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## THE DEVELOPMENT OF DOMESTIC VIOLENCE AS A LEGAL FIELD: HONORING CLARE DALTON

*Elizabeth M. Schneider\* and Cheryl Hanna\*\**

This essay honors Clare Dalton's important work in feminist legal theory and women's rights. It examines Clare's work on gender, law, and domestic violence, especially her work on the original Dalton and Schneider casebook on domestic violence, *Battered Women and the Law*,<sup>1</sup> and the evolution of this casebook as critical to the development of domestic violence as a legal field. Liz Schneider and Cheryl Hanna, co-authors with Clare Dalton on the second edition of this casebook, are from two different generations of women in legal practice and the legal academy, and were originally teacher and student. In the first Part of this essay, Liz Schneider offers a brief history of the Dalton and Schneider casebook and explores the

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\* Rose L. Hoffer Professor of Law, Brooklyn Law School. This essay is based on presentations at the conference *Challenging Boundaries in Legal Education, A Symposium Honoring Clare Dalton's Contributions as a Scholar and Advocate*, held at Northeastern Law School on November 5, 2010.

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<sup>1</sup> The first edition of the casebook, CLARE DALTON & ELIZABETH M. SCHNEIDER, *BATTERED WOMEN AND THE LAW* (2001), was published by Foundation Press. The second edition, with a new title and new co-authors, was published by Foundation Press as ELIZABETH M. SCHNEIDER, CHERYL HANNA, JUDITH G. GREENBERG & CLARE DALTON, *DOMESTIC VIOLENCE AND THE LAW: THEORY AND PRACTICE* (2d ed. 2008). The third edition from Foundation Press, ELIZABETH M. SCHNEIDER, CHERYL HANNA, JUDITH G. GREENBERG AND EMILY J. SACK, *DOMESTIC VIOLENCE AND THE LAW: THEORY AND PRACTICE* (3d ed. forthcoming 2013), includes a new author, Emily J. Sack, and no longer includes Clare Dalton.

development of domestic violence as a field in American law.<sup>2</sup> In the second Part, Cheryl Hanna examines issues presented by the second edition of the casebook and their implications for legal conceptions of domestic violence. In the third Part, the authors write jointly to draw some conclusions about the casebook and the evolution of domestic violence as a distinct field of law.

### I.

In 1970, I entered New York University Law School in order to do legal work in the field of women's rights. I graduated in 1973, and in 1974, while a staff attorney at the Center for Constitutional Rights, I started teaching Women and the Law with Rhonda Copelon at Brooklyn Law School. I then began teaching Women and the Law along with other courses when I joined the full-time faculty at Brooklyn Law School in 1983, and subsequently taught this course at Harvard Law School from 1989–2002, mostly in the Winter Term.

I began to do legal work relating to domestic violence in the 1970s.<sup>3</sup> In the spring of 1991, while I was a visiting professor at Harvard Law School for the year, I taught my first course on Battered Women and the Law at the invitation of the law school. This course was proposed by many of my Women and the Law students who wanted a special course on domestic violence. Martha Minow, now Dean of Harvard Law School (and then a member of the faculty), was especially enthusiastic about my teaching the course. It was not my first time teaching about these issues, since my Women and the Law courses had included sections on domestic violence and battered women who kill, as well as rape and sexual harassment, but they did not focus exclusively on domestic violence.

One of the people with whom I spoke about this course was Clare Dalton, who was already teaching at Northeastern Law

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<sup>2</sup> In the first two Parts, each author writes individually and so uses the pronoun "I." In Part III, the authors refer to themselves as "we."

<sup>3</sup> For further discussion of this history, see ELIZABETH M. SCHNEIDER, BATTERED WOMEN AND FEMINIST LAWMAKING 3–10 (2000).

School. Clare, Martha Minow, Mary Joe Frug, and I had become good friends through joint work as part of a loose network of feminist legal scholars—the “Fem-Crits”—in the 1980s, and all of us were concerned with legal issues surrounding domestic violence.<sup>4</sup> Clare had not only founded the Domestic Violence Institute at Northeastern with the money that she had received from her settlement with Harvard from her gender discrimination lawsuit,<sup>5</sup> but she had been teaching about issues of domestic violence in an innovative “bridge” program involving first-year courses at Northeastern. She generously shared with me some of the materials that she had used for that program and I included them in my course materials. Clare visited one of my classes at Harvard and we spent time talking about it afterward, imagining that there might be a day when such courses and clinics would be common at many law schools and a casebook would be available.

Battered Women and the Law was not the first law school course on domestic violence (although it was one of the first), but the interest and enthusiasm it generated reflected an enormous wave of student interest in legal work on domestic violence.<sup>6</sup> Since first teaching the course at Harvard in 1991, I taught it again at Harvard in 2002; have taught it regularly at Brooklyn Law School; at Columbia Law School in 2000; and at Florida State University Law School several times as an intensive, week-long “mini-course.” These experiences have been hugely energizing. Now, in 2012, many law schools around the country have courses or clinical programs that focus on problems of intimate violence, and a great number have student-run advocacy programs, which provide students the opportunity to assist in cases.

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<sup>4</sup> For Clare’s work on feminist and critical legal studies, see Clare Dalton, *An Essay in the Deconstruction of Contract Doctrine*, 94 *YALE L.J.* 997 (1985); Clare Dalton, *Where We Stand: Observations on the Situation of Feminist Legal Thought*, 3 *BERKELEY WOMEN’S L.J.* 1 (1988).

<sup>5</sup> See Deborah L. Rhode, *Litigating Discrimination: Lessons from the Front Lines*, 20 *J.L. & POL’Y* 340–41 (2012).

<sup>6</sup> The first course was taught by Nancy Lemon at Boalt Hall Law School.

After word got out that I was teaching *Battered Women and the Law*, many law teachers around the country asked for my course materials. After duplicating thousands of pages, and sending them to many people, Clare and I began to talk about co-authoring a casebook. There was one casebook that had already been published, written by longtime domestic violence activist Nancy Lemon, who had taught a course at Boalt Hall Law School, but it was primarily geared towards legal practice.<sup>7</sup> Clare and I wanted to write a casebook that involved both theory and practice, and tied them together—a casebook that was broadly interdisciplinary and placed domestic violence within a wider framework of gender equality. We also wanted to document the development of the field in the women’s movement of the 1970s, and the efforts that had led to the explosion of legal work on domestic violence. We were incredibly lucky to have the support of Foundation Press, and the book was published in 2001. The publication of casebooks plays an important role in legitimizing a new and innovative field in legal education as a serious subject. This casebook, and the work of so many other activists, teachers, and scholars whose work is included in it, has helped to build and establish domestic violence law as a distinct and important field of legal study.

I want to note several aspects of the casebook that represented our joint vision, but reflected Clare’s special concerns. The casebook included considerable discussion of the psychological dimensions of violence, and the ways in which aspects of the legal system might affect women who had experienced violence. The book also examined the “secondary trauma” that is often experienced by those who have worked with them, whether as lawyers or shelter workers, or in any advocacy capacity.<sup>8</sup> We included many social science materials

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<sup>7</sup> See NANCY K.D. LEMON, *DOMESTIC VIOLENCE LAW* (3d ed. 2009).

<sup>8</sup> Perhaps this focus reflected Clare’s longstanding interests in healing that she has now moved to full-time. See Bella English, *Life Points: For Legal Scholar Clare Dalton, a Sharp Turn from Academia to Acupuncture Was a Natural Fit*, BOS. GLOBE (May 24, 2011), [http://articles.boston.com/2011-05-24/lifestyle/29580304\\_1\\_thin-needles-healing-hands-domestic-](http://articles.boston.com/2011-05-24/lifestyle/29580304_1_thin-needles-healing-hands-domestic-)

and did not just focus on cases and legal doctrine. Clare selected some important literary excerpts, which powerfully explored issues of intimate violence, and emphasized the use of stories. Throughout the book, we highlighted tensions around the role of law and the limits of law.<sup>9</sup> We were jointly responsible for the larger vision, but Clare did much of the work to make our ideas concrete.

There is now a significant literature that documents the serious problem of gender bias in the law school curriculum, and specific courses that focus on issues of gender and violence against women are widely recognized as crucial to contemporary legal education. Yet there is still a need for “mainstream” courses, including first-year courses, to expand to include issues concerning violence against women. Discussion of violence against women must also be integrated into a wide range of upper-class courses in the law school curriculum.

Programs on domestic violence and legal education that have been held at the Annual Meeting of the Association of American Law Schools (AALS) and at other professional development conferences have discussed the breadth of potential curricular options.<sup>10</sup> In 1997, the American Bar Association (ABA) Commission on Domestic Violence published a report, *When Will They Ever Learn? Educating to End Domestic Violence*, which surveys the range of programs in law schools around the country and underscores the importance of these programs. Over the last two decades, the ABA Commission has also sponsored a series of regional conferences around the country to encourage curricular development in law schools concerning violence against women.<sup>11</sup>

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violence.

<sup>9</sup> In this sense, some of these themes reflected Clare’s early work in post-modernism and a skepticism about the limits of law. See sources cited *supra* note 4.

<sup>10</sup> See Ann Shalleck, *The Feminist Academic’s Challenge to Legal Education: Creating Sites for Change*, 20 J.L. & POL’Y 376 (2012).

<sup>11</sup> See generally Elizabeth M. Schneider, *Domestic Violence Law Reform in the Twenty-First Century: Looking Back and Looking Forward*, 42 FAM. L.Q. 353, 355 n.5 (2008).

Every first-year law school course could integrate issues of violence against women. In civil procedure, a course that I teach, the issue of the effectiveness of injunctive relief available for battered women—such as restraining orders—poses important questions, as does the “domestic relations” exception to federal subject-matter jurisdiction and the Violence Against Women Act. In torts, there are important issues relating to state responsibility, negligence, failure to provide police protection and enforce orders of protection, and battered women and self-defense. The historic legitimacy of domestic violence flows from concepts of “husband and wife as one” and coverture that should be explored in property. At AALS Annual Meeting programs, ABA Commission meetings, or forums at particular law schools, teachers and scholars of domestic violence have described efforts to integrate these issues into first-year courses.<sup>12</sup> In addition, segments on violence against women fit easily into upper-class courses on family law, evidence, civil rights, racial discrimination, health law, alternative dispute resolution, remedies, law and poverty, international human rights, advanced courses in criminal justice, and more “obvious” courses such as gender discrimination or feminist theory, and mediation courses.

Domestic violence is also a natural topic for the development of clinical courses. There was a clinical component to my first course on Battered Women and the Law at Harvard, and that was just a beginning.<sup>13</sup> Now, in 2012, many law schools around the country in addition to Northeastern have developed full in-house clinical programs, in which students represent battered women in a variety of settings. These clinical opportunities are key to further evolution and growth of domestic violence law.

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<sup>12</sup> Symposium, *Domestic Violence in Legal Education and Legal Practice: A Dialogue Between Professors and Practitioners*, 11 J.L. & POL’Y 409 (2003).

<sup>13</sup> This clinical component was taught in 1991 by Sarah Buel, a recent Harvard Law School graduate, former student, and formerly battered woman. Sarah now directs the domestic violence clinic at Arizona State Law School and has been a leading activist and scholar in this field. *Faculty Profile of Sarah Buel*, SANDRA O’CONNOR SCH. L., [http://apps.law.asu.edu/Apps/faculty/faculty.aspx?individual\\_id=69160](http://apps.law.asu.edu/Apps/faculty/faculty.aspx?individual_id=69160) (last visited Mar. 12, 2012).

Most important, integrating domestic violence into all aspects of the law school curriculum has the potential to foster greater opportunities for legal representation for battered women, as no state provides for free legal representation in any civil matter.<sup>14</sup> Classroom and clinical courses that address legal issues affecting battered women can increase access to justice and legal representation, not only providing direct service, but also introducing law students to these issues. Many younger lawyers who now provide legal assistance for victims of domestic violence, whether in their full-time work or as part of pro bono projects with law firms, were, as law students, involved in battered women's projects, courses, or clinics. Many younger judges and legislators have had those experiences as well.

Many of the students who have been in the many courses that I have taught have made important contributions to legal reform for battered women. Cheryl Hanna was one of the students in the very first class of Battered Women and the Law, and when Clare and I thought of additional co-authors for the second edition of our casebook, we immediately thought of Cheryl. There are several other students in that first class who are now law professors, and who teach and write on domestic violence.<sup>15</sup> There are many other students from all of the classes that Clare, Cheryl, and I (and many others in the field) have now taught who have made important contributions through lawyering, advocacy, teaching, and scholarship.<sup>16</sup> Many of these students are now carrying on the legacy, teaching the same course or related courses at law schools across the country, reaching a new generation of law students. Expanding legal educational opportunities for students in this field has made it

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<sup>14</sup> Although, the Civil Gideon movement's call for state-funded legal representation in civil matters is a promising development. *See generally* Laura K. Abel, *A Right to Counsel in Civil Cases: Lessons from Gideon v. Wainwright*, 15 TEMP. POL. & CIV. RTS. L. REV. 527 (2006).

<sup>15</sup> For example, Jennifer Collins, now Professor of Law at Wake Forest University Law School, has written widely in this field. *See, e.g.*, JENNIFER COLLINS, DAN MARKEL & ETHAN LEIB, *PRIVILEGE OR PUNISH: CRIMINAL JUSTICE AND THE CHALLENGE OF FAMILY TIES* (2009).

<sup>16</sup> *See* SCHNEIDER, *supra* note 3, at 225–26.



possible to develop more committed, sensitive, thoughtful, and effective lawyers to assist battered women in the future. In this way, creative legal advocacy, or what I have called “feminist lawmaking on battering,” will continue to grow and be enriched by new perspectives.

## II.

In the past quarter-century, there has been an explosion in scholarship concerning domestic violence, law reform, and services available to those who have been victims of abuse by their intimate partners. The intentional intergenerational mentoring by Clare Dalton, Liz Schneider, and so many other founders of the field to foster the next generation of lawyers and professors who focus on domestic violence law and scholarship has played an important role. Of course, mentoring relationships can take many forms, from informal conversations between a student and a teacher, to more formal settings. But these relationships, whatever their form, provide professional development opportunities for each new generation.

Two aspects of intergenerational mentoring have been key: the establishment of law school clinics, such as the Northeastern Domestic Violence Institute, which was founded and funded by Clare,<sup>17</sup> and the institutionalization of academic courses, facilitated in large measure by the development of course materials, including publication of the casebook, *Battered Women and the Law*. These developments have had two profound effects on the law and social change. First, they have established domestic violence as a relevant and legitimate field of intellectual inquiry and practice, both within classrooms and in clinical settings. Domestic violence was once relegated to an occasional mention in criminal law, or presented as an unexamined dynamic in legal services divorce cases, often with stereotypical or biased references. Now domestic violence law

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<sup>17</sup> See Lois H. Kanter, V. Pualani Enos & Clare Dalton, *Northeastern's Domestic Violence Institute: The Law School Clinic as an Integral Partner in a Coordinated Community Response to Domestic Violence*, 47 LOY. L. REV. 359, 361-62 (2001).

has become a distinct course that integrates diverse fields of study, such as constitutional and employment law, and a field of practice that extends far beyond the family law courtroom. This has provided opportunities for learning and doing, and created laboratories for the development of new ideas and the implementation of new strategies. Today, domestic violence courses and clinics have become the training ground for soon-to-be lawyers to hone their professional skills and establish their professional agendas. And it was in these settings that the legislation and litigation that are the hallmarks of the movement to combat violence against women first began to take root.

I have had firsthand experience with how influential the early domestic violence courses were in fostering the movement because I was a student in Liz Schneider's course, *Battered Women and the Law*, at Harvard Law School in 1991. Of all the courses I took in law school, this one had the most profound effect on my professional development. *Battered Women and the Law* documented human suffering inflicted not just by abusive individuals, but also by state indifference. Thus, for the first time in law school, I understood what it meant to be disempowered, both as a person and as a citizen. Like the rest of the students in the class, I was required to undertake a significant research project. My project examined how welfare regulations required recipients to identify the father of their children without exception for victims of domestic violence, thereby inadvertently placing victims at risk of retaliatory violence. My fellow students and I learned how to be creative lawyers through these projects by not simply mastering material, but by re-imagining new directions for law and public policy to respond to violence against women. Professor Schneider encouraged this through both scholarship and practice. Her teaching was a kind of activism, and class members became legal activists along with her; many students went on to publish their research papers and pursue careers in the field.

Second, and perhaps most important, courses and clinics have established opportunities for students and teachers to develop relationships with each other. These interpersonal relationships have blossomed into networks that have fed the

field. Domestic violence law has become a self-sustaining field because of the work of many, not just a few, individuals. I suspect that if we were to map a “family tree” of domestic violence practitioners, teachers, and scholars, we would find many connections to Clare Dalton, Liz Schneider, and the many people who participated in the Northeastern conference honoring Clare in 2010,<sup>18</sup> which sparked the movement. Many of these “first generation” leaders have understood that they do not control the field, but rather have been stewards for the next generation.

So what has this next generation of domestic violence scholarship yielded? Once Judith Greenberg and I joined Clare and Liz as editors on the second edition of the casebook, I had the unique opportunity to examine the field not just from my own plot of scholarship, but from a broader perspective. As a group, we could see the development of the field as a whole, and seek to identify those areas that needed attention or changing.

One of the challenges that we faced was whether to change the title of the casebook. The original title, *Battered Women and the Law*, reflected both the feminist and the activist origins of the book. The term “battered women” grew from the early shelter movement, which was an integral part of the women’s rights movement, and it shed light on violence perpetrated by men against women as both a real phenomenon that was largely unrecognized, and was a metaphor for the legal status of women in the United States. But by the mid 2000s, the term “battered women” had come to represent a particular legal and social characterization of abused women, and was often associated with controversial, problematic, and largely inaccurate legal assumptions, embodied in notions such as “battered women’s syndrome.” Furthermore, by the mid 2000s, there was a growing understanding of battering in same-sex relationships and

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<sup>18</sup> See *Challenging Boundaries in Legal Education: A Symposium Honoring Clare Dalton’s Contributions as a Scholar and Advocate*, NORTHEASTERN UNIV. SCH. L., <http://www.northeastern.edu/law/news/multimedia/photo-galleries/dalton-symposium-2010/index.html> (last visited Mar. 12, 2012).

that, in some instances, women were the ones who were abusive.

By this time, the term “domestic violence” had proliferated not just in the law, but also in numerous other disciplines, such as psychology, criminal justice, medicine, and beyond. Replacing “battered women” with “domestic violence” reflected the terminology used by colleagues in other disciplines and invited a more nuanced and complex analysis. “Domestic violence” had become widespread in common parlance and was the term people would Google most frequently when they were looking for research or searching for help.<sup>19</sup>

Yet it was this dimension of mainstreaming that made the title change somewhat bittersweet. There had been a subtle shift from the feminist origins of the field. The field was no longer dominated by those who saw ending private violence against women as part of a larger social and political agenda to ensure women’s equality with men. Others entering the field saw violence against women as caused by either individual challenges or a breakdown in family relationships, largely disconnected from women’s rights more generally. And so, while the title change was driven by both practicality and acceptance of the changing nature of domestic violence law, it was also a somewhat sobering decision because it signaled that, for both better and for worse, the field had changed.

The second struggle we faced was accounting for the dimensions of battering and intersections with race, ethnicity, class, religious affiliation, age, sexual orientation, disability, and immigration status. By the mid 2000s, there had been a proliferation of legal scholarship critiquing the early development of the field as being primarily about white middle-class women and their experiences. It was argued that early

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<sup>19</sup> While there is no specific research available, a search of the term “Domestic Violence” yielded 136,000,000 sources, as compared to 16,900,000 for the term “Battered Woman.” Comparison of Search Results, GOOGLE, <http://google.com> (search “Domestic Violence”; then execute separate search for “Battered Women” for comparison) (last visited Feb. 8, 2012).

scholars had ignored much social specificity such as race, ethnicity, or class, and had been responsible for the development of laws that often failed to provide the relief and remedies which well-meaning advocates and lawmakers had intended. The paradigmatic victim was not Farrah Fawcett in the *Burning Bed*, or Julia Roberts in *Sleeping with the Enemy*. She, or perhaps he, had many more dimensions, many more barriers, and many more life experiences than what had been described in early works.

Yet in our attempts to capture the complexities of women's lives and to alert readers to the need for legal remedies that take these complexities into account, we often felt that our over-inclusiveness minimized any individual dimension. As we read much of the emerging scholarship challenging the unidimensionality of domestic violence work, we were struck that each piece echoed common themes across life experiences, in particular: the reluctance to seek outside intervention due to shame, concerns over the potential loss of community or children, a lack of financial resources, and the internalization of a patriarchal culture. Victims' experiences were unique and uniform at once, different, and yet the same. Therefore, we struggled, and continue to struggle, with how to present this dilemma in the casebook, unessentializing victims of abuse while presenting the experiences that are common or universal.

Part of this struggle has personal as well as intellectual implications for students, who often look for aspects of their own experiences in the stories told in the cases and the articles in the casebook. For many students, a course on domestic violence and the law can be a deeply personal and transforming experience in which they can associate their own journeys as members of a particular gender, class, and background, with broader institutionalized structures and norms that govern intimate relationships. Students of domestic violence law often begin to question their own personal relationships, or those of their families and friends. This area of legal study raises issues that are inevitably close to home, like the kind of consciousness-raising prevalent during the second wave of feminism, when women were encouraged to see the political as personal.

Students often want to see themselves in stories they read in law school because it validates their own place in legal scholarship and the profession. In this light, leaving out certain narratives runs the risk that some students may feel marginalized. Thus, to avoid minimizing or trivializing differences due to over-inclusion of every possible dimension of domestic violence, we attempted to weave difference deliberately throughout the book rather than relegate any particular aspect to its own chapter, and to highlight commonalities when appropriate. It has been a difficult line to walk, and I suspect that we have performed with equal measures of awkwardness and grace.

The third challenge we faced concerned the role of the state in domestic violence legal work. Historically, there has been a debate among domestic violence law reformers and activists about whether states should have affirmative duties to protect citizens from privately-inflicted violence, and the state's role in balancing victim autonomy and decision making with the broader dictates of a civilized society—but these debates had intensified by the time we were writing.<sup>20</sup> These debates are not confined to the United States, but take place within international communities as well.<sup>21</sup> And as co-authors, we engaged in them ourselves. The challenge for us was how to present and make space for differing points of view. Overall, those who work in this field but differ on issues have largely acted respectfully. But

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<sup>20</sup> For a discussion of these issues, see generally Cheryl Hanna, *No Right to Choose: Mandated Victim Participation in Domestic Violence Prosecutions*, 109 HARV. L. REV. 1849 (1996); G. Kristian Miccio, *A House Divided: Mandatory Arrest, Domestic Violence, and the Conservatization of the Battered Women's Movement*, 42 HOUS. L. REV. 237 (2005); Linda G. Mills, *Killing Her Softly: Intimate Abuse and the Violence of State Intervention*, 113 HARV. L. REV. 550 (1999); Arlene N. Weisz, *Prosecution of Batterers: Views of African American Battered Women*, 17 VIOLENCE & VICTIMS 19 (2002).

<sup>21</sup> See generally Caroline Bettinger-Lopez, *Jessica Gonzales v. United States: An Emerging Model for Domestic Violence and Human Rights Advocacy in the United States*, 21 HARV. HUM. RTS. J. 183 (2008); Zanita E. Fenton, *State-Enabled Violence: The Story of Town of Castle Rock v. Gonzales*, in *WOMEN AND THE LAW STORIES* 379 (Elizabeth M. Schneider & Stephanie M. Wildman eds., 2011).

no issue has had more potential to divide the community of domestic violence scholars and activists than the questions of if, how, and in what contexts the state should intervene into private relationships. To this end, we have intentionally attempted to present a wide range of views on this question. We hope that our students will closely examine and vigorously debate these issues and reach their own conclusions about how to best balance the need for the state to undertake affirmative steps to stop violence and the rights of individuals to determine their own destiny and define their own autonomy.

Finally, and most significantly for the development of the field, we included a chapter on domestic violence, sexual autonomy, and reproductive freedom. In this chapter, we explore the impact of intimate partner violence on the ability of women, in particular, to control their sexual lives—from rape, forced intercourse, and birth control sabotage, to questions of abortion policy and battering during pregnancy. Before the publication of the second edition of the casebook, there had been no comprehensive and sustained legal analysis of how battering affected what is arguably the most central aspect of women's autonomy in all of its interrelated aspects. Through the development of this chapter, we strengthened the theme that was already manifest in other parts of the book—that domestic violence was fundamentally an assault on women's autonomy, personhood, and full citizenship. In the third edition, we plan to expand this chapter to include a broader discussion of the impact of battering on a woman's physical health, including the effect of ill health on her ability to access the legal system. This chapter provides important examples of the ways in which intimate violence affects all aspects of women's lives, which is a central theme of the book.

As we plan the third edition, we are struck by how many new cases and areas of law there are to explore, and the richness and depth of new scholarship. The number of cases involving domestic violence before the United States Supreme Court has increased, signifying the sophistication of the field, and these cases often have presented complex questions

reflecting how federal judges understand domestic violence.<sup>22</sup> We also see common concerns and growing connections with our colleagues in other emerging fields of study, such as international human rights law,<sup>23</sup> sexual orientation and gender identity law,<sup>24</sup> and even animal law.<sup>25</sup> We have to address the challenges that modern technologies have presented for victims, and the possibility that these technologies can provide more effective remedies and relief. Issues like cyber-abuse and electronic monitoring,<sup>26</sup> for example, raise many questions and

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<sup>22</sup> For a discussion of United States Supreme Court advocacy on domestic violence, see Cheryl Hanna, *Domestic Violence and Supreme Court Advocacy: Lessons from Vermont v. Brillon and Other Cases Before the Court*, 24 ST. JOHN'S J. LEGAL COMMENT. 101 (2010).

<sup>23</sup> See, e.g., Hilary Charlesworth, *Not Waving but Drowning: Gender Mainstreaming and Human Rights in the United Nations*, 18 HARV. HUM. RTS. J. 1 (2005); Rhonda Copelon, *International Human Rights Dimensions of Intimate Violence: Another Strand in the Dialectic of Feminist Lawmaking*, 11 AM. U. J. GENDER SOC. POL'Y & L. 865 (2003); Stephanie Farrior, *The Rights of Women in International Human Rights Law Textbooks: Segregation, Integration, or Omission?*, 12 COLUM. J. GENDER & L. 587 (2003); Sally Engle Merry, *Constructing a Global Law-Violence Against Women and the Human Rights System*, 28 LAW & SOC. INQUIRY 941 (2003).

<sup>24</sup> See, e.g., Michelle Aulivola, *Outing Domestic Violence: Affording Appropriate Protections to Gay and Lesbian Victims*, 42 FAM. CT. REV. 162 (2004); Adele M. Morrison, *Queering Domestic Violence to "Straighten Out" Criminal Law: What Might Happen When Queer Theory and Practice Meet Criminal Law's Conventional Responses to Domestic Violence*, 13 S. CAL. REV. L. & WOMEN'S STUD. 81 (2003); Tara R. Pfeifer, *Out of the Shadows: The Positive Impact of Lawrence v. Texas on Victims of Same-Sex Domestic Violence*, 109 PENN ST. L. REV. 1251 (2005).

<sup>25</sup> See, e.g., Caroline Forell, *Using a Jury of Her Peers to Teach About the Connection Between Domestic Violence and Animal Abuse*, 15 ANIMAL L. 53 (2008); Janet Mickish & Kathleen Schoen, *Protection Orders and Animal Abuse in Family Violence*, COLO. LAW., Sept. 2006, at 105; Jennifer Robbins, *Recognizing the Relationship Between Domestic Violence and Animal Abuse: Recommendations for Change to the Texas Legislature*, 16 TEX. J. WOMEN & L. 129 (2006).

<sup>26</sup> Diane L. Rosenfeld, *Correlative Rights and Boundaries of Freedom: Protecting the Civil Rights of Endangered Women*, 43 HARV. C.R.-C.L. L. REV. 257 (2008); Cindy Southworth & Sarah Tucker, *Technology, Stalking, and Domestic Violence Victims*, 76 MISS. L.J. 667 (2007).



possibilities and require heightened attention. Finally, we would be remiss not to expand both international and comparative perspectives on domestic violence. While we struggle here in the United States to strike the appropriate balance between affirmative state duties and victim autonomy, that struggle is not ours alone. Understanding how ending domestic violence is part of a global struggle to end violence and discrimination against women and girls is both re-energizing and humbling.

### III.

As we jointly reflect upon Clare Dalton's work in the evolution of the casebook and the development of the field of domestic violence law, it is important to ask what differences these developments have made on the ground, in the lives of real people. Clare's work, and the work of so many others, has had a considerable impact in raising awareness, and in restructuring our understanding of domestic violence from a private family matter to a public and social problem rooted in gender discrimination. We continue to see a proliferation of law reform and litigation in many courts and legislatures. While not all cases or legislative battles have turned out favorably from the point of view of domestic violence advocacy communities and there is often a diverse range of perspectives within these communities, the increased debate evinces a growing understanding and sophistication on the part of both advocates and scholars, many of whom started their careers in law school clinics and courses a generation earlier.

We also see increasing connections to broader struggles to end discrimination, such as global issues of human rights. Work on domestic violence has helped inform and enrich other fields, and has been central to recognizing male violence against women as a human rights issue. Domestic violence is no longer an isolated field, but an integral part of the human rights movement internationally.<sup>27</sup>

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<sup>27</sup> See SCHNEIDER, *supra* note 3 (discussing the United Nations Secretary-General's Report on Global Violence); see also Jessica Lenahan (Gonzales) v. United States, Inter-Am. Comm'n on H.R., Report No. 80/11

But beyond this increased awareness and scholarship that has led to law reform, the question remains whether all of these efforts have really reduced gendered violence. While the empirical data suggests that rates of domestic violence have remained relatively steady in the last quarter century, we cannot deny the enormous importance that this field has had on the lives of those who seek recognition, remedy, and relief. Every one of us who reads this essay has a story to tell of someone whose life was made safer or more meaningful because of domestic violence law reform. The complexity of reforms may have made some lives difficult or complicated, but, overall, the efforts of this movement have offered many people opportunities to live more safely than would have been possible a generation ago. While we still face many challenges to reduce violence against women, we should take this opportunity to not only celebrate Clare's contribution to domestic violence legal work, but to the growth of the field of domestic violence law.

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(July 21, 2011); *Opuz v. Turkey*, No. 33401/01 (Eur. Ct. H.R. June 9, 2009).

