, courts in England and the U.S. had consistently upheld Coverture, even to the extent that women enjoyed the same legal rights in marriage as "criminals, idiots, and minors" always did, meaning that they had none. As Cobbe pointed out, the wife-beater differed from other violent individuals in society because he could feel assured that society would tolerate, condone, and sanction his brutal conduct. This held true on both sides of the Atlantic, in the United States as well as in England, and society's failure to cease sanctioning such violence within marriage tended to aggravate the problem.¹⁸⁵ To Frances Power Cobbe, the most abhorrent aspect of this publicly sanctioned violence against women was the fact that "many clergymen perceived society's acceptance of wife-abuse as consistent with Christian teachings."¹⁸⁶ When the Reverend F.W. Harper linked wife-beating with religious duty in a sermon, declaring that "the true idea of marriage is the relation of Christ to his Church," Cobbe responded angrily, saying "Heaven help the poor women of Durham and Lancashire if their clergy lead them to picture a Christ resembling their husbands."¹⁸⁷

The differences between what a society condones, and what is immoral and unjust, can sometimes be tremendous. The entire nineteenth century provides ample evidence to support the claim that the majority of society can be (and often is) "wrong-headed" in its appraisal of vexing social issues. Slavery and wife beating constitute two of the foremost examples of the widespread commission of egregious injustice meeting with the tolerance and tacit approval of the dominant society. Law generally reflects prevailing social values, attitudes, and trends, and nineteenth century judges and lawmakers generally ignored the widespread abuse and mistreatment of women and people of color,

although they sometimes issued rulings and passed laws which either furthered its occurrence or did little to diminish it.

As the aforementioned U.S. women's historian Elizabeth Pleck has observed, by the end of the nineteenth century, feminists in the U.S. and England had actively worked to persuade enough Americans and Englishmen of the wrongfulness of wife beating that legislative change gradually began occurring. "In the United States," writes Pleck, "antebellum feminists regarded wife beating as a crime, but they were primarily interested in providing abused women with a divorce on the grounds of drunkenness or cruelty."¹⁸⁸ This was not to be the case, however; by the end of the nineteenth century, wife beating had become a "law-and-order issue, buried in an avalanche of arguments about the best means to deter crime."¹⁸⁹ Divorce reform remained an elusive feminist goal, despite an abundance of evidence to demonstrate that battered women were often legally bound to remain married to violent husbands who battered them.

In the 1830s and 1840s, when wage work and professions within the public domain replaced household production as the mainstay of the American economy, the "ideal traditional Victorian family" arose as a consequence of a new division of labor based primarily on gender and age, a division which emerged among the American middle class. Men became the "breadwinners," an unheard-of identity in colonial America, and white middle class women's roles were re-defined, as "maternal guidance" supplanted the "patriarchal authoritarianism" of the colonial and post-revolutionary war days.¹⁹⁰ As historian Stephanie Coontz has aptly noted, the "middle-class Victorian family depended for its existence on the multiplication of other families who were too poor and powerless to retreat into their own little oases and who therefore had to provision the oases of others."¹⁹¹ Although the spread of new textile mills freed white middle class women from their most demanding, time-consuming tasks, such as making cloth, domesticity was not an available option for most American families. Obviously, slave families could not take advantage of domesticity as a

vocation; as Coontz writes, the “raw material of [the new] mills were produced by slave labor,” and domesticity was also not an option for “the white families who worked twelve hours a day in Northern factories and workshops transforming slave-picked cotton into ready-made clothing.”¹⁹² Clearly, the minority of American families who could be placed into the category “Victorian” relied on the vast majority of other families in the U.S., families with no real hope of ever realizing the American Dream, even if they lived according to the tenets of Victorian-era standards of white middle-class morality. As Coontz explains:

For every nineteenth-century middle-class family that protected its wife and child within the family circle, there was an Irish or a German girl scrubbing floors in that middle-class home, a Welsh boy mining to keep the home-baked goodies warm, a black girl doing the family laundry, a black mother and child picking cotton to be made into clothes for the family, and a Jewish or an Italian daughter in a sweatshop making “ladies” dresses or artificial flowers for the family to purchase.¹⁹³

In her book *Heroes of Their Own Lives*, historian Linda Gordon examined “how male dominance is enforced by, and produces, violence against women.”¹⁹⁴ During specific domestic conflicts, when women are assertive, such assertiveness “is not a bad thing,” according to Gordon; “women’s suppression of their needs and opinions is by far the greater danger.”¹⁹⁵ Hence, “Victorian longings for women without egos or aggression,” writes Gordon, “should be understood as misogynist myths.”¹⁹⁶

The middle-class Victorian familial “myth” produced an important ideological foundation for the “ideal” nineteenth century American family, and it served to inform prevalent notions of “true” womanhood in the hearts and minds of Victorian feminist reformers. As Gordon writes, feminist reformers’ view of women’s proper role “ruled out the possibility that women could create independent lives and reject violent husbands.”¹⁹⁷ To nineteenth century feminists, women who submitted to abuse were deemed *more* praiseworthy than those battered women who left their abusive husbands. As Gordon explains, “Women’s victimization meant virtue more than weakness,” and thus provided

evidence that battered women clung steadfastly to their commitments to fulfilling virtuous wifely duties despite the pattern of battering they received.¹⁹⁸

"Wifely duties" aside, Gordon's study of nineteenth century clients of Massachusetts child-welfare agencies reveals a startling fact: In the nineteenth and early twentieth centuries, many women clients "did not seem to believe they had a 'right' to freedom from physical violence."¹⁹⁹ Social workers who lauded a battered woman's commitment to her familial duties also expressed disgust at the evidence of marital violence they encountered. Most battered wives, however, saw their caseworker's reaction as "naive," and they often spoke of the "inevitability of male violence" as if it were part and parcel of being bound together with a man for life in holy matrimony.²⁰⁰

As the nineteenth century drew to a close, prevailing attitudes toward wife beating in America had taken a sharp turn to the conservative right. As Gordon observes, the "condemnation of wife-beating" had "made substantial progress by the late nineteenth century. Contrary to some common misconceptions, wife-beating was not generally regarded as a head-of-household's right at this time, but [instead] was considered a disreputable, seamy practice."²⁰¹

Wife beating may not have been seen as "legitimate," but neither was public discussion of the subject. The issue, as Gordon notes, was "influential throughout the nineteenth century women's-rights movement, but it was addressed primarily indirectly, through temperance, child welfare, and social purity campaigns, and only marginally through direct lobbying for legislation or judicial reforms regarding wife-beating."²⁰² As Pleck observes, Lucy Stone's failure to achieve enactment of any legislation against wife beating "strengthened her belief that women would never be protected from wife brutality until their legal rights were guaranteed."²⁰³

At a time when Boston police statistics indicated that over five hundred husbands were arrested for wife beating in Boston each year, it seems "odd" that feminists did not directly address the issue of male family violence. Yet, so many women of the era were economically dependent on marriage that their

importance as mothers provided a useful “wedge” against the abrogation of their right to live free of battery, and feminists’ recognition of this allowed them to focus on other, more traditional political issues. For instance, when feminists sought Prohibition, the “image of the beaten wife” played a prominent role in the campaign. According to Gordon, drinking was “a veritable code word for male violence.”²⁰⁴ By framing the issue of male brutality in terms of temperance, feminists managed to publicize the problem of wife beating as a consequence of alcohol abuse, while at the same time successfully defining drunkenness (and its consequences) as a “male vice.”²⁰⁵ Further, the feminist campaign for divorce enabled women’s rights activists to publicly disclose shocking stories of battered wives. According to Gordon, feminists of the era actually “sheltered runaway wives, agitated in particular divorce and child-custody cases, held a few public meetings on egregious cases of injustice--and used these cases to argue for women’s right to divorce and to vote.”²⁰⁶

Aside from Stone and her loyal suffragist husband Henry Blackwell, most turn-of-the-century feminists did not include wife beating on their lengthy “laundry list” of social ills (i.e., child labor, world war, etc.) which the enfranchisement of women would somehow “cure.” According to Pleck, penalties for wife beating were too mild, from the view of Stone and Blackwell, because “women were unable to vote.”²⁰⁷ Lucy Stone insisted that “the women’s vote would compel judges to sentence wife beaters to long prison sentences,” and that battered wives could never be “adequately protected...until women help make the laws.”²⁰⁸ Unfortunately, the enfranchisement of women in 1920 did not reduce the rate of wife beating in America; yet, as Pleck observes, social reformers and early twentieth century feminists succeeded to a large extent in encouraging wives “to demand from their husbands better treatment, greater dignity, and autonomy--a marriage free of violence and brutality and a union committed to the principles of caring and mutual respect.”²⁰⁹

In England, the turning point in establishing a woman’s right not to be beaten by her husband took place in 1891, when a Court of Appeals handed

down a decision of considerable importance for women's rights. In retrospect, it seems as if the case of *R. v. Jackson* had the same sort of importance in the area of family law that *Brown v. Board of Education* had in civil rights law. In 1932, Justice McCardie said of *R. v. Jackson* that "from that point, the shackles of servitude fell from the limbs of married women and they were free to come and go at their own will."²¹⁰

The case arose out a husband's forcible seizure and imprisonment of his wife, and the appellate court had no choice but to consider the long-held right of husbands to "physically chastise" their wives, because the "right to imprison" and the "right to beat" were inextricably intertwined in British common law. The *Jackson* court ruled that "the ancient dicta" which granted men a right to beat their wives must necessarily be rejected, if the right to imprison one's wife was to be repealed, since the two were so closely interrelated in law. "It is impossible," the court opined, "to throw overboard the right to beat and retain the rest of the proposition with regard to the right to imprison."²¹¹

Nonetheless, the dominant society in England retained the view that chastisement was a husband's prerogative, and most British judges continued to grant lenient sentences for violent assaults by husbands against their wives.²¹² In America, Lucy Stone became so discouraged at the failure of her protection bill to pass, and at the continual pattern of U.S. courts granting lenient sentences to wife beaters, that she aligned herself politically with legislators who favored severe punishment for wife beaters instead of protection for their innocent wives. When a Massachusetts GOP state legislator sponsored a bill to punish wife beating with the whipping post, Stone joined the effort to see the proposal become law.²¹³ Most feminists of the early twentieth century viewed wife beating as a crime, but their primary interest was in securing the right to a divorce on grounds of drunkenness or cruelty.²¹⁴

In England, Cobbe's opposition to flogging wife beaters helped prevent the enactment of any such legislation, but in the U.S. three states (Maryland, Delaware, and Oregon) passed laws allowing for the whipping of wife beaters.²¹⁵

The impact of the new laws was virtually nil, however, and between 1911 and 1917, when the movement to abolish capital punishment was revived, newspaper editorials denounced the whipping post as “uncivilized.” According to a state prison warden in Delaware in 1925, any time a whipping actually occurred he received protest letters from across the country denouncing the punishment. In 1952, Delaware became the last of the three states to abolish the whipping post.²¹⁶

By the 1920s, in fact, the whipping post was no longer considered a viable option for handling the problem. A new type of court was established, with a new approach to the problem of family violence. The new “modern” approach involved the use of separate tribunals known as “juvenile” courts and “family” (domestic relations) courts, courts which were aimed at preserving the family rather than punishing the crime.²¹⁷ Hence, a “curative” approach was attempted, instead of the “punitive” approach which had been in use.

The Progressive era provided the impetus for the new court system, and the founders of juvenile courts and domestic relations courts brimmed with optimism. The courts were now allied with the “helping professions” (i.e. psychiatry, social work) in order that the family could be preserved.²¹⁸ Progressives sought the preservation of families where the husband was the primary (if not sole) breadwinner, children attended school full-time, and wives remained at home, devoting themselves to housework and childrearing.²¹⁹ In his autobiography *Back to the Home* Judge Bernhard Robbino, the first judge to preside over New York City’s Court of Domestic Relations, argued that “if mothers remained at home caring for their children and being supported by their husbands, they would be able to raise healthier children and prepare their children to become responsible citizens.”²²⁰

Robbino insisted that the men and women who came before him at his family court were not “hardened lawbreakers,” and that “domestic trouble cases are not criminal in the legal sense.”²²¹ The average couple that appeared in family court, according to sociological surveys, were white, Protestant, working

class men and women without a high school diploma.²²² The wife was generally a homemaker, the husband was typically a factory worker, and the couple usually had several children. Physical assault constituted the single most common reason that a wife brought charges at family court.²²³

Reconciliation, or "home mending," represented the official policy of courts of domestic relations. According to Pleck, wife beating was often viewed as having been caused by "the extravagance of the wife and the arrogance and lack of understanding on the part of the husband who is abusive in manner."²²⁴ A few of the new courts granted divorces, but most sought family reconciliation if it was at all possible. If not, a legal separation was often granted, accompanied by a judicial order requiring that a husband pay support.²²⁵

In deciding whether to order support payments, judges often closely examined the wife's (but not the husband's) morality. Family law court judges possessed near-absolute discretion over the personal lives of those men and women who came before them, and virtually every aspect of the parties' personal lives was examined. One judge declared that if "the woman has not been living the right kind of life, I will not make an order on the man to support her."²²⁶ The court system clearly legitimized the socially prevalent "double standard," reflecting the pre-existing social biases in America. In one case cited by Gordon, a man gave his wife a black eye when he was "a little drunk," but the wife was placed in a psychopathic hospital for observation and classified as an "imbecile" because she displayed the characteristic symptoms of depression and exhaustion.²²⁷

Between the turn of the century and the 1970s, wife beating in America was discussed only rarely; when it was, euphemisms such as "domestic disturbance" and "family maladjustment" were typically used. A new understanding of family violence came to the fore within the medical profession, however, after Freudian psychoanalytical theory led to a new "sexual" way of viewing the problem.²²⁸ Freud's ideas "liberated" the scientific world from previous stodgy, overly moralistic Victorian values, but the new approach

actually revived misogynistic myths of “the seductive daughter, the nagging wife, and the lying hysteric.”²²⁹

The ideas of Freud's disciple Helene Deutsch created a tremendous impact on psychiatry and, in turn, prevailing social perceptions of violence against women.²³⁰ By the 1930s, according to Dobash and Dobash, “psychoanalysis had enshrined the myth of masochism into its conceptions of normal female psychology.”²³¹ Speculation was presented as if it constituted scientific truth, with the result that many “experts” believed the seemingly incredible notion that battered women derived sexual gratification from being battered (!) by their husbands. Deutsch popularized the term “masochistic” in her book *Psychology of Women*, and the term saw extensive use in the mid-twentieth century. The psychology of the rape victim, from this view, could be readily understood: she had an unconscious desire to be raped.²³² Further, women were actually seen as *causing* their husband's alcoholism through their own “irrational,” inconsistent behavior. The battered woman became known as the “doormat wife,” a woman who could not only *not* understand her own complicity in her beatings, but actually *permitted* the beatings to continue as a means of holding on to her husband's hand in marriage.²³³

Masochism was repeatedly and frequently diagnosed. One Massachusetts social worker who had been to a client's home in 1956 wrote:

She did say he was very abusive to her when he was drunk and it was difficult to ascertain if she derived masochistic pleasure in the abuse or if she is too limited because of physical difficulties and emotional difficulties to do anything about the situation.²³⁴

Not only were battered women being diagnosed, they were also being blamed for failing to somehow solve the problem themselves, without any help from social services. In 1956, in the “eyes of society,” the problem scarcely seemed to exist; if the subject was broached at all, euphemisms were used. Like rape, wife beating was considered a “taboo” topic, seldom discussed publicly except as a “joking matter.”²³⁵ As Elizabeth Pleck has written, the “rebirth of feminism” led to “the rediscovery of wife beating.”²³⁶ Linda Gordon, by

contrast, argues that “the recent rediscovery of family violence was accomplished in part by pressure from the victims themselves.”²³⁷ As has consistently been the pattern, the “rediscovery” of the problem of battered women in America has led to changes in law and society, and the responses by those in power have largely stemmed from pressure from within the women’s movement, and from women themselves. Unless the problem of battered women remains within the public domain, however, public awareness of its occurrence will eventually decrease, battered women and their friends and families will refrain from discussing it, and batterers will likely be able to literally “get away with murder.”

Why Real Men Don’t Hit Women, But Men Really Do

Public / private precepts embody the essence of American society’s “double standard.” As Del Martin describes the double standard, it comprises a “virile husband protecting his honor and property” on the one hand, and a “virginal, loyal wife” remaining dutiful and domestic on the other.²³⁸ Martin describes an interesting list of adjectives which U.S. society applies to men and women, adjectives which she found in certain reference books such as *Roget’s Thesaurus*, the Bible, and *The Psychology of Sex Differences* by Maccoby and Jacklin.²³⁹ Men often begin to feel anxious to demonstrate their masculinity and their virility at a relatively young age, and a short list of adjectives pertaining to men is enough to make anyone, male or female, become anxious. Words like “aggressive, brave, analytical, determined, orderly, rational, bold, stable, self-sufficient, and public” define masculinity.²⁴⁰ By contrast, terms such as “passive, modest, delicate, tender, timid, cautious, sympathetic, self-sacrificing, and private” denote femininity.²⁴¹

The fact that these characteristics are considered “normal” and “natural” does not explain why some men hit some women. Women and men throughout

the U.S. receive constant, on-going exposure to these terms all throughout their lives, and yet not all men hit women. Exposure to gender-specific socially constructed terminology serves to increase our understanding of why women and men might behave differently, but it fails to suffice as a plausible explanation of why some men hit women, because it fails to account for the vast majority of cases where men are constantly exposed to such terms but do not become batterers.

Feminist legal theorist Robin West has advanced two theses which can help foster our understanding of feminism and male patriarchal jurisprudence. The "separation thesis" describes men as "separate" sorts of individuals whose awareness of their separate nature informs their behavior in life. As separate and unconnected beings, men, according to West, "fear frustration of their individual ends by other separate individuals."²⁴² As separate and unconnected beings, men often lead tragic lives, caught between a desire to remain separate and therefore "masculine" on one hand, and to become actively engaged in their communities on the other.

West's "separation thesis" provides a theoretical basis for the practice of law, according to West, because "law's most common response to conflict is to separate, to keep individuals from interfering with each other's pursuits by removing them from one another."²⁴³ West's "connection thesis," by contrast, describes women as connected with others, and as being afraid of abandonment and isolation.²⁴⁴ Radical feminist theory counters this thesis by claiming that women experience the "violence of forced community," or of "invasion."²⁴⁵

The two aforementioned theses are problematic because of the ways in which they overlap between the two socially constructed gender categories. It is not the case that all men desire to be separate from others as individuals, and it is hardly true that all women wish to be connected with society. Further, men not only desire to become actively engaged in the community, but they traditionally operate primarily in the public domain in positions of power. Women, on the other hand, often feel as if they "need their space," a time which Maya Angelou

has called “a day away” to regroup and to reconsider themselves within the context of the rest of society. Yet, as general indicators of men’s and women’s lived experiences, the aforementioned theses possess a degree of usefulness in attempting to understand the reasons why men batter women, and why the traditionally male-oriented legal system treats male offenders in the ways it does.

During the socialization process, men become channeled into the category “male,” and they are expected to function in the public sphere as separate individuals. According to psychologist Peter Wyden, “men are not programmed to be other than aggressive,” and so “much of the aggressive hostility vented on women must be seen as a product of our schizoid culture.”²⁴⁶ This may be true, but it not only fails to account for the majority of men who are not prone to violence against women, it also allows batterers to blame society’s “schizoid culture.” U.S. society probably *is* schizoid, however; the aforementioned list of male and female adjectives provides sufficient evidence of that fact.

As mentioned in the “historical” section of this paper, women of the nineteenth century temperance movement believed that liquor caused male violence, and so it logically followed that Prohibition would provide the cure. Today, a similar point of view actually remains prevalent in America. As Martin writes, “Police and social scientists share widely in the view that many family disputes involving assaultive behavior can be traced to the use of alcohol by one or both participants.”²⁴⁷ Yet, evidence indicates that only 30 percent of wife beaters used alcohol at the time they hit their spouse, and only 26 percent of the women had been imbibing.²⁴⁸ Further, alcohol provides another excuse through which men who commit violence against women can deceive friends and family with regard to their violent behavior; men who hit women often try to blame booze, saying things such as “I just wasn’t myself. I would *never* do anything like that if I wasn’t drunk.” Contemporary British feminist activist Erin Pizzey directly refutes the notion that booze *causes* battery, stating: “Some of the men

who batter are alcoholics, but stopping them from drinking doesn't stop the violence. Anything can release the trigger of violence in a batterer. It can be alcohol, a child crying, a bad day at the horses."²⁴⁹ Hence, contrary to popular opinion, alcohol does not in and of itself directly lead to male violence, and so alcoholism fails as a valid explanation.

Psychological explanations have often been advanced to explain male violence. The primary proponents of this perspective have been psychiatrists, although sociologists and other experts have agreed with this perspective. From this view, according to family therapist Ron Thorne-Finche, a combination of factors including "personality disorders, low frustration tolerance, dependency, developmental trauma, depression, and various psychiatric illnesses" account for the actions of violent men.²⁵⁰ Yet this explanation also fails on at least two accounts. For one, studies demonstrate that psychiatric disorders constitute an especially poor indicator of violent behavior, and that psychiatric patients do not engage in violent behavior more often than the rest of society.²⁵¹ Also, at least one study shows that psychiatric treatment itself not only fails to solve the problem, but that it may actually exacerbate the problem in at least some cases.

Researchers have attempted to determine the likelihood that physiological factors cause male violence against women. Evidence does indicate that certain physiological factors affect human behavior, but such evidence fails to account for the fact that men are far more likely to be violence-prone than women. Various portions of the human brain have been linked to aggressive behavior; this, coupled with the fact that men are socialized to be aggressive as a fundamental part of the essence of "masculinity," may play a crucial role in the causation.

Sociobiologists have often cited high testosterone levels as being a primary cause of male violence, a claim which helps explain the wide discrepancy between male and female aggressiveness. The argument that high testosterone levels cause male violence fails to hold true for a few reasons, however. For one, testosterone level fluctuate wildly under certain

circumstances, and it is not knowwhether high testosterone levels constitute a cause or an effect of male violence.²⁵² Also, not only is testosterone's function influenced by an enormous variety of social variables, but its effects on humans are not as direct as they are on the laboratory animals which researchers have used to conduct their experimentation.²⁵³ Hence, the jury is out on the issue of the physiology of male violence, primarily because physiological factors cannot readily be studied in conjunction with social factors in order to determine the degree of interplay between nature and nurture.

As Thorne-Finch writes, we have "yet to fully emerge from our lengthy legacy of legislated permissibility of male violence."²⁵⁴ The legal history of Coverture and its corresponding acceptance of a husband's right to "chastise" (batter) his wife still carry crucial ramifications today. Try as we might, we can never completely emerge from our past. The historical legacy of socially condoned violence against women has left permanent scars on the social psyche of western civilization, scars which will slowly heal over the course of time but which will never fully disappear. A common truism holds that it is impossible to legislate people's attitudes, and such is the case with male violence. It will take a combination of time, coupled with a concerted effort on the part of men and women alike, to affect positive social change and ameliorate the problem of men hitting women.

The causes of male violence in America are numerous, and so it is counterproductive to look at one factor and call it "the" cause of the problem. Robin West's separation thesis entails the notion that the social category "man" constitutes a set of separate, self-sufficient, aggressive individuals, and society fosters this notion. Surprisingly, images from the popular media proscribe a rather limited number of roles for male actors, many of which are often violent. In childhood, males constantly see violently images reinforced on television: images of men dashing around with loaded guns, protecting helpless women are part and parcel of any young man's upbringing.

Manhood in the United States becomes equated with Sylvester Stallone-as-Rambo, and Arnold Schwarzenegger-as-the-saviour; action-packed scenes of men aggressively pursuing wicked villains dominate television and the movies. Because of this constant and insidious exposure to male aggression, boys come to believe that manhood actually entails being the “strong and rugged hero.” A *frustrated* strong and rugged hero becomes the anti-hero, the batterer.

The notion that male violence is “socially acceptable” becomes engrained in the male mind quite early in life. In the popular mainstream media, violence is commonly portrayed as acceptable for the men: “You’ve gotta be a football hero, to get along with a beautiful gal” is a frequent refrain heard by youngsters as they are growing up, if not literally, at least figuratively. Watching the Super Bowl, young males in America learn that “real” men play tough and hard, and that “real” women dress in skimpy costumes (i.e., the Dallas Cowboy’s cheerleaders).

Sociologist Robert N. Whitehunt has summed up the cultural dilemma for men. “Our culture teaches men to be tough and ready to fight if necessary,” he writes. “To expect men to become tender lovers and responsive husbands seems to be asking more than logic can allow.”²⁵⁵ And logic, of course, constitutes the cornerstone of liberal masculine patriarchal ideology. Battered women support Whitehunt’s claim, describing their husbands in pathological terms: “Angry, resentful, suspicious, moody, tense, helpless, inadequate, and insecure.”²⁵⁶

The renowned psychologist Erich Fromm has described the wife-beater as a desperate, disturbed, sadistic individual. The “more powerless a person is,” declares Fromm, “the more likely he is to compensate for his weakness by sadism. He may even risk his life for a moment of absolute power.”²⁵⁷ The American double standard informs the American marital standard, and, as Del Martin writes, if a wife-beater “does not risk his life when he beats his wife, at

least he sacrifices his sense of right and wrong for the feeling of power he derives from harming someone weaker than himself."²⁵⁷

Feminists have successfully challenged the view that women are "naturally" perfect mates for men, and so today many U.S. women have rejected the all-American marriage culture and its inherently unjust double standard. In her famous book *Against Our Will*, Susan Brownmiller argued that "female fear of an open season on rape, and not a natural inclination toward monogamy, motherhood, and love, was probably the single causative factor in the original subjugation of woman by man, the most important key to her historic dependence."²⁵⁸ The duality of the "male protector / female dependent" must be deconstructed in its entirety if the single most important question ever raised with regard to the essence of man's humanity is ever to be answered: "Can the wife-beater come to understand that he risks his very humanness for a moment of false power?"²⁵⁹

Real men need not assume any such risks. Real women need real political and social empowerment, something which only real men can step aside and allow them to achieve.

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²²³ Pleck, p. 137.
²²⁴ Pleck, p. 137.
²²⁵ Pleck, p. 141.
²²⁶ Pleck, p. 141.
²²⁷ Gordon, pp. 261-262.
²²⁸ Pleck, p. 146.
²²⁹ Pleck, p. 146.
²³⁰ Pleck, p. 162.
²³¹ Dobash, p. 158.
²³² Pleck, p. 162.
²³³ Pleck, p. 162.
²³⁴ Gordon, p. 284.
²³⁵ Pleck, p. 185.
²³⁶ Pleck, p. 183.
²³⁷ Gordon, p. 290.
²³⁸ Martin, p. 61.
²³⁹ Martin, p. 62.
²⁴⁰ Martin, pp. 62-63.
²⁴¹ Martin, p. 63.
²⁴² Littleton, p. 334.
²⁴³ Littleton, p. 334-335.
²⁴⁴ Littleton, p. 334.
²⁴⁵ Littleton, p. 334.
²⁴⁶ Peter Wyden, in Martin; p. 71.
²⁴⁷ Martin, p. 55.
²⁴⁸ Martin, p. 56.
²⁴⁹ Erin Pizzey, in Martin; p. 57.

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²⁵¹ Thome-Finch, p. 119.
²⁵² Thome-Finch, p. 50.
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²⁵⁵ Robert N. Whitehunt, *Violence in the Family*, "Violence in Husband-Wife Interaction," p. 78.
²⁵⁶ Martin, p. 45.
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