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# Feminist Lawmaking and Historical Consciousness: Bringing the Past into the Future

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FEMINIST LAWMAKING AND HISTORICAL  
CONSCIOUSNESS: BRINGING THE PAST INTO THE FUTURE

Elizabeth M. Schneider\*

INTRODUCTION

This symposium<sup>1</sup> honors the inaugural conference of the National Women Law Students Association at the University of Virginia School of Law in February 1994. When Stephanie Webster, one of the organizers of the conference, called to invite me to participate in this symposium and told me about the formation of the Association, I was surprised. I mentioned to her that from 1970 to 1992 there had been an annual National Conference on Women and the Law which had included law students and lawyers. She, too, was surprised, since she had never heard about the National Conference. That conversation sparked this essay. The fact that a whole new generation of women law students did not know about this organization seemed problematic because, as I will describe more fully, it played a crucial role in shaping feminist legal history over the last twenty-five years. At the same time, since the National Conference no longer existed, I was happy to see a new generation of women law students taking the initiative to form a new organization.

This essay is about feminist legal history: the importance for feminists in the law to have a sense of history; the importance of recognizing the ways in which feminists in the law have made history; and the need to acknowledge and sustain institutions that feminists in the law have built. This essay is also about the need to move forward

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<sup>1</sup> An earlier version of this essay was presented at the Symposium, "Solidarity, Inclusion and Representation: Tensions and Possibilities Within Contemporary Feminism," at the University of Virginia School of Law in February 1994.

and to make change that is informed by a sense of history. I begin with a brief description and analysis of the work of the National Conference on Women and the Law (the Conference), and then consider its implications for feminist lawmaking and historical consciousness.

### I. THE NATIONAL CONFERENCE ON WOMEN AND THE LAW

The first meeting of the National Conference on Women and the Law was in 1970 and the last was in 1992. It was an annual conference organized by feminists in the law. With workshops or presentations on almost every area of the law, the Conference was an important event that brought together women law students and lawyers from around the country for several days and received considerable media attention.<sup>2</sup>

Women law students at New York University Law School, including Susan Deller Ross and Janice Goodman, organized the first conference in 1970. I attended my first conference in 1971 as a first-year law student at New York University Law School. I drove all night with two other women in my class to get to the conference in Chicago. It was an extraordinary event. I met many women law students and lawyers who are now colleagues in law teaching, practicing attorneys, and federal and state court judges. Each year the Conference was held at a different law school, and a Steering Committee was appointed to meet several months in advance to plan the theme of that conference. One of my favorite memories is of a Steering Committee meeting I attended in September 1978 in Austin, Texas, with my then two

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<sup>2</sup> For examples of the array of issues explored by the National Conference on Women and the Law over twenty years and national media attention which the Conference received, see Nina Burleigh, *Law Blocks Change, Professors Suggest*, *Chi. Trib.*, Apr. 26, 1992, § 6, at 4 (reporting that a panel of women law professors advocated advancing new law and new thinking on legal rights as the best method for achieving women's equality); Cris Carmody, *Fitting Feminism Into Law, Not Theory*, *Chi. Daily L. Bull.*, Mar. 27, 1992, at 1 (stating that at the 22d Conference, feminist advocates argued for grounding abortion rights in the theory of equality rather than privacy); Carol Krucoff, *Monitoring the Mediators*, *Wash. Post*, June 1, 1983, at D5 (noting that at the 14th Conference, representatives from the National Center on Women and Family Law drew attention to the dangers for women in mediation of divorce and family law disputes); Anastasia Toufexis, *Now For a Woman's Point of View: Feminist Scholars Challenge Male Bias in the U.S. Legal System*, *Time*, Apr. 17, 1989, at 51 (reporting that over one thousand people gathered for the 20th Conference, "where feminist scholars explored everything from marriage to murder").

month-old daughter, Anna, whom I nursed in Pat Cain's outdoor hot tub.

These conferences were valuable, both personally and professionally, for the hundreds of women law students, practitioners, and law teachers around the country who participated. In addition, the Conference was instrumental in shaping the development of feminist jurisprudence:

The necessary conditions for the development of feminist jurisprudence arose when women began entering the law schools in large numbers in the late 1960s. The presence of these women, and the questions they asked posed significant challenges to formerly all- or predominantly-male bastions.

In particular, female law students asked why the curriculum was so silent on issues that mattered deeply to them as women—unequal pay and job opportunities; rape and sexual assault; battering of wives; reproduction. The women themselves organized to “fill in” the gaps in their legal education, forming the National Conference on Women and the Law. . . . And the law schools responded, at varying rates, by creating the first courses in “Women and the Law,” many of which were later renamed “Sex-Based Discrimination” to reflect the coming of age in the mid-1970s of new legal avenues of redress for women's unequal situation.<sup>3</sup>

Feminist law students carried the Conference home. “Encouraged by their successful first effort at networking, the women students returned to their home schools with renewed energy and began agitating on issues that remain high on the current agenda of legal education: faculty diversity, curricular reform, and treatment of women students and women's issues in the classroom.”<sup>4</sup>

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<sup>3</sup> Herma H. Kay & Christine A. Littleton, *Feminist Jurisprudence: What Is It? When Did It Start? Who Does It?*, in Herma H. Kay, *Text, Cases, and Materials on Sex-Based Discrimination* 884 (1988).

<sup>4</sup> Herma H. Kay, *The Future of Women Law Professors*, 77 *Iowa L. Rev.* 5, 12 (1991).

The conferences were impressive both in their broad scope and comprehensive coverage of feminist legal perspectives.<sup>5</sup> Equally important, the conferences maintained a sense of history by addressing and incorporating contemporary issues and historical struggles. Presentations on family law included custody, child-abuse, and divorce, while other panels focused on gay and lesbian legal issues. Even in the 1970s, health care speakers addressed issues ranging from abortion and sterilization to medical ethics. Constitutional law panels covered such topics as the Equal Rights Amendment, equal protection, pornography, and reproductive rights. There were panels on employment discrimination, discrimination against both elderly women and juveniles, violence against women, the special problems of women of color and immigrant women within the legal system, and the economics and impact of women on the workforce. The conferences also covered the special struggles and treatment of women as lawyers and law students, and career alternatives for women within the law.

In addition to presentations on law and theory in these areas, the conferences featured extensive discussion of problems of implementation and strategy. In 1970, there were no courses or casebooks on women and the law. There was only an evolving field, and we were the ones helping it to evolve. Rhonda Copelon and I began to teach a course entitled "Women and the Law" at Brooklyn Law School in the spring of 1974, and we developed our course materials with other lawyers that we knew from the Women and the Law Conference.<sup>6</sup> The Conference provided crucial opportunities for feminists in the law to meet, to strategize, and to share ideas with each other. As the

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<sup>5</sup> The following discussion in the text of the Conference programs is based on the author's memory and review of the Conference materials. See 8th National Conference on Women and the Law, *Focus* (1977); 9th National Conference on Women and the Law, *Women and the Law: A Sourcebook* (1978); 11th National Conference on Women and the Law, *Sourcebook* (1980); 12th National Conference on Women and the Law, 1981 *Sourcebook* (1981); 13th National Conference on Women and the Law, *Women Working Together* (1982); 15th National Conference on Women and the Law, *Bread and Roses: The Economics of Feminism* (1984); 16th National Conference on Women and the Law, *Building Bridges Not Walls: Sourcebook* (1985). (Conference materials on file with author.)

<sup>6</sup> The first casebooks in the area of women and the law were both published in 1974. See Barbara A. Babcock, Ann E. Freedman, Eleanor H. Norton & Susan C. Ross, *Sex Discrimination and the Law: Causes and Remedies* (1974); Kenneth M. Davidson, Ruth B. Ginsberg, & Herma H. Kay, *Text, Cases, and Materials on Sex-Based Discrimination* (1974).

Conference grew, the needs of students and practitioners for education and brainstorming diverged. A Feminist Litigation Strategies Project was developed, designed primarily for more experienced attorneys, and meetings were held in conjunction with the Conference. Many of the areas that we now take for granted in the law—sexual harassment, intimate violence, acquaintance rape, sexual abuse and incest—were first articulated, explored, and developed in sessions at these meetings. The Conference also laid the groundwork for much of the early feminist theoretical work that we now take for granted. Yet the last conference was held in 1992, and from then until February 1994, there was no national meeting of women law students.

The history of the National Conference on Women and the Law provides fertile ground for reflection about the importance of feminist legal history. First, law students can play a central role in making history, in making change, and in shaping knowledge and information. Law students initiated the National Conference on Women and the Law, and through the support of law schools that agreed to sponsor the Conference, law students helped to develop and shape the scope of the Conference. Second, it is critically important to know that there is a history of these conferences, to explore it, and to learn from it; indeed, a full history of the National Conference on Women and the Law needs to be written.<sup>7</sup> Third, it is difficult for women to learn our own history. Women's organizations generally, and women's legal organizations specifically, are traditionally under-funded, run on shoestring budgets,<sup>8</sup> and are more likely to disappear without leaving the docu-

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<sup>7</sup> This essay does not attempt to provide a history of the National Conference on Women and the Law, but focuses on why this history is important and needs to be studied. As Barbara Babcock has suggested, there are other important organizations of women in law that would also be important to study such as the National Conference of Women's Bar Associations, the National Association of Women Judges, and the Section of Women in Legal Education of the Association of American Law Schools. Barbara A. Babcock, Introduction: Gender Bias in the Courts and Civic and Legal Education, 45 *Stan. L. Rev.* 2143, 2144 (1993).

<sup>8</sup> See, e.g., Beverly Beyette, *Feminism, Philanthropy: Fighting the Funding Gap*, *L.A. Times*, May 13, 1988, pt. 5, at 1 (stating that in 1986, grants to organizations aiding women and girls accounted for 3.6% of total foundation giving); Mary Servatius, *Contraception Key in Abortion Debate*, *Chi. Trib.*, May 5, 1989, at 26 (noting the chronic underfunding of research in the field of contraception for women); Barbara Vobejda, *Battered Women's Cry Relayed Up From Grass Roots*, *Wash. Post*, July 6, 1994, at A1 (discussing the problem of inadequate resources in expanding the network of shelters for battered women).

mentation and analysis that would allow a history to be pieced together.<sup>9</sup> Finally, it is important that those who have actively participated in feminist legal work in the past and present help nurture a new generation of feminist lawyers. Hopefully, this generation can both imagine new possibilities and understand the historical tensions; consider the historical context but not be bound by it; work to understand the mistakes of the past and use this understanding to effect positive change. I explore these themes in the next section.

## II. FEMINIST LAWMAKING AND HISTORICAL CONSCIOUSNESS

A group's understanding of its own history can play a crucial role in assisting group consciousness, identification, and activism. Nancy Cott has described the important role of women's history for feminism:

The endeavor for truth telling begun by researchers, teachers and writers of women's history in the past decade has served a "consciousness-raising" function: women who learn more fully about their own history often become more conscious of identification with their gender group, more aware that their personal circumstances carry the legacy of sex-specific historical experience, more determined to advance their position as women. Since the appearance of modern feminist thought, the rise of feminist activism and interest in women's history have been symbiotic.

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... Women's history concerns not only what was done *to* women, but also what was done *by* women—often exclusively *among* women. To see both the cultural and subcultural roles played by women is to

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<sup>9</sup> For an example of effective historical analysis of grass-roots feminist efforts, see Judith Sealander & Dorothy Smith, *The Rise and Fall of Feminist Organizations in the 1970s: Dayton as a Case Study*, 12 *Feminist Stud.* 321 (1986).

understand the coexistence of strengths and subordination.<sup>10</sup>

Women have made history in the law in this country through the process of feminist lawmaking. Women have shaped the law by imagining the law differently. We have developed theory from practice, turned that new theory into practice, and then brought it back to theory.<sup>11</sup> Over the last twenty years there has been an explosion of litigation and theoretical work that has challenged every aspect of the law. But this explosion is based on and has developed from the extraordinarily rich historical legacy that has come before. As I have suggested, most of the women's issues that have been in the forefront of recent popular culture, such as acquaintance rape, sexual harassment, family leave, reproductive freedom, and intimate violence, were long-standing topics of workshops at the National Conference and were first explored at conference meetings beginning in the 1970s. As the women's legal movement developed, there were many other meetings and forums at which feminist lawyers strategized about these issues, but for many women law students and lawyers, the National Conference was a first and continuing exposure to the exciting work that was being developed.

Unfortunately, it is easy to forget the historical legacy of the National Conference. The failure to remember history can have serious consequences. I offer two examples. During Supreme Court Justice Clarence Thomas' confirmation hearings, Anita Hill raised the issue of sexual harassment, and there was a sense of national shock about this issue. Many highly educated people with whom I spoke, including many law professors, suggested that this was because it was the first time that this "new" issue had emerged in a public forum. Yet feminist legal work on issues of sexual harassment was more than

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<sup>10</sup> Nancy F. Cott & Elizabeth H. Pleck, Introduction to *A Heritage Of Her Own: Toward A New Social History Of Women* 9-16 (Nancy F. Cott & Elizabeth H. Pleck eds., 1979). For examples of modern feminist historians' efforts to recapture women's history and to reexamine the construction of history itself, see Linda K. Kerber, *Women of the Republic: Intellect and Ideology In Revolutionary America* (1986); Joan W. Scott, *Gender and the Politics of History* (1988); *Root of Bitterness: Documents of the Social History of American Women* (Nancy F. Cott ed., 1972).

<sup>11</sup> For a discussion of this process, see Elizabeth M. Schneider, *The Dialectic of Rights and Politics: Perspectives from the Women's Movement*, 61 *N.Y.U. L. Rev.* 589 (1986).



twenty years old at the time of the Thomas confirmation hearings, and there already existed a highly developed body of case law, including a major United States Supreme Court opinion addressing the importance of the issue.<sup>12</sup> Many reported cases on sexual harassment contain fact patterns that were viewed as “incredible” in Anita Hill’s allegations, such as the use of pornography. The fact that the Senate Judiciary Committee and the media failed to pay attention to this historical legacy and that feminist lawyers and scholars were not able to present expert testimony on the history and complexity of sexual harassment meant that this history and case law on sexual harassment was ignored. The public was misled and the Senate was poorly educated about this issue because of the misperception that it was “new.”

Current controversy about the use of the word “feminism” also suggests the need for an historical perspective.<sup>13</sup> “Feminism” is a word

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<sup>12</sup> See *Meritor Sav. Bank v. Vinson*, 477 U.S. 57, 69 (1986) (holding that hostile environment sexual harassment is a form of sex discrimination that is actionable under Title VII of the Civil Rights Act of 1964).

<sup>13</sup> See Siona Carpenter, Ms. Judgments, *The Times-Picayune* (New Orleans), Sept. 20, 1994, at C1. In an interview with Gloria Steinem, Carpenter asked if it bothered Steinem that recent Gallup Poll results indicated that “sixty-four percent of the more than one thousand women surveyed said they didn’t identify themselves as feminists.” Steinem, not surprised, responded that some women feared identifying themselves as feminists, in part because the backlash movement has succeeded in associating feminism with adjectives such as “extremist” and “man-hating.” *Id.* Other unpleasant connotations that many young women say they associate with feminism cover a spectrum of “ugly stereotypes”—that they are “bra-burning, hairy-legged, amazon, castrating, uptight and man-haters.” Barbara Brotman, *Younger Activists Say that Steinem Has Had Her Day*, *The Plain Dealer* (Cleveland), Sept. 6, 1994, at E1 (quoting Paula Kamen, who surveyed young women for her book, *Feminist Fatale* (1991)).

Women and girls may also fear associating themselves with feminism based on opposition to abortion, resistance to perceiving themselves as victims, and homophobia. See Barbara Carton, *A Rebel in the Sisterhood: Author Christina Sommers Wants to Rescue Feminism From its “Hijackers,”* *Boston Globe*, June 16, 1994, at 69; Daley Haggard, *Why Fear the Word “Feminist”?*, *Dallas Morning News*, June 1, 1994, at A23 (writing that many teenage girls associate feminists with “man-hating lesbians” despite agreeing “with the goals of feminism: equal pay, equal opportunity and mutual respect between the sexes”); Wendy Kaminer, *Feminism’s Identity Crisis*, *The Atlantic*, Oct. 1993, at 51, (noting that “middle-class family women sometimes associate feminism with lesbianism, which has yet to gain middle-class respectability”); Loraine O’Connell, *The Fight Over Feminism: Does the Feminist Viewpoint Treat Women As Victims? Were the Early Days More About Equality?* *Writers Square Off*, *The Gazette* (Montreal), July 11, 1994, at D3; see also, Mary C. Dunlap, *The “F” Word: Mainstreaming and Marginalizing Feminism*, 4 *Berkeley Women’s L.J.* 251 (1989-90) (suggesting that “causes central to women” like “abortion

that has been used for many decades. It has an historical meaning, beyond the particular struggles of the 1990s, which connotes a supporter of women's rights. Recent negative associations with the word "feminism" are not a contemporary phenomenon, but part of a long historical process of "backlash" that must be carefully analyzed and explained.

Santayana's truism—that those who do not learn from history are doomed to repeat it—is true for feminists in law as well. Documenting and studying our history are crucial. Ahistoricism is a serious problem for all grass roots groups who do not have the resources to gain access to their own history, especially for women, whose history has long been invisible.<sup>14</sup> It is also a particular problem for lawyers, since a

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choice, sexual violence, lesbian rights, sexual speech, [and] sex education" are considered "dirty" by many people); Deirdre English, *Fear of Feminism*, Wash. Post, Sept. 4, 1994, at X7, noting that, many mainstream women reject the feminist label because they associate feminists with selfish women, who put themselves before their families. Women also "fear losing things they like best about being female" like potentially being able to choose to "stay home with children full or part-time."

<sup>14</sup> For provocative discussion of ahistoricism and the role of history in feminism, see Jeanne L. Schroeder, *History's Challenge to Feminism*, 88 Mich. L. Rev. 1889 (1990); Jeanne L. Schroeder, *Feminism Historicized: Medieval Misogynist Stereotypes in Contemporary Feminist Jurisprudence*, 75 Iowa L. Rev. 1135 (1990). In the latter article, Schroeder argues that contemporary feminist theories, particularly those of Robin West, are ahistorical in two senses:

By ahistorical, I mean two things. First, these theories are based on the sense of self personally experienced by late twentieth-century American white professional-class individuals, and do not take into account the very different selves experienced by people living in other cultures and other historical periods. This sense of the "self"—the mediating experience of individuality and community—has been perceived differently in past societies, and to a large extent may be culturally determined. To derive essentialist theories of human nature and gender from only our own personal experience and the experiences of our contemporary intellectual neighbors is an act of cultural hubris, doomed to error and historic triviality.

Second, insofar as it accepts modern cultural descriptions of personality as universal, modern feminist jurisprudence fails to recognize the historical roots of the prejudices on which it is based. Indeed, if all we had to go by were our own experiences, the distinction between universal and historical descriptions would be very difficult to grasp. While it may be true that the theories described by West explain many of our social institutions, that may be so only because we have inherited many of these institutions from the Middle Ages. That is, the theories de-

certain parochialism and lack of respect for history shapes the study of law. Much contemporary scholarship and public discussion of issues of feminist legal theory and practice fail to provide this historical context, presenting issues and ideas as if they have emerged anew. For example, feminists in the 1920s, not just feminists in the 1980s, debated whether special protective legislation helped or hurt women.<sup>15</sup> In order to move forward, we must look to the past, because the past shapes the present and the future.

An historical perspective on feminism means also looking to the future and understanding that new ideas and issues will unfold as struggles develop and change. The “dialectical nature of rights and politics” that I have described elsewhere details an historical and evolutionary process, whereby rights claims emerge from political struggle, and the assertion of rights claims in turn reshape the political struggle.<sup>16</sup> My current project is the exploration of the tensions, contradictions, and possibilities of feminist lawmaking and feminist theory in one particular dimension of women’s rights—violence against women.<sup>17</sup>

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scribed by West may merely mirror the historical rationales for the very institutions these theories are attempting to critique. It is poor methodology to examine our own jurisprudence without also examining the culture and thought of the intellectual grandparents who gave birth to many of the ideas and cultural presuppositions of contemporary law and society. We may find that modern theories are not a discovery of universal metaphysical truths, but merely a repetition of the same old lies in modern dress. What has been called “feminism unmodified” may well be old fashioned “masculism” with minor modifications. On the other hand, these old stories might be repeated because they are partly constituted by some universal truths that can be recognized cross-culturally, even if previously imperfectly understood and distorted. In either case, historical analysis will enrich the analysis.

Id. at 1137-39 (footnotes omitted).

<sup>15</sup> Babcock et al., *supra* note 6, at 247-68.

<sup>16</sup> Schneider, *supra* note 11.

<sup>17</sup> For examples of my work that comprise part of this project, see Elizabeth M. Schneider, *Particularity and Generality: Challenges of Feminist Theory and Practice in Work on Woman-Abuse*, 67 *N.Y.U. L. Rev.* 520 (1992); Elizabeth M. Schneider, *The Violence of Privacy*, 23 *Conn. L. Rev.* 973 (1991); Elizabeth M. Schneider, *The Dialectic of Rights and Politics: Perspectives from the Women’s Movement*, 61 *N.Y.U. L. Rev.* 589 (1986); Elizabeth M. Schneider, *Describing and Changing: Women’s Self-Defense Work and the Problem of Expert Testimony on Battering*, 9 *Women’s Rts. L. Rep.* 195 (1986); Elizabeth

Domestic violence has only developed as an important feminist issue over the last twenty-five years. Yet we can see examples of this dialectical process of formulation and reformulation in recent law reform efforts concerning domestic violence. For example, recent legislation and public education efforts on stalking have expanded our perspective on domestic violence.<sup>18</sup> Our insights into domestic violence have been deepened by linking problems of workplace violence with domestic violence, and recognizing the problems that women face in the workplace because of domestic violence.<sup>19</sup> Finally, our understanding of domestic violence has been enriched by the concep-

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M. Schneider, *Equal Rights to Trial for Women: Sex Bias in the Law of Self-Defense*, 15 *Harv. C.R.-C.L. L. Rev.* 623 (1980).

<sup>18</sup> For example, California has one of the most comprehensive criminal anti-stalking statutes after which many other states have modeled their statutes. California makes the crime of stalking punishable by imprisonment in a county jail for up to a year and/or a fine of not more than one thousand dollars, unless the stalker violates an order of protection, in which case the crime may be punishable by imprisonment for two to four years. Cal. Penal Code § 646.9(a), (b) (West 1988). For other commentary on stalking, see Robert P. Faulkner & Douglas H. Hsiao, *And Where You Go I'll Follow: The Constitutionality of Antistalking Laws and Proposed Model Legislation*, 31 *Harv. J. on Legis.* 1 (1994); Susan Berstein, Note, *Living Under Siege: Do Stalking Laws Protect Domestic Violence Victims?*, 15 *Cardozo L. Rev.* 525 (1993) (arguing that if stalking is viewed as an aspect of separation assault, then lawmakers, policymakers, and the courts will be more inclined to take the issues of domestic violence more seriously); Laurie Salame, Note, *A National Survey of Stalking Laws: A Legislative Trend Comes to the Aid of Domestic Violence Victims and Others*, 27 *Suffolk U. L. Rev.* 67 (1993) (noting that in order to understand stalking by an ex-intimate there must first be an understanding of domestic violence and the cycle of a battering relationship); Brenda A. Sanford, Comment, *Stalking Is Now Illegal: Will A Paper Law Make a Difference*, 10 *Cooley L. Rev.* 409 (1993).

<sup>19</sup> See BLS Reports, *6,000 Annual Fatal Injuries*, *Occupational Safety and Health Daily (BNA)*, Oct. 12, 1993, at 1 (noting that the Bureau of Labor Statistics reports that violence against women on the job accounts for 40% of all female job-related fatalities); Stuart Silverstein, *Stalked by Violence on the Job: Domestic Violence is Spilling Over Into the Workplace*, *L.A. Times*, Aug. 8, 1994, at A1 (noting that U.S. Department of Justice reports indicate that husbands and boyfriends commit more than 13,000 acts of violence against women in the workplace each year and that some employers handle the problem by firing or suspending the female worker); *Violent Deaths on the Job*, *Houston Chronicle*, Sept. 5, 1993, at A10 (noting that National Safe Workplace Institute reports state that 40% of all women who are killed on the job die from violent attacks); Michael G. Wagner, *Rising Tide of Workplace Violence Against Women*, *Sacramento Bee*, June 13, 1993, at A6 (reporting that two out of every five women who die at work in California are homicide victims, which can be attributed in part to spousal abuse and stalking that spills into the workplace).

tualization of domestic violence within the framework of international human rights.<sup>20</sup>

Dramatic changes in this area of law over the last twenty-five years emphasize the importance of feminist lawmaking and women's role in making history. At the same time, these changes underscore the need to take this history and move it forward to develop new strategies and perspectives. New areas of work in domestic violence suggest the need to rethink feminist lawmaking strategies in light of dynamic changes in the world. However, we cannot advance our lawmaking strategies without historical consciousness. We cannot move forward without understanding the strengths and limitations of feminist efforts in the past.

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<sup>20</sup> Through human rights dialogue, women's organizations have called on nations to assume accountability for violence against women. This movement challenges the public-private dichotomy of violence against women, and underscores the role of dominance and subordination—a theme that crosses national barriers. See Rhonda Copelon, *Recognizing the Egregious in the Everyday: Domestic Violence as Torture*, 25 *Colum. Hum. Rts. L. Rev.* 291 (1994); Katherine M. Culliton, *Finding a Mechanism to Enforce Women's Right to State Protection From Domestic Violence in the Americas*, 34 *Harv. Int'l. L.J.* 507 (1993); Pamela Goldberg & Nancy Kelly, *International Human Rights and Violence Against Women*, 6 *Harv. Hum. Rts. J.* 195 (1993); see also Charlotte Bunch, *Women's Rights as Human Rights: Toward a Re-Vision of Human Rights*, 12 *Hum. Rts. Q.* 486 (1990); Karen Bower, Note, *Recognizing Violence Against Women as Persecution on the Basis of Membership in a Particular Social Group*, 7 *Geo. Immigr. L.J.* 173 (1993).

Violence against women captured the attention of the international human rights community at the United Nations Conference on Human Rights in Vienna in 1993, where the General Assembly adopted a resolution calling on members to recognize the rights of women. See United Nations, General Assembly, Third Committee; Declaration on the Elimination of Violence Against Women, U.N. Doc. A/RES/48/104 (1994); United Nations, General Assembly; Vienna Declaration and Programme of Action, U.N. Doc. A/CONF.157/23 (1993). For examples of the widespread media attention this has received, see Lee Michael Katz, *U.N. Tribunal Puts Focus on Women, Abuse*, *USA Today*, June 15, 1993, at 7A (stating that African and Third World women spoke out about violence against women at the U.N. Women's Tribunal in Vienna); Anne Reifenberg, *U.N. Adopts Wide-Ranging Human Rights Declaration*, *Dallas Morning News*, June 26, 1993, at A1 (reporting that a U.N. declaration was praised for its "unprecedented and potent language denouncing violence against women and all discrimination based on gender"); Alan Riding, *Women Seize Focus at Rights Forum*, *N.Y. Times*, June 16, 1993, at A3 (reporting that a Global Campaign for Women's Human Rights, including 950 different women's organizations from around the world, focused at the conference on the need to end "a series of acute human rights abuses suffered by women because they are women"); U.N. to Appoint Investigator of Abuse to Women, *Chi. Trib.*, Mar. 6, 1994, at 22 (stating that the U.N. Human Rights Commission agreed to appoint a special investigator to look into violence against women, its causes, and its consequences).