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Patriarchal Violence

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For over a century, feminist theorists and activists have sought equality for women. They have aimed their efforts at the many distinct and related causes of women's inequality, among them gendered violence, sexual violence, domestic violence, and violence against women. Recognizing the need to understand problems in order to solve them, feminist theorists have devoted decades to conceptualizing various manifestations of such violence, ranging from private acts, such as sexual assault and intimate partner abuse, to public acts, such as the incarceration of mothers and the criminalization of pregnancy. In this article, I argue in favor of conceptualizing the many discrete types of violence that subjugate girls, women, and all gender-oppressed people as part of one comprehensive system of "patriarchal violence." Further, I introduce an organizational framework that will allow scholars, teachers, and activists to more effectively and efficiently theorize, teach, and eradicate patriarchal violence. Through this framework, various manifestations of patriarchal violence can be better identified, organized, and understood at micro and macro levels.

My patriarchal violence framework is modeled upon the violence framework established by the World Health

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Organization and it is grounded in, and inspired by, the work of feminist theorists who have been naming and theorizing various forms of patriarchal violence for over a century. It allows for the organization of all patriarchal violence according to two important considerations: (1) the nature of the relationship between the perpetrator and victim; and (2) the identity of the perpetrator.

At a micro level, the framework provides a means of understanding how individual victims experience cycles of patriarchal violence by identifying a particular act of patriarchal violence and then tracing each and every related preceding and subsequent manifestation. At a macro level, it serves as a tool to illuminate the many connections between seemingly isolated acts of violence so as to easily reveal the larger ideologically-driven phenomenon that perpetuates the systemic oppression of women.

Application of this framework to the patriarchal violence experienced by girls, women, and other gender-oppressed people will assist scholars, teachers, and activists in: (1) characterizing, naming, organizing, and understanding discrete manifestations of patriarchal violence; (2) recognizing and demonstrating how seemingly discrete manifestations of patriarchal violence merge in a single victim's experience to create a cycle of patriarchal violence; (3) realizing the depth and interconnectedness of the harms experienced by patriarchal violence victims; (4) acknowledging the powerful role played by intersecting social, legal, and governmental forces in perpetuating patriarchal violence; and (5) understanding the ubiquitous nature of patriarchal violence. This article is the first in a series of articles. It provides the historical and theoretical foundation for forthcoming articles that will apply the patriarchal violence framework to the many discrete and interconnected manifestations of patriarchal violence perpetrated and experienced by victims.

INTRODUCTION

I come to this project deeply inspired by the words and wisdom of pioneering feminist theorists, determined to continue their exploration of the role the patriarchy plays in subjugating women.¹ In 1985, feminist historian, Gerda Lerner, explained the mission well:

In undertaking this work I am part of a group effort by feminist thinkers in a variety of disciplines to rectify the neglect of women as subject of discourse and their exclusion as participants in the formation of systems of ideas. The exclusion of women from symbol-making and definition has appeared to men and women to stand outside of history . . . [and] the ahistoricity of this practice has prevented women from “coming into consciousness” as women, and it thus has been one of the major props of the system of patriarchal dominance. It is only in [the last] century that for a small group of women—still only a tiny minority considered on a global scale—the preconditions of educational access and equity have at last become available, so that women themselves could begin to “see” and hence

1. The women who brought feminist thought to my awareness are clear in my mind. Without their words and modeling, I could not think, teach, and write about girls, women, and feminism, as I do. I thank those who brought understanding to my feelings, experiences, and questions, and for inspiring me to continue to ask questions and seek answers and solutions: Bella Abzug, Marina Angel, Simone de Beauvoir, Leslie Bennetts, Susan Brownmiller, Phyllis Chesler, Ann Crittenden, Andrea Dworkin, Susan Estrich, Ruth Bader Ginsburg, Emma Lazarus, Susan Faludi, Martha Albertson Fineman, Betty Friedan, Arlie Russell Hochschild, Gerda Lerner, Catharine MacKinnon, Alice Paul, Adrienne Rich, Carol Sanger, Margaret Sanger, Amy Schumer, Gloria Steinem, Sojourner Truth, Harriet Tubman, Robin West, Joan Williams, and so many others.

I dedicate this Article to my daughter, Naomi Leviya. Naomi's experiences are a painful reminder that any girl, every girl, is threatened by patriarchal violence. At the young age of 18 she made *Aliyah* and joined the Israeli Defense Forces as a combat soldier in the search and rescue division. There, she is acquiring the skills necessary to protect herself in a world that does not protect girls and women. There, she is learning to defend herself and others. Naomi is in the process of acquiring the training she will use to protect and rescue the girls and women who continue to suffer and be threatened by patriarchal violence. I could not possibly be more proud or inspired.

define their predicament.²

Professor of law and philosophy, Robin West instructs us to continue this exploration: “feminist legal theorists should keep our focus on patriarchal violence.”³ Her call to action remains as prescient today as it was when she wrote it, over thirty years ago. This Paper continues the project of conceptualizing law and society from a gendered perspective, focusing patriarchal violence at its center. Recognizing that the patriarchy is the primary obstacle to women’s liberation and that patriarchal violence is its main enforcement tool, this Article rests on the view that the only path to true liberation is one that eradicates patriarchal violence, and thereby the patriarchy, from our midst. While it is true that some women suffer less severely and directly from patriarchal violence than others, as Emma Lazarus aptly stated, “[u]ntil we are all free, we are none of us free.”⁴ Thus, so long as any female bodies remain victimized by patriarchal violence, “we are none of us free.”⁵

To some, the call to keep feminist focus on patriarchal violence may seem misguided. Most recognize that women and girls are living better lives today than ever before during

2. GERDA LERNER, *THE CREATION OF PATRIARCHY* 231 (1986).

3. Robin West, *Feminism, Critical Social Theory and Law*, 1989 U. CHI. LEGAL F. 59, 62.

4. EMMA LAZARUS, *A Quote from Epistle to the Hebrews*, JEWISH WOMEN’S ARCHIVE, <https://jwa.org/media/quote-from-epistle-to-hebrews> (last visited Apr. 10, 2023) (this is an excerpt of an essay titled *An Epistle to the Hebrews*, in *THE AMERICAN HEBREW* (1883)).

5. *Id.* Audre Lorde reminds us, “I am not free when any woman is unfree, even when her shackles are very different from my own. And I am not free as long as one person of Color remains chained. Nor is anyone of you.” Audre Lorde, *The Uses of Anger: Women Responding to Racism*, Speech given at the National Women’s Studies Association Conference in Storrs, Connecticut (June 1981), <https://www.blackpast.org/african-american-history/speeches-african-american-history/1981-audre-lorde-uses-anger-women-responding-racism/>.

any time in history.⁶ The feminist struggle has, to a great extent, moved beyond fighting for women's basic human rights and on to seemingly more prescient issues for our time such as work/life balance,⁷ sex discrimination in employment, women in sports,⁸ and menstruation.⁹ Such focus might suggest that the fight for women's basic human rights has already been won. The argument is persuasive. After all, presumably, American women and girls live in the freest moment in the history of this nation.¹⁰ American

6. *But see* Joshua J. Mark, *Women in Ancient Egypt*, WORLD HISTORY ENCYCLOPEDIA (Mar. 30, 2023) <https://www.worldhistory.org/article/623/women-in-ancient-egypt/>.

7. Sandra Simpson, *The Elusive Quest for Equality: Women, Work, and the Next Wave of Humanism*, 48 GONZ. L. REV. 279, 282–83 (2012) (“This article posits that the era of focusing on the right to procure an abortion and control reproduction has run its course. Instead, the next step forward in the pursuit of equality must focus on the right to a healthy lifestyle. Rather than focusing on the reproductive rights of women as the key to equality in economic life, we should shift our focus to pushing for a humanistic wave allowing for employees to have a life balance, thereby helping professional mothers to reach parity in the workplace. This is particularly important since mothers make up almost seventy-one percent of women in the workplace. A humanistic approach is necessary because in the workplace, ‘[t]here are two sexes, but there is only one culture, the culture of [the male] sex[], in which the [female sex] shares.’ That culture continues to make equality for women elusive.”).

8. Amy Bauer, *If You Build It, They Will Come: Establishing Title IX Compliance in Interscholastic Sports as a Foundation for Achieving Gender Equity*, 7 WM. & MARY J. WOMEN & L. 983, 991–92 (2001).

9. Victoria Hartman, *Ending the Bloody Taxation: Seeing Red on the Unconstitutional Tax on Tampons*, 112 Nw. U. L. REV. 313, 319–21 (2017).

10. *See* Beth Almeida & Bela Salas-Betsch, *Fact Sheet: The State of Women in the Labor Market in 2023*, CTR. FOR AM. PROGRESS (Feb. 6, 2023), <https://www.americanprogress.org/article/fact-sheet-the-state-of-women-in-the-labor-market-in-2023/>; Martha J. Bailey & Thomas A. DiPrete, *Five Decades of Remarkable but Slowing Change in U.S. Women's Economic and Social Status and Political Participation*, <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5115603/pdf/nihms828479.pdf>. *But see* Jessica Ravitz,

women have achieved unparalleled and unprecedented levels of political, professional, academic, and economic success. Girls and women are afforded formal equality in nearly every sector. America is under the leadership of its first-ever Madam Vice President.¹¹ Twenty-five United States Senators and 125 members of the House of Representatives are women.¹² Women governors lead twelve states.¹³ Women are the CEOs of seventy-four Fortune 500 Companies.¹⁴ Women deans lead thirty-five percent of law

Women in the World: Where the U.S. Faulters in Quest for Equality, CNN (Apr. 16, 2015, 4:19 PM), <https://edition.cnn.com/2015/04/16/us/american-women-world-rankings/index.html>. Of the sixteen defining moments of gender equality in 2021 noted by the United Nations only two, rape law reform in Spain and an attempt to reduce the rates of child marriage in Lebanon, had any connection to physical violence against girls and women. UN WOMEN, *Sixteen Defining Moments for Gender Equality in 2021* (Dec. 22, 2021), <https://www.unwomen.org/en/news-stories/feature-story/2021/12/sixteen-defining-moments-for-gender-equality-in-2021>.

11. Lisa Lerer & Sydney Ember, *Kamala Harris Makes History as First Woman and Woman of Color as Vice President*, N.Y. TIMES (Aug. 26, 2021), <https://www.nytimes.com/2020/11/07/us/politics/kamala-harris.html>.

12. CTR. FOR AM. WOMEN & POLS., https://cawpdata.rutgers.edu/women-elected-officials/position?position%5B%5D=US+Representative&position%5B%5D=US+Senator¤t=1&yearend_filter=All&level%5B%5D=Federal+Congress&items_per_page=50; JENNIFER E. MANNING & IDA A. BRUDNICK, CONG. RSCH. SERV., R43244, WOMEN IN CONGRESS: STATISTICS AND BRIEF OVERVIEW 2 tbl.2 (2022), <https://sgp.fas.org/crs/misc/R43244.pdf>.

13. CTR. FOR AM. WOMEN & POLS., https://cawpdata.rutgers.edu/women-elected-officials/position?position%5B%5D=Governor¤t=1&yearend_filter=All&level%5B%5D=Statewide&items_per_page=50.

14. *Women CEOs of the S&P 500 (List)*, CATALYST (Feb. 3, 2023), <https://www.catalyst.org/research/women-ceos-of-the-sp-500/>; Katharina Buchholz, *Only 15 Percent of CEOs at Fortune 500 Companies are Female*, STATISTA (Mar. 8, 2022), <https://www.statista.com/chart/13995/female-ceos-in-fortune-500-companies/>; Jill Griffin, *Women Are Advancing To Fortune 500 CEO's: 5 Proven Ways To Join Them*, FORBES (Jan. 7, 2021, 3:02 PM),

schools.¹⁵ Women are entering college, master's programs, medical school, law school, and Ph.D. programs at rates equal to or higher than men.¹⁶ A third of total household assets, worth more than \$10 trillion, are controlled by women.¹⁷ More women are their family's breadwinners than ever before.¹⁸

Alas, women have not achieved success because their human rights are protected and respected. Rather, women succeed in spite of the fact that they continue to suffer egregious human rights violations. Patriarchal violence may be as prevalent today as ever. Girls and women remain

<https://www.forbes.com/sites/jillgriffin/2021/01/07/women-are-advancing-to-fortune-500-ceos-5-proven-ways-to-join-them/>.

15. Karen Sloan, *More Minority Women Ascent to Law Dean Jobs*, NAT'L L.J. (Jan. 10, 2019, 4:39 PM), <https://www.law.com/nationallawjournal/2019/01/10/more-minority-women-ascend-to-law-dean-jobs/?slreturn=20210023141143>. For a discussion concerning how women deans led law schools, see Herma Hill Kay, *Women Law School Deans: A Different Breed, Or Just One of the Boys?*, 14 YALE J. L. & FEMINISM 219 (2002).

16. *Status and Trends in the Education of Racial and Ethnic Groups*, NAT'L CTR. FOR EDUC. STATS., https://nces.ed.gov/programs/raceindicators/indicator_ree.asp (last visited Jan. 24, 2021) ("Across all racial/ethnic groups, female students earned the majority of certificates, associate's degrees, and bachelor's degrees. For example, the shares of bachelor's degrees earned by female students were 64 percent for Black students, 61 percent for American Indian/Alaska Native students, 60 percent for Hispanic students, 59 percent for students of Two or more races, 56 percent for White students, and 54 percent for Asian/Pacific Islander students.").

17. Pooneh Baghai et al., *Women as the Next Wave of Growth in US Wealth Management*, MCKINSEY & CO. (Jul. 29, 2020), <https://www.mckinsey.com/industries/financial-services/our-insights/women-as-the-next-wave-of-growth-in-us-wealth-management>; see also The Data Team, *Women's Wealth is Rising*, THE ECONOMIST (Mar. 8, 2018), <https://www.economist.com/graphic-detail/2018/03/08/womens-wealth-is-rising>.

18. Baghai et al., *supra* note 17.

victim to its innumerable manifestations.¹⁹ Male violence against women is an especially prevalent form of patriarchal violence experienced by many.²⁰ Every day men molest, physically assault, sexually assault, rape, and traffic girls and women.²¹ Girls and women are physically and sexually

19. See generally CATHARINE A. MACKINNON, *ARE WOMEN HUMAN?* (2007).

20. Alisha Haridasani Gupta, *Misogyny Fuels Violence Against Women. Should It Be a Hate Crime?*, N.Y. TIMES (Mar. 25, 2021), <https://www.nytimes.com/2021/03/25/us/misogyny-violence-against-women-hate-crime.html>; see generally JACKSON KATZ, *THE MACHO PARADOX: WHY SOME MEN HURT WOMEN AND HOW ALL MEN CAN HELP* (2006). The violence girls and women experience—the violence that I refer to as “patriarchal violence”—has, as a concept, evolved over time. Once upon a time, it, presumably, had no name in the public discourse. Discussions of it were limited to the private conversations of girls and women—of which we have little historical record. As feminist consciousness grew, names were given to the harms that seemed to be an inevitable part of the lives of girls and women. The violence they experienced became a topic in the public discourse. It was referred to as battering, domestic violence, patriarchal violence, intimate partner violence, rape, sexual assault, honor violence, female genital mutilation, sexual discrimination, sexual harassment, criminalization of pregnancy, sexualization and adultification of black girls, gendered violence, violence against women, male violence against women, and systemic violence. Some of these words and phrases were meant to describe discrete forms of violence. Others were meant to describe multiple manifestations of the violence girls and women experience throughout their lives. While the phrase “patriarchal violence” was used in the 1970s to refer to what is now usually called domestic violence or intimate partner violence, it was not until recently that the phrase was used to refer to the comprehensive system of interrelated violence that girls and women experience throughout their lives. In this article, in addition to providing a framework for understanding patriarchal violence, I seek to further establish this term as the primary term to use when referring to all the violence girls and women experience under patriarchal systems.

21. Every nine seconds a woman is beaten in the United States. *Domestic Violence Statistics Show Every Nine Seconds a Women in the U.S. is Beaten*, THE GLENDALE STAR (Oct. 5, 2017), https://www.glendalestar.com/news/article_519c5a98-a7c5-11e7-a160-fb9f5e864c05.html. Every 68 seconds an American is sexually assaulted and every nine minutes a child is sexually assaulted. *Statistics*, RAINN,

assaulted by their fathers, brothers, uncles, family friends, boyfriends, husbands, former partners, friends, peers, teachers, coaches, co-workers, neighbors, and supervisors.²² Girls and women are also attacked by acquaintances and strangers.²³ Due to “[t]he large number of rape, physical assault, and stalking victimizations committed against women each year and the early age at which violence starts for many women” the Department of Justice characterizes such violence as “endemic.”²⁴

To say that patriarchal violence²⁵ is pervasive is an

<https://www.rainn.org/statistics> (last visited Apr. 10, 2023).

22. FUTURES WITHOUT VIOLENCE, *Perpetrators Risk Factors for Violence Against Women* 1–2 (2013), available at <https://www.futureswithoutviolence.org/userfiles/file/Perpetrator%20Risk%20Factors%20Fact%20Sheet%202013.pdf> (breaking down perpetrators of sexual assault, domestic violence into three perpetrator categories: romantic partner, acquaintance, and stranger); Michael H. LeRoy, *Harassment, Abuse, and Mistreatment in College Sports: Protecting Players Through Employment Laws*, 42 BERKELEY J. EMP. & LAB. L. 101, 101 (2021) (concluding that: “(1) a disproportionate number of plaintiffs in these harassment and abuse cases are women; (2) sexual assault is a pervasive issue in the context of college sports; (3) player-coach interactions are the most common source of legal disputes involving harassment and abuse”); see generally Robin Fretwell Wilson, *Children at Risk: The Sexual Exploitation of Female Children After Divorce*, 86 CORNELL L. REV. 251 (2001).

23. FUTURES WITHOUT VIOLENCE, *supra* note 22, at 2.

24. PATRICIA TJADEN & NANCY THOENNES, U.S. DEP’T OF JUST., FULL REPORT OF THE PREVALENCE, INCIDENCE, AND CONSEQUENCES OF VIOLENCE AGAINST WOMEN: FINDINGS FROM THE NATIONAL VIOLENCE AGAINST WOMEN SURVEY v (2000) <https://www.ojp.gov/pdffiles1/nij/183781.pdf>.

25. Most of the violence that comprises the broader category of “patriarchal violence” is discussed as “violence against women” or “gendered violence.” *Definitions*, SEXUAL VIOLENCE RSCH. INITIATIVE <https://www.svri.org/research-methods/definitions> (last visited Apr. 10, 2023). I opt for the phrase patriarchal violence because it places the emphasis on the ideology that motivates the violence and the system that is protected by the violence, rather than on the characteristic for which the victim is being targeted. Other scholars have made the same

understatement. In fact, patriarchal violence may be the single most commonly experienced form of violence in the United States and the world today. While patriarchal violence has innumerable manifestations and arguably presents itself in ways that make it, at times, difficult to distinguish from other forms of violence, it can easily be identified if its ideological foundation is understood. Patriarchal violence is that violence which serves to maintain the patriarchy. Stated differently, patriarchal violence is “any kind of violence that creates or maintains men’s power and dominance, or avenges the loss of their power.”²⁶ Patriarchal violence is “a collective term for the violence that is found throughout the world and that is rooted in the patriarchal power structures it defends.”²⁷

Therefore, patriarchal violence is a form of ideologically-driven violence that works to uphold the patriarchal hierarchy in which men’s interests are prioritized over the interests of girls and women. As with other forms of ideologically-driven violence, this violence and the hierarchy it protects and enforces is felt by both individual victims and by all members of the subordinated group—girls, women, and others who identify or are perceived as feminine.²⁸ Thus,

distinction with regard to the phrase “violence against women” versus the phrase “male violence against women”, both of which are other ways of describing some manifestations of patriarchal violence. Gupta, *supra* note 20. The United Nations, through the Declaration on the Elimination of Violence against Women, defines “violence against women” as “any act of gender-based violence that results in, or is likely to result in, physical, sexual, mental harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or private life.” G.A. Res. 48/104, Declaration on the Elimination of Violence Against Women (DEVAW), art. 1 (Dec. 20, 1993).

26. *Do You Know What Patriarchal Violence Is?*, HABEAS CORPUS WORKING GRP., DAPHNE PROGRAMME OF THE EUR. UNION (2006) [hereinafter DAPHNE PROGRAMME], https://eige.europa.eu/docs/28_HU.pdf.

27. *Id.*

28. Antuan M. Johnson, *Sexual Assault and Gendered Hate: A Case of*

women and girls, regardless of whether they have personally experienced patriarchal violence, are affected. Professor Mary Anne Franks states that “the status quo allocation of violence serves hegemonic male interests. That is, the values at the top of our current social and legal hierarchy require the subordination of [] women”²⁹ Antuan M. Johnson, has explained how such violence perpetuates women’s inequality, “gender-bias crimes result in palpable harm to women as a community because they must arrange their daily lives around the fear of being raped.”³⁰ This violence and its ever-looming threat preserve a caste system that elevates men’s liberty over women’s and which denies women the freedom to live fully human lives, freedom to which they are entitled, and freedom which they often, mistakenly, believe they already possess. Despite being among the freest women in the history of the world, and despite the assumption that American women and girls are in fact free, the freedom of girls and women remains deeply inhibited by patriarchal violence.³¹

I propose the following comprehensive definition of patriarchal violence:

Patriarchal violence is all violence that creates or maintains men’s power and dominance, or avenges the loss of their power. It is the enforcement tool that sustains the patriarchy, that is, the institutionalization of male superiority and female subordination. It manifests on internalized, interpersonal, social, and institutional levels through an interconnected system that harms, undervalues, and terrorizes girls, women, and other gender-oppressed people. It often manifests as private interpersonal violence such as sexual harassment, sexual assault, and family violence. The harms caused

Epistemic Injustice, 11 UNBOUND: HARV. J. LEGAL LEFT 91, 95 (2017).

29. Mary Anne Franks, *Men, Women, and Optimal Violence*, 2016 U. ILL. L. REV. 929, 934 (2016).

30. Johnson, *supra* note 28.

31. Marguerite Angelari, *Hate Crime Statutes: A Promising Tool for Fighting Violence Against Women*, 2 AM. U.J. GENDER & L. 63, 87 (1994) (“[W]omen alter their lifestyles in numerous ways to avoid male violence because they fear such violence happening to them.”).

by interpersonal acts of patriarchal violence are compounded by social and institutional patriarchal violence. Patriarchal violence creates a process of intimidation by which *all* men keep *all* women in a state of fear.³²

More simply stated, patriarchal violence is the violence targeted at women and girls that is *motivated by* patriarchal ideologies and *which serves to sustain* patriarchal systems.

Patriarchal violence is perpetrated and perpetuated by individuals, groups, public and private institutions, and the state. It generally victimizes girls, women, and those who identify or are perceived as gender nonconforming or who are otherwise gender oppressed.³³ Patriarchal violence impacts

32. See *infra* text accompanying notes 162–67.

33. Throughout this Paper I will refer to girls, women, and all individuals who identify or are perceived as gender nonconforming or who are otherwise gender oppressed as “women,” “girls and women,” or “women and girls”. I’ve chosen to use the term “women” and the phrases “girls and women” and “women and girls” instead of the more cumbersome “girls, women, and all those who identify or are perceived as gender nonconforming or who are otherwise gender oppressed” for three reasons: (1) girls and women are the primary victims of patriarchal violence; (2) the female body is and has always been the primary target of patriarchal violence; and (3) the patriarchal violence directed at boys and men is generally in response to or in an effort to feminize them. See James D. Wilets, *Conceptualizing Private Violence Against Sexual Minorities as Gendered Violence: An International and Comparative Law Perspective*, 60 ALB. L. REV. 989, 992 (1997); Catharine A. MacKinnon, *Disputing Male Sovereignty: On United States v. Morrison*, 114 HARV. L. REV. 135, 137 (2000) (“‘Violence against women,’ a phrase used by the women’s movement since the 1970s, became . . . a shorthand for the legal term of art ‘gender-motivated violence,’ encompassing violent acts directed against men as well as women that are based on gender, the social meaning of sex.”); Some are victims of patriarchal violence even before birth, as in the case of sex-selective abortion and abuse of pregnant women. Sital Kalantry, *Sex Selection in the United States and India: A Contextualist Feminist Approach*, 18 UCLA J. INT’L L. & FOREIGN AFFS. 61, 62–63 (2013); Eli Newberger, *Abuse of Pregnant Women and Adverse Birth Outcome*, 267 JAMA 2370 (1992), <http://www.elinewberger.com/articles/archive/domesticviolence/abuse.html>; “Approximately 324,000 pregnant women are abused each year in the

girls and women throughout their lives, from infancy to old age.³⁴ Studies indicate that one in three teen girls is a victim of sexual assault or other violence³⁵ and at least one in nine girls is sexually abused by an adult,³⁶ often, by a family member.³⁷ Half of all girls removed from their mother's custody and placed with their father experience sexual abuse.³⁸ More than four out of five girls who have been in

United States.” COMMITTEE OPINION: INTIMATE PARTNER VIOLENCE, THE AM. COLL. OF OBSTETRICIANS & GYNECOLOGISTS 2 (2012), <https://www.acog.org/-/media/project/acog/acogorg/clinical/files/committee-opinion/articles/2012/02/intimate-partner-violence.pdf>.

34. Fifty-four percent of rape victims identified by the National Violence Against Women Survey responded that the first time they were the victim of an attempted or completed rape they were under the age of 18. TJADEN & THOENNES, *supra* note 24, at iv. “Violence against women is primarily intimate partner violence: 64 percent of the women who reported being raped, physically assaulted, and/or stalked since age 18 were victimized by a current or former husband, cohabiting partner, boyfriend, or date.” *Id.* For a discussion of abuse in older adults, see *What Distinguishes Abuse in Later Life From Elder Abuse?*, VAWNET, <https://vawnet.org/sc/what-distinguishes-abuse-later-life-elder-abuse> (last visited May 10, 2023).

35. *Nearly One in Three Teenage Girls has Experienced Sexual Assault or Other Violence*, NAT’L WOMEN’S L. CTR. (Arp. 19, 2017), <https://yubanet.com/usa/nearly-one-in-three-teenage-girls-has-experienced-sexual-assault-or-other-violence/>.

36. *Children and Teens: Statistics*, RAPE, ABUSE & INCEST NAT’L NETWORK (RAINN), <https://www.rainn.org/statistics/children-and-teens> (last visited Apr. 11, 2023).

37. *Id.*

38. Wilson, *supra* note 22, at 262–66, 272 (discussing studies that found that “as many as half the girls in fractured families report sexual abuse as a child”; that “children living with males in the household after separation were 3.4 times more likely to be sexually abused than were those living with both natural parents, but that when compared to children living with only females after separation, children living with males in their household after separation ‘were more than 7 times more likely to be abused’”; and “50% of female children residing solely with their fathers reported sexual abuse by an adult.”).

foster care report having been sexually abused.³⁹ The foster care system also serves as a pipeline into sex trafficking⁴⁰ where children and young women are bought, sold, raped, drugged, and tortured in a barely hidden multi-billion dollar sex trafficking industry.⁴¹ Each year, more than 200,000 American children are at risk of being sold for sex.⁴²

Though childhood and adolescence are especially vulnerable times, victimization continues in adulthood. At least half of all women experience sexual violence in their lifetime.⁴³ A quarter of women experience severe violence

39. Elizabeth B. Dowdell et al., *Girls in Foster Care: A Vulnerable and High-Risk Group*, 34 AM. J. MATERNAL/CHILD NURSING 172, 176 (2009); see also Dale Margolin Cecka, *The Civil Rights of Sexually Exploited Youth in Foster Care*, 117 W. VA. L. REV. 1225, 1243 (2015).

40. Lily Dayton, *Foster Youth and Sex Trafficking: Can The System That Failed These Kids Now Save Them?*, CTR. HEALTH JOURNALISM (July 18, 2017), <https://centerforhealthjournalism.org/2017/07/15/foster-youth-and-sex-trafficking-can-system-failed-these-kids-now-save-them> (“Studies show that up to 80 percent of sex-trafficked children have a history with child welfare involvement. Two organizations serving sex-trafficked youth in Oakland reported that over half the victims they served had spent time in foster care. This correlation is not unique to California—a New York City study showed that 75 percent of sexually exploited children had lived in foster homes.”).

41. Carmen Niethammer, *Cracking The \$150 Billion Business of Human Trafficking*, FORBES (Feb. 2, 2020, 7:04 AM), <https://www.forbes.com/sites/carmenniethammer/2020/02/02/cracking-the-150-billion-business-of-human-trafficking/?sh=5770e1774142>. The global human trafficking industry is estimated to be a \$150 billion/year industry. *Id.* Profits from global sex trafficking are estimated to be \$99 billion and sex trafficking through illicit massage parlors alone are estimated to yield \$2.5 billion in profits in the United States. Cara Kelly, *13 Sex Trafficking Statistics That Explain the Enormity of the Global Sex Trade*, USA TODAY (July 30, 2019, 8:11 AM), <https://www.usatoday.com/story/news/investigations/2019/07/29/12-trafficking-statistics-enormity-global-sex-trade/1755192001/>.

42. *National Crime Victims' Rights Week: Justice Isn't Served Until Crime Victims Are*, OFF. FOR VICTIMS OF CRIME (2005), https://www.ncjrs.gov/ovc_archives/ncvrw/2005/pg51.html.

43. MICHELE C. BLACK ET AL., CTRS. FOR DISEASE CONTROL &

perpetrated by an intimate partner,⁴⁴ with 1,600 killed each year.⁴⁵ Today, more mothers are incarcerated than ever before, stealing them from their children and leaving those children more vulnerable to sexual assault, drug abuse, crime, poverty, foster care, and their own incarceration.⁴⁶ More pregnant women are imprisoned in the United States than in any other nation.⁴⁷ Women are denied reproductive liberties when they are forcibly sterilized as well as when they are forced to carry unwanted pregnancies.⁴⁸ Mothers are threatened with the loss of their children when they report that their child's father has committed sexual abuse.⁴⁹

PREVENTION: NAT'L CTR. FOR INJ. PREVENTION & CONTROL, THE NATIONAL INTIMATE PARTNER AND SEXUAL VIOLENCE SURVEY: 2010 SUMMARY REPORT 18 (2011), https://www.cdc.gov/violenceprevention/pdf/nisvs_report2010-a.pdf.

44. *Statistics*, NAT'L COAL. AGAINST DOMESTIC VIOLENCE, <https://ncadv.org/STATISTICS> (last visited Apr. 11, 2023).

45. VIOLENCE POL'Y CTR., WHEN MEN MURDER WOMEN: AN ANALYSIS OF 2018 HOMICIDE DATA 5 (2020), <https://vpc.org/studies/wmmw2020.pdf>.

46. Lindsey Linder, *Expanding the Definition of Dignity: The Case for Broad Criminal Justice Reform that Accounts for Gender Disparities*, 58 U. LOUISVILLE L. REV. 435, 438 (2020).

47. Jennifer G. Clarke & Rachel E. Simon, *Shackling and Separation: Motherhood in Prison*, 15 AM. MED. ASS'N J. ETHICS 779, 779 (2013), <https://journalofethics.ama-assn.org/article/shackling-and-separation-motherhood-prison/2013-09>; see also *First of its Kind Statistics on Pregnant Women in U.S. Prisons*, JOHN HOPKINS MED. (Mar. 21, 2019), <https://www.hopkinsmedicine.org/news/newsroom/news-releases/first-of-its-kind-statistics-on-pregnant-women-in-us-prisons>.

48. Shilpa Jindia, *Belly of the Beast: California's Dark History of Forced Sterilizations*, THE GUARDIAN (June 30, 2020, 6:00 AM), <https://www.theguardian.com/us-news/2020/jun/30/california-prisons-forced-sterilizations-belly-beast>; Kendall Kohlmeyer, *How the U.S. Government Fails to Protect Migrant Women's Reproductive Rights in Detention Centers*, 33 HASTINGS J. ON GENDER & L. 59, 60 (2022); Michele Goodwin & Mary Ziegler, *What Happened to the Exceptions for Rape and Incest?*, THE ATLANTIC (Nov. 29, 2021), <https://www.theatlantic.com/ideas/archive/2021/11/abortion-law-exceptions-rape-and-incest/620812/>.

49. Mary E. Becker, *The Abuse Excuse and Patriarchal Narratives*, 92

Though all girls and women are potential victims and patriarchal violence transcends race, color, religion, ethnicity, ability, age, sexual orientation, socio-economic status, gender, and other characteristics,⁵⁰ some are more likely to be victimized than others. Incarcerated women are more likely to be victims of sexual violence⁵¹ as are girls who were previously in foster care.⁵² Black girls and women are more likely to experience sexual assault than white, Asian, and Latina girls and women.⁵³ Forty percent of survivors of sex trafficking are Black.⁵⁴ Native American girls and women are more likely to be victims of sexual violence than those of any other race.⁵⁵ Girls and women with disabilities

NW. U. L. REV. 1459, 1462–67 (1998).

50. COMMITTEE OPINION: INTIMATE PARTNER VIOLENCE, *supra* note 33, at 1; Eleni Vlachos, *Domestic Violence Does Not Discriminate*, COLUM. SOC. INTERVENTION GRP. (Oct. 28, 2020), <https://sig.columbia.edu/news/domestic-violence-does-not-discriminate>.

51. ALLEN J. BECK ET AL., U.S. DEP'T OF JUST., SEXUAL VICTIMIZATION IN PRISONS AND JAILS REPORTED BY INMATES, 2011-2012 6 (2013), <https://bjs.ojp.gov/content/pub/pdf/svpjri1112.pdf>.

52. Dayton, *supra* note 40.

53. THE NAT'L CTR. ON VIOLENCE AGAINST WOMEN IN THE BLACK CMTY., BLACK WOMEN AND SEXUAL ASSAULT (2018), <https://ujimacommunity.org/wp-content/uploads/2018/12/Ujima-Womens-Violence-Stats-v7.4-1.pdf>; Jameta Nicole Barlow, *Black Women, the forgotten survivors of sexual assault*, AM. PSYCH. ASS'N (Feb. 2020), <https://www.apa.org/pi/about/newsletter/2020/02/black-women-sexual-assault>.

54. DUREN BANKS & TRACEY KYCKELHAHN, U.S. DEPT. OF JUST., CHARACTERISTICS OF SUSPECTED HUMAN TRAFFICKING INCIDENTS, 2008-2010 6 (2011), <https://bjs.ojp.gov/content/pub/pdf/cshti0810.pdf>.

55. STEVEN W. PERRY, DEP'T OF JUST., AMERICAN INDIANS AND CRIME: A BJS STATISTICAL SURVEY PROFILE, 1992-2002 5 (2004), <https://bjs.ojp.gov/content/pub/pdf/aic.pdf>; TJADEN & THOENNES, *supra* 24, at iv (“American Indian/Alaska Native women were significantly more likely than white women, African-American women, or mixed-race women to report they were raped. They also were significantly more likely than white women or African American women to report they were stalked.”).

are four times more likely to be sexually assaulted than their able-bodied counterparts.⁵⁶

While the above numbers are shocking in their own right, this data does not account for all patriarchal violence experienced by girls and women. There is wide consensus that patriarchal violence is significantly underreported and much of it remains unaccounted for in any official database.⁵⁷ There is reason to believe that virtually every woman experiences some form of patriarchal violence in her lifetime and that many are repeatedly victimized.⁵⁸ Moreover, patriarchal violence is more prevalent than any other type of animus-motivated violence.⁵⁹ Meanwhile, sex-based animus

56. Sandra L. Martin et al., *Physical and Sexual Assault of Women with Disabilities*, 12 *VIOLENCE AGAINST WOMEN* 823, 831 (2006).

57. *SANE Program Development and Operation Guide: Understanding the Problem of Sexual Assault*, OFF. FOR VICTIMS OF CRIME, <https://www.ovcttac.gov/saneguide/introduction/understanding-the-problem-of-sexual-assault/> (last visited Apr. 11, 2023) (“When looking at epidemiological studies, it is important to understand how rape and sexual violence are defined and how data are collected. For example, if statistics are obtained from law enforcement sources, they may only represent victims who chose to report their victimization. Phone surveys may miss portions of the population that are transient or do not have access to a telephone. Definitions of rape and sexual violence have changed over time.”); HOWARD N. SNYDER, U.S. DEPT OF JUST., *SEXUAL ASSAULT OF YOUNG CHILDREN AS REPORTED TO LAW ENFORCEMENT: VICTIM, INCIDENT, AND OFFENDER CHARACTERISTICS 1* (2000), <https://bjs.ojp.gov/content/pub/pdf/saycrle.pdf> (“The only existing national data collection effort that explored the incidence of sexual assault ignored crimes against young victims.”).

58. Maria Wen Adcock, *Every Woman I Know Has Experienced Sexual Harassment or Sexual Assault #MeToo*, HUFFPOST (Oct. 17, 2017), https://www.huffpost.com/entry/every-woman-i-know-has-experienced-sexual-harassment_b_59e65053e4b0432b8c11ea8e; Kelsey McKinney, *Almost Every Single Woman I Know Has Been the Victim of Sexual Assault*, THE VILL. VOICE (Oct. 12, 2017), <https://www.villagevoice.com/2017/10/12/almost-every-single-woman-i-know-has-been-the-victim-of-sexual-assault/>.

59. In 2018, the Anti-Defamation League recorded 1879 anti-Semitic incidents in the United States. *Audit of Anti-Semitic Incidents: Year in*

crimes are routinely excluded from prosecution as hate crimes.⁶⁰ Given the widespread nature of patriarchal violence, it is imperative that we focus on the ideology that serves as its foundation so that we can continue to work toward real solutions.⁶¹

Men are the primary perpetrators of all forms of patriarchal violence.⁶² Men perpetrate violence against women and girls at a disproportionate rate, as compared with the violence they perpetrate against other men and also as compared with the violence women perpetrate.⁶³ As Mary

Review 2018, ANTI-DEFAMATION LEAGUE (May 3, 2022), https://www.adl.org/audit2018_During the same year, the FBI reported 835 anti-Jewish hate crimes. In 2018, the FBI recorded 1943 anti-black hate crimes. *2018 Hate Crime Statistics*, FBI: UNIFORM CRIME REPORTING PROGRAM, <https://ucr.fbi.gov/hate-crime/2018/resource-pages/tables/table-1.xls> (last visited May 10, 2023). Meanwhile, there were an estimated 139,380 rapes reported to law enforcement during the same year. *2018 Crime in the United States*, FBI: UNIFORM CRIME REPORTING PROGRAM, <https://ucr.fbi.gov/crime-in-the-u.s/2018/crime-in-the-u.s.-2018/topic-pages/rape#:~:text=There%20were%20an%20estimated%20139%20C380,higher%20than%20the%202014%20estimate> (last visited May 10, 2023).

60. See Elizabeth A. Pendo, *Recognizing Violence Against Women: Gender and the Hate Crimes Statistics Act*, 17 HARV. WOMEN'S L.J. 157, 163 (1994).

61. See David E. Leary, *Naming and Knowing: Giving Forms to Things Unknown*, 62 SOC. RSCH. 267, 270–78 (1995); Eve Ensler, *The Power and Mystery of Naming Things*, NPR ALL THINGS CONSIDERED (Mar. 20, 2006), <https://www.npr.org/2006/03/20/5285531/the-power-and-mystery-of-naming-things>; It is of vital importance that we name things.

62. Mary Anne Franks, *Men, Women, and Optimal Violence*, 2016 U. ILL. L. REV. 929, 929, 940–44 (2016).

63. In 2018, males were four times more likely than females to be the perpetrators of violent crimes while females were more likely than males to be the victims of violent crimes. RACHEL E. MORGAN & BARBARA A. OUDEKERK, DEP'T OF JUST., CRIMINAL VICTIMIZATION, 2018 10, 12 (2019), <https://bjs.ojp.gov/content/pub/pdf/cv18.pdf> at 12. *But see* Franks, *supra* note 62, at 934 (citing research and stating that “men make up both the

Anne Franks explains, “[t]he fact that violence is primarily a male phenomenon is frequently taken for granted. This has obscured proper assessment of the ways that violence serves masculine interests as well as helped to pathologize the violence of women as aberrant.”⁶⁴ The normalization of male violence is highlighted by the fact that some of the most powerful and respected men rape and sex-traffic children, or associate with sex traffickers, often with impunity.⁶⁵

majority of victims of violence as well as the perpetrators of violence”).

64. Franks, *supra* note 62, at 934.

65. See, e.g., Layla Ilchi, *How Jeffrey Epstein is Linked to Fashion, Media and President Trump*, *Women’s Wear Daily* (June 2, 2020, 5:35PM), <https://wwd.com/fashion-news/fashion-scoops/jeffrey-epstein-child-sex-trafficking-president-trump-les-wexner-links-1203217625/> (“[Donald Trump and Jeffrey Epstein] were also involved in the same lawsuit filed in 2016, where an unnamed accuser alleged she was sexually assaulted by both Trump and Epstein in 1994—when she was 13 years old—at Epstein’s New York home. The court documents describe the assault as ‘acts of rape, sexual misconduct, criminal sexual acts, sexual abuse, forcible touching, assault and battery,’ among others. Three months later the victim dropped the case voluntarily.”); Joshua Chaffin, *Epstein Accuser Testifies She was Introduced to Donald Trump*, *FIN. TIMES* (Dec. 1, 2021), <https://www.ft.com/content/66e62edc-6125-4f59-8a04-ca975aeb3507> (“Jane told jurors that Epstein and Maxwell had touted their connections to well-known figures, including [Donald] Trump and former US president Bill Clinton, as they asserted control over her and groomed her for abuse.”); Michael S. Schmidt, et al., *Matt Gaetz Is Said To Face Justice Dept. Inquiry Over Sex With an Underage Girl*, *N.Y. TIMES* (Mar. 30, 2021), available at <https://www.nytimes.com/2021/03/30/us/politics/matt-gaetz-sex-trafficking-investigation.html>; Dareh Gregorian & Natalie Obregon, *Matt Gaetz Associate Pleads Guilty In Sex-Trafficking Case, Will Cooperate With Feds*, *NBC NEWS* (May 17, 2021, 11:48 AM), <https://www.nbcnews.com/politics/politics-news/matt-gaetz-associate-pleads-guilty-sex-trafficking-case-will-cooperate-n1267587>; Rebecca Boone, *Idaho Lawmaker Accused of Rape Resigns After Ethics Ruling*, *ASSOCIATED PRESS NEWS* (Apr. 29, 2021), <https://apnews.com/article/idaho-government-and-politics-52fcc76661c09b6e9e960fcb6195c5ff>; Reuter Staff, *Factbox: Prominent U.S. Political Figures Accused of Sexual Misconduct*, *REUTERS* (Mar. 12, 2021, 6:02 PM), <https://www.reuters.com/article/us-new-york-cuomo-figures-factbox-idUSKBN2B42TP> (the article discusses accusations

However, patriarchal violence is not committed exclusively by men or other private individuals. Girls and women are also subjected to patriarchal violence and harm⁶⁶ by other women, social institutions, the legal system, and the state.

In this article, I focus on further theorizing patriarchal violence. I aim to identify and deconstruct patriarchal violence by naming and explaining its many manifestations. To do so, I offer a comprehensive definition of patriarchal violence and an organizational framework that provides a means for deconstructing legal cases which include manifestations of patriarchal violence. Theorists, teachers, practitioners, and students can use this framework to better understand patriarchal violence and to assist them in their work to eradicate it.

I come to this project grounded in several assumptions. First, I believe that women's inequality is inevitable so long as we continue to live in a patriarchal society where patriarchal violence is used to keep women subordinate. I believe that the only way women will ever achieve full autonomy and equal citizenship with men is by eradicating the widespread violence used against them. I do not believe that there is a path to equality without ending patriarchal

against N.Y. Governor Andrew Cuomo, U.S. President Joe Biden, N.Y. Attorney General Eric Schneiderman, Senator Al Franken, Alabama Supreme Court Chief Justice Roy Moore, U.S. Rep. John Conyers, U.S. President Donald Trump, U.S. Supreme Court Associate Justice Brett Kavanaugh, and N.Y. Governor Eliot Spitzer).

66. ROBIN WEST, *CARING FOR JUSTICE* 96 (1997) (Robin West discusses the many types of "harm" women experience and explains that in addition to experiencing harm as the result of a specific event, like sexual assault for example, women often also experience "harm" as a result of the state action or failure to act in response to the original harm. "Women suffer harms in this culture that are different from those suffered by men. And partly because they are different, they often do not 'trigger' legal relief in the way that harms felt by men alone or by men and women equally do. As a result, women are doubly injured: first by the harm-causing event itself, and second by the peculiarity or nonexistence of the law's response to those harms.").

violence. Further, I assume that the only way to solve a problem, in this case the problem of widespread patriarchal violence against women, is to name it and understand it. To that end, this Article conceptualizes patriarchal violence to facilitate better understanding and identification of its various manifestations, the ways in which they are connected, and the cycles they comprise.

Part I provides the historical and theoretical context for this project. It discusses feminist theory and the history of the conceptualization of patriarchy and patriarchal violence. It considers how different strains of feminist thought have confronted particular manifestations of patriarchal violence. Finally, it discusses how patriarchal violence has been understood by feminist legal theorists and anti-hate organizations. Part II builds upon the various conceptualizations of patriarchal violence set forth by feminist legal theorists and organizations to articulate a comprehensive conceptualization of patriarchal violence that encompasses all its known manifestations. It discusses the World Health Organization's violence framework as a model for organizing patriarchal violence. It then introduces a patriarchal violence organizational framework that can be used to chart cycles of patriarchal violence experienced by victims. It explains the various categories of patriarchal violence by defining them, identifying the likely perpetrators, and providing examples of their manifestations. Part III briefly applies the patriarchal violence framework to deconstruct the legal cases and cycles of patriarchal violence experienced by Jessica Gonzales.⁶⁷ This deconstruction illustrates how the patriarchal violence framework can be used to reveal the connections between seemingly discrete manifestations of patriarchal violence at individual and institutional levels. Further, this introductory deconstruction provides a glimpse into how deep deconstructions and applications of the patriarchal

67. *Town of Castle Rock v. Gonzales*, 545 U.S. 748 (2005).

framework will further illuminate how discrete acts of patriarchal violence converge to create cycles of patriarchal violence that enforce our patriarchal system.

I. FEMINIST THEORY AND PATRIARCHAL VIOLENCE

A. *Feminist Theory*

Feminism is generally defined as: (1) the belief that women should have equality in the form of access to political, social, and economic rights; and (2) the organized activity in support of women's rights and interests.⁶⁸ Despite these seemingly cohesive definitions, neither feminist thought nor feminist goals are monolithic.⁶⁹ Rather, feminist theory includes several distinct schools of thought which often breed significant disagreement concerning the identification of feminist goals and, even where there is agreement on the goals themselves, the correct route to achieve such goals. Stated differently:

Feminism is both an intellectual commitment and a political movement that seeks justice for women and the end of sexism in all forms. Motivated by the quest for social justice, feminist inquiry provides a wide range of perspectives on social, cultural, economic, and political phenomena. Yet despite many overall shared commitments, there are numerous differences among feminist philosophers regarding philosophical orientation . . . , ontological commitments . . . , and what kind of political and moral remedies should be sought.⁷⁰

Importantly, at the very least, feminists are united in

68. *Feminism*, MERRIAM-WEBSTER, <https://www.merriam-webster.com/dictionary/feminism> (last visited Apr. 11, 2023).

69. Patricia Smith, *Introduction*, in FEMINIST JURISPRUDENCE 3 (Patricia Smith ed., 1993) (“Not even all feminists hold a single perspective, and not all women, of course, are feminists.”).

70. Noëlle McAfee, *Feminist Philosophy*, STAN. ENCYCLOPEDIA OF PHIL. (June 28, 2018), <https://plato.stanford.edu/archives/fall2018/entries/feminist-philosophy/>.

their quest to see that women and girls are treated as fully human. Philosophy professor Patricia Smith reminds us that the “rejection of patriarchy is the one point on which all feminists agree.”⁷¹ As Rebecca West famously observed in 1913, “I myself have never been able to find out precisely what feminism is: I only know that people call me a feminist whenever I express sentiments that differentiate me from a doormat, or a prostitute.”⁷²

Feminism has been theorized across disciplines, from anthropology to history to philosophy to law and beyond. Feminist legal theory, which is particularly relevant to this exploration, is “premised upon the belief that the law has been instrumental in women’s subordination in society.”⁷³ It is characterized as a philosophy that:

[I]dentifies the pervasive influence of patriarchy and masculinist norms on legal structures and demonstrates their effects on the material conditions of women and girls and those who may not conform to cisgender norms. It also considers problems at the intersection of sexuality and law and develops reforms to correct gender injustice, exploitation, or restriction. To these ends, feminist philosophy of law applies insights from feminist epistemology, relational metaphysics and progressive social ontology, feminist political theory, and other developments in feminist philosophy to understand how legal institutions enforce dominant gendered and masculinist norms. Contemporary feminist philosophy of law also draws from diverse scholarly perspectives such as international human rights theory, postcolonial theory, critical legal studies, critical race theory, queer theory, and disability studies.⁷⁴

71. Smith, *supra* note 69 (“But all feminism does begin with one presumption, namely, that a patriarchal world is not good for women.”).

72. Katie Roiphe, *Ten Reasons to Worship Rebecca West: The Great Overlooked Writer and Feminist*, SLATE (Dec. 18, 2012, 5:08 PM), <https://slate.com/human-interest/2012/12/rebecca-west-great-feminist-and-essayist.html>.

73. Tracy A. Thomas & Tracey Jean Boisseau, *Introduction: Law, History, and Feminism*, in *FEMINIST LEGAL HISTORY: ESSAYS ON WOMEN AND LAW 18* (Tracy A. Thomas and Tracey Jean Boisseau eds., 2011).

74. Leslie Francis & Patricia Smith, *Feminist Philosophy of Law*, STAN. ENCYCLOPEDIA OF PHIL. (2021),

More simply put, “feminist jurisprudence is the analysis and critique of law as a patriarchal institution.”⁷⁵ Feminist legal theory encompass several philosophical perspectives including, most notably: equality theory as espoused by liberal feminists;⁷⁶ dominance or subordination theory as espoused by radical feminists;⁷⁷ difference theory as espoused by cultural or “ethic of care” feminists;⁷⁸ and anti-essentialist theory as espoused by Black and other intersectional feminists.⁷⁹ These four major different approaches to feminist theory can be summarized as follows:

Formal equality theory . . . stressed equality between the sexes and a system of laws—both substantive and procedural—that was gender neutral. Difference theory emerged as a response to formal equality theory and recognized that certain life experiences, for example, pregnancy and motherhood, were uniquely female and must be factored into discussions of equality. In difference theory, true equality results not from gender-neutral application of the law, but from recognition that the law must take into account real differences between men and women. Dominance theory created an environmental context around the biological individuation of difference theory. In dominance theory, men exploit the inherent differences between men and women to maintain the status quo of existing male power structures and do so through sexual harassment, sex discrimination, domestic violence, pornography, rape, and other behaviors. Anti-essentialist theory sought to split the atoms of both cultural and radical models of feminism by postulating that a single theory of feminism excluded other important factors such as race, ethnicity, sexual orientation, and age. To the anti-essentialist, no monolithic theory of feminism could be accurate because gender is but one element of the many that

<https://plato.stanford.edu/archives/fall2021/entries/feminism-law/>.

75. Smith, *supra* note 69.

76. Amy R. Baehr, *Liberal Feminism*, STAN. ENCYCLOPEDIA OF PHIL. (Dec. 31, 2020), <https://plato.stanford.edu/entries/feminism-liberal/>; Thomas & Boisseau, *supra* note 73, at 19–20.

77. Thomas & Boisseau, *supra* note 73, at 19–22 (2011).

78. *Id.*

79. For a description of the various strains of feminist thought and a chronology of the American feminist movement, see Dana Neașu, *The Red Booklet on Feminist Equality. Instead of a Manifesto.*, 30 WOMEN’S RTS. L. REP. 136, 137–46 (2008).

define a woman.⁸⁰

These different approaches to overall sex equality have manifested in different approaches to conceptualizing various manifestations of patriarchal violence and how the law responds to them.

1. Liberal Feminism

Liberal feminism seeks to liberate women through formal equality. Liberal feminists do not seek revolution to achieve equality. They do not attempt to overhaul the structures and institutions that have led to women's inequality. Rather, they seek to work within our democratic system and legal institutions to guarantee that women have equal access to all aspects of American life.⁸¹ Liberal feminism prioritizes formal equality in the law. Liberal feminism's focus on formal equality and treating like things alike has guided its attempts to have the law recognize harms women experience. In seeking to end rape and domestic violence, liberal feminists worked tirelessly to reconceptualize them as crimes by likening them to crimes of violence experienced by men. In the case of rape, they reconceptualized what was too often viewed as "imperfect private sex" as the violent crime of rape.⁸² This shift was facilitated by three major changes: (1) the concept of "consent" became the essential difference between lawful and unlawful conduct; (2) "sexual coercion came to be viewed

80. Jay Marhoefer, *The Quality of Mercy Is Strained: How the Procedures of Sexual Harassment Litigation Against Law Firms Frustrate Both the Substantive Law of Title VII and the Integration of an Ethic of Care Into the Legal Profession*, 78 CHI.-KENT L. REV. 817, 836 (2003).

81. See generally *Liberal Feminism*, *supra* note 76 (explaining that the doctrine of liberalism encompasses the belief that a "just state" ensures freedom for individuals).

82. Aya Gruber, *A "Neo-Feminist" Assessment of Rape and Domestic Violence Law Reform*, 15 J. GENDER RACE & JUST. 583, 590 (2012) [hereinafter *A "Neo-Feminist" Assessment*].

as individual and gender neutral rather than institutional and sex specific,” thus remaining consistent with the liberal emphasis on gender neutral humanism; and (3) rape was characterized as “violence” as opposed to “sex” with the adoption of the sexual assault and battery approach to legislative reform.⁸³

Thus, liberal feminists worked toward formal equality in rape law by establishing that non-consensual sex was a violent crime that should be prosecuted like other violent assaults.⁸⁴ In doing so, they fought to remove force and resistance requirements from the law.⁸⁵ They also sought to eliminate “special” rules in rape cases such as corroboration requirements and presumptions of consent.⁸⁶ With regard to the presumption of consent, liberal feminists argued that “the requirement that a rape victim assert her non-consent existed only ‘because we are willing to presume that men are entitled to access to women’s bodies (as opposed to their houses or their wallets), at least if they know them, and to accept male force in potentially ‘consensual’ sexual relations.’”⁸⁷

Liberal feminists applied a similar approach to domestic violence.⁸⁸ They likened “battering” to unlawful criminal assault and rejected its conceptualization as a lawful private family dispute.⁸⁹ They sought to simply extend existing legal machinery to address the problem of domestic violence by

83. Morrison Torrey, *Feminist Legal Scholarship on Rape: A Maturing Look at One Form of Violence Against Women*, 2 WM. & MARY J. WOMEN & L. 35, 38–39 (1995).

84. Gruber, *supra* note 82, at 588–89.

85. *Id.*

86. Aya Gruber, *Neofeminism*, 50 HOUS. L. REV. 1325, 1336 (2013).

87. Alletta Brenner, *Resisting Simple Dichotomies: Critiquing Narratives of Victims, Perpetrators, and Harm in Feminist Theories of Rape*, 36 HARV. J.L. & GENDER 503, 513–14 (2013).

88. Gruber, *A “Neo-Feminist” Assessment*, *supra* note 82, at 589.

89. *Id.* at 590.

adopting laws that criminalize violence in the home and allowed for acquisition of a protective order against one's spouse or significant other.⁹⁰ Though this approach has succeeded in changing the legal landscape around domestic violence, it has been largely ineffective in addressing the full scope of harm battering women experience.⁹¹

2. Cultural or "Ethic of Care" Feminism

Cultural or "ethic of care" feminism, grounded in the view that women are different than men, seeks to elevate the social value of "feminine" traits and argues that there is a feminine nature or feminine essence. Cultural feminism rejects arguments that men and women are the same and that equality can be achieved by simply treating women the same as men. Still, as cultural feminist, poet, and author, Adrienne Rich explains, ultimately all feminists share the view that regardless of any differences between men and women, women are as human as men:

Some ideas are not really new but keep having to be affirmed from the ground up, over and over. One of these is the apparently simple idea that women are as intrinsically human as men, that neither women nor men are merely the enlargement of a contact sheet of genetic encoding, biological givens. Experience shapes us, randomness shapes us, the stars and weather, our own accommodations and rebellions, above all, the social order around us.⁹²

With regard to their approach to domestic violence and rape, cultural feminists warn that the harms recognized by the legal system are inadequate to remedy the harms women experience because the legal system has historically only recognized and remedied harms that men experience.⁹³

90. Erin R. Collins, *The Evidentiary Rules of Engagement in the War Against Domestic Violence*, 90 N.Y.U. L. REV. 397, 405–06 (2015).

91. *Id.*; see generally WEST, *supra* note 66 at 100–08.

92. ADRIENNE RICH, *OF WOMAN BORN: MOTHERHOOD AS EXPERIENCE AND INSTITUTION* xv (1986).

93. See WEST, *supra* note 66, at 100–78.

Because the harms men experience do not include the unique harms women experience, the existing legal and social machinery does not provide a remedy to women who are victims of gendered crimes such as rape and domestic violence.⁹⁴

3. Dominance Feminism

Dominance or radical feminism, while applauding much of the reform achieved by liberal feminists and while expressing affinity for the views of difference feminists, takes a different approach to sex discrimination.⁹⁵ Catharine MacKinnon introduced her theory in 1984 in her essay *Difference and Dominance: On Sex Discrimination*.⁹⁶ There, she explained why equality will forever remain elusive under either the liberal or difference approach:

94. *Id.*

95. Catharine A. MacKinnon, *Difference and Dominance: On Sex Discrimination (1984)*, in FEMINISM UNMODIFIED: DISCOURSES ON LIFE AND LAW 35 (1987) (in discussing liberal feminism, MacKinnon states: "I have to confess a sincere affection for this approach. It has gotten women some access to employment and education, the public pursuits, including academic, professional, and blue-collar work; the military; and more than nominal access to athletics. It has moved to change the dead ends that were all we were seen as good for and what passed for women's lack of physical training, which was really serious training in passivity and enforced weakness. It makes you want to cry sometimes to know that it has had to be a mission for many women just to be permitted to do the work of this society, to have the dignity of doing jobs a lot of other people don't even want to do"); *id.* at 38 (while discussing difference feminism, MacKinnon states "I must also confess some affection for this standard"). Gruber, *Neofeminism*, *supra* note 86, at 1341 ("Turning first to MacKinnon's analysis of liberal feminism, she does confess 'a sincere affection for this approach' because the claim that women had been treated disparately in fact resulted in significant changes in women's status and opportunities. Nonetheless, MacKinnon describes liberalism as an intervention of limited use because the standards by which 'equal' competitors are evaluated, whether inside or outside the employment context, have always been defined with reference to the male condition.").

96. See MacKinnon, *Difference and Dominance: On Sex Discrimination*, *supra* note 95, at 40–41.

The dominance approach centers on the most sex-differential abuses of women as a gender, abuses which sex equality law in its difference garb could not confront. It is based on a reality about which little of a systematic nature was known before 1970, a reality that calls for a new conception of the problem of sex inequality. This new information includes not only the extent and intractability of sex segregation into poverty, which has been known before, but the range of issues termed violence against women, which has not been. It combines women's material desperation, through being relegated to categories of jobs that pay nil, with the massive amount of rape and attempted rape—44 percent of all women—about which virtually nothing is done; the sexual assault of children—38 percent of girls and 10 percent of boys—which is apparently endemic to the patriarchal family; the battery of women that is systematic in one quarter to one third of our homes; prostitution, women's fundamental economic condition, what we do when all else fails, and for many women in this country, all else fails often; and pornography, an industry that traffics in female flesh, making sex inequality into sex to the tune of eight billion dollars a year in profits largely to organized crime.⁹⁷

Thus, Catharine MacKinnon and other, “[r]adical feminists pointed out how sexual violence pervaded all aspects of gender relations and argued that rape operated as a mechanism of patriarchy.”⁹⁸ They argued against redefining rape “solely in terms of violence.”⁹⁹ Rather, they argued that a “richer understanding of the crime, its complex interaction between sex and violence, and its roots in societal, political, and economic power that men maintain over women” was necessary.¹⁰⁰ Dominance feminists rejected liberal feminists’ acceptance of the public/private distinction. MacKinnon argued that “[f]or women, the private is the distinctive sphere of intimate violation and abuse, neither free nor particularly personal. Men’s realm of private

97. *Id.*

98. Brenner, *supra* note 87, at 506.

99. Christina E. Wells & Erin Elliott Motley, *Reinforcing the Myth of the Crazy Rapist: A Feminist Critique of Recent Rape Legislation*, 81 B.U. L. REV. 127, 153 (2001).

100. *Id.*

freedom is women's realm of collective subordination."¹⁰¹ Dominance feminism focuses on women's sexuality as the core of their oppression. Dominance feminists understand that "every feminist issue, every injustice and injury suffered by women, devolves upon sexuality; . . . sexual harassment, rape, and prostitution are all modes of sexual subordination; women's lack of authoritative speech is women's always already sexually violated condition."¹⁰²

4. Intersectional Feminism

Intersectional feminism adds an intersectional lens to feminist thought such that women's problems are viewed more holistically by recognizing that the nature of their problems (and the best solutions) will depend upon the particular women's other characteristics and traits such as race, sexual orientation, gender, socio-economic class, and religion. Black feminism is especially concerned with the intersection of racism and sexism.¹⁰³ While discussions of "intersectionality"¹⁰⁴ are relatively new, early Black feminists including Maria W. Stewart, Ida B. Wells, Anna Julia Cooper, and Sojourner Truth were exploring intersections of race and sex well before the concept was named.¹⁰⁵ Some note that intersectionality is an inextricable

101. CATHARINE A. MACKINNON, *TOWARD A FEMINIST THEORY OF THE STATE* 168 (1989).

102. Gruber, *supra* note 86, at 1343 (citing WENDY BROWN, *STATES OF INJURY: POWER AND FREEDOM IN LATE MODERNITY* 81 (1995)).

103. Lisa A. Crooms, "To Establish My Legitimate Name Inside the Consciousness of Strangers": *Critical Race Praxis, Progressive Women-of-Color Theorizing, and Human Rights*, 46 *How. L.J.* 229, 235 n.22 (2003) (Crooms discusses "feminists of color" and describes it as including Black feminisms, Chicana feminisms, critical race feminisms, post-colonial feminisms, and third world feminisms).

104. See Kimberlé Crenshaw, *Mapping the Margins: Intersectionality, Identity Politics, and Violence Against Women of Color*, in *CRITICAL RACE THEORY: THE KEY WRITINGS THAT FORMED THE MOVEMENT* 357–84 (Kimberlé Crenshaw et al. eds., 1995).

105. Amy Allen, *Feminist Perspectives on Power*, *Stan. Encyclopedia of*

part of Black feminism.¹⁰⁶ With regard to rape, Black feminists reveal and explore the additional obstacles that Black women face: “virtually all women are presumed incredible in cases of intraracial rape, . . . most white women are presumed credible in cases of interracial rape[, and] Black women, whose gender is constructed around the core concepts of heightened sexuality and limited veracity, are rendered largely unrapeable.”¹⁰⁷ With regard to domestic violence, Black feminists, along with Native American and other feminists focused on marginalized racial and religious groups,¹⁰⁸ also theorize the “loyalty trap” or “conflicting loyalties” that differentiate their situation from white women’s.¹⁰⁹ When a woman is also a racial or religious minority, reporting domestic violence to the police is more complicated. As Professor Jessica Dixon Weaver explains: “Black women were hesitant to report their husbands to

Phil. (Oct. 28, 2021), <https://plato.stanford.edu/entries/feminist-power/#PoweResoLibeFemiAppr>.

106. VALERIE SMITH, NOT JUST RACE, NOT JUST GENDER: BLACK FEMINIST READINGS xvi–xvii, xxiii (1988) (“there can be no black feminism without intersectionality”).

107. Lisa A. Crooms, *Speaking Partial Truths and Preserving Power: Deconstructing White Supremacy, Patriarchy, and the Rape Corroboration Rule in the Interest of Black Liberation*, 40 HOW. L.J. 459, 462 (1997).

108. LINDA MILLS, FROM INSULT TO INJURY: RETHINKING OUR RESPONSES TO INTIMATE ABUSE 61–62 (2003) (“[W]omen from minority religious and racial communities face unique considerations when deciding whether to leave a violent partner. . . . These women face additional pressures to paint a favorable picture of their families and to protect against reinforcing cultural stereotypes that depict minority communities as more violent than the mainstream group. This need to hide the violence is integral to the decisions minority women make with regard to the violence. . . . A comprehensive understanding of domestic violence must recognize these contingencies that so often influence women’s lives and understandably affect their decision making.”).

109. Pauli Murray, *The Liberation of Black Women*, in WORDS OF FIRE: AN ANTHOLOGY OF AFRICAN-AMERICAN FEMINIST THOUGHT 197, 235 (Beverly Guy-Sheftall ed., 1995).

white authorities because this information could be used against [B]lack men to justify violence against them, including lynching.”¹¹⁰ Black women’s deference to men was a “racial imperative” as “part of the responsibility of [B]lack women was to encourage and support the manhood of our men” even when that “manhood” presented in the form of patriarchal violence.¹¹¹

Black feminism critiques “mainstream feminist theorization of domestic violence” for continuing to leave out the voices of “poor women, women of color, and immigrant women” in other respects as well.¹¹² Professor Beverly Horsburgh explains:

Strategies to curtail incidents of domestic violence and help abused women are inclined to reflect the experiences of white women. These strategies seldom deal with the economic and workplace discrimination issues that beset women of color. For example, the current priority on tougher punishments for batterers does little to resolve the financial difficulties of poor mothers who may lose their only means of support once their batterers are imprisoned and may be forced to turn to welfare for basic needs. When faced with providing for their children, Congress reminds these women that marriage is the foundation of society. When these women flee their jurisdictions in an effort to escape from their batterers, the response of some states in which they seek sanctuary is to deny them the same level of welfare benefits that other residents receive and to impose durational residency requirements. The subordination of poor African-American women’s identity is thereby engendered in their legal nonexistence in discrimination law, . . . [and] in their lack of resources to combat domestic violence, and in the negative rhetoric that defines them, proving their need for recognition and

110. Jessica Dixon Weaver, *African-American Grandmothers: Does the Gender-Entrapment Theory Apply? Essay Response to Professor Beth Richie*, 37 WASH. U. J.L. & POL’Y 153, 163 (2011).

111. *Id.* (citing James O. Horton, *Freedman’s Yoke: Gender Conventions among Antebellum Free Blacks*, 12 FEMINIST STUD. 70 (1986)).

112. Kimberly D. Bailey, *Response to Beth Richie’s “Black Feminism, Gender Violence and the Build-Up of a Prison Nation”*, 37 WASH. U J. L. & POL’Y 149, 149 (2011); see generally Jennifer C. Nash, *From Lavender to Purple: Privacy, Black Women, and Feminist Legal Theory*, 11 CARDOZO WOMEN’S L.J. 303 (2005).

frustrating their attempts to claim it.¹¹³

Thus, while Black feminists, are as concerned with the eradication of patriarchal violence as other feminists, their approach is necessarily more nuanced.¹¹⁴ Rather than being singularly focused on the male/female dichotomy, they also consider the impact that racist views, norms, and systems have on women victims as well as on male perpetrators. Erin Edmonds emphatically warned that if rape law is reformed without considering the experiences of Black women, the reforms will be for naught:

[I]f, in rape law reform, racism is not actively pre-empted by would-be reformists, laws premised on empowerment of women generally will be translated and enforced as laws premised on the need to protect and avenge white women's fragility and dubious sexuality. Stated differently, rape laws do not apply, and by more vigorous prosecutorial drives will not be made to apply, to non-white women because their sexuality "does not need to be" and never has been protected by law.¹¹⁵

5. All Feminism

While these various strains of feminist thought are not the only schools of feminist thought,¹¹⁶ for purposes of this

113. Beverly Horsburgh, *Schrödinger's Cat, Eugenics, and the Compulsory Sterilization of Welfare Mothers: Deconstructing an Old/new Rhetoric and Constructing the Reproductive Right to Natality for Low-Income Women of Color*, 17 CARDOZO L. REV. 531, 577 (1996).

114. See generally Kimberlé W. Crenshaw, *Close Encounters of Three Kinds: On Teaching Dominance Feminism and Intersectionality*, 46 TULSA L. REV. 151 (2010).

115. Erin Edmonds, *Mapping the Terrain of Our Resistance: A White Feminist Perspective on the Enforcement of Rape Law*, 9 HARV. BLACKLETTER J. 34, 44 (1992) (emphasis omitted).

116. See generally Martha Albertson Fineman, *Feminist Legal Theory*, 13 AM. U. J. GENDER, SOC. POL'Y & LAW 13 (2003); Kristin (Brandser) Kalsem & Verna L. Williams, *Social Justice Feminism*, 18 UCLA WOMEN'S L.J. 131 (2010); Nicole Rousseau, *Historical Womanist Theory: Re-Visioning Black Feminist Thought*, RACE, GENDER & CLASS, no. 3/4, 2013, at 191.

Article and this discussion, they provide the necessary background. Also, while this discussion highlights how feminist theories differently approach certain forms of patriarchal violence, namely rape and domestic violence, it should also be noted that there is wide consensus among feminist theorists. As Nancy Levit and Robert R.M. Verchick explain:

All feminist theories share two things First, feminists recognize that the world has been shaped by men, particularly white men, who for this reason possess larger shares of power and privilege. All feminist legal scholars emphasize the rather obvious (but unspoken) point that nearly all public laws in the history of existing civilization were written by men. . . . Second, all feminists believe that women and men should have political, social, and economic equality. But while feminists agree on the goal of equality, they disagree about its meaning and on how to achieve it.¹¹⁷

Applying Levit and Verchick's view to the feminist approach to patriarchal violence, it can be said that while all feminists agree that patriarchal violence should be eradicated and all feminist schools of thought theorize manifestations of patriarchal violence, there is some disagreement about what constitutes patriarchal violence and also how to eradicate it.

117. NANCY LEVIT & ROBERT R.M. VERCHICK, *FEMINIST LEGAL THEORY: A PRIMER* 15–16 (2006).

B. *Patriarchy and Patriarchal Violence*

Gerda Lerner defines patriarchy as “the manifestation and institutionalization of male dominance over women and children in the family and the extension of male dominance over women in society in general.”¹¹⁸ Levit and Verchick define it as “the rule or ‘power of the fathers.’” It is a system of social and political practices in which men subordinate and exploit women.¹¹⁹ Patriarchy has also been defined as “a system of social structures and practices in which men govern and exploit women.”¹²⁰ Robin West uses the term “patriarchy” to refer to “the social system in which men’s interests trump women’s whenever they conflict.”¹²¹ More specifically, West states that “patriarchy” refers to “the ways in which we prioritize men’s interests over women’s in social life and then constitute the harms women sustain (whether natural or not) as inevitable, trivial, or desirable, and for whatever reason, not eradicable.”¹²² These definitions of patriarchy, which differ from the original, historical definition,¹²³ reflect an understanding of patriarchy based in feminist jurisprudence, through “the analysis and critique of law as a patriarchal institution.”¹²⁴ For decades, feminist legal scholars have been engaged in the critique of law, society, culture, the family, employment, and many other

118. GERDA LERNER, *THE CREATION OF PATRIARCHY* 239 (1986).

119. LEVIT & VERCHICK, *supra* note 117, at 21.

120. DAPHNE PROGRAMME, *supra* note 26.

121. WEST, *supra* note 66, at 132.

122. *Id.*

123. LERNER, *supra* note 2, at 238–39 (“The problem with the word *patriarchy*, which most feminists use, is that it has a narrow, traditional meaning—not necessarily the one feminists give it. In its narrow meaning, patriarchy refers to the system, historically derived from Greek and Roman law, in which the male head of the household had absolute legal and economic power over his dependent female and male family members.”).

124. Smith, *FEMINIST JURISPRUDENCE*, *supra* note 69.

aspects of life as patriarchal institutions.

At least since the 1970s, the phrase “patriarchal violence” was used to describe various forms of violence against women. The phrase “patriarchal violence” has been used to describe the violence experienced by battered women;¹²⁵ all forms of domestic violence;¹²⁶ stalking;¹²⁷

125. Evan Stark, et al., *Medicine and Patriarchal Violence: The Social Construction of a “Private” Event*, 9 INT’L J. HEALTH SERVS. 461, 461–62 (1979),

https://www.researchgate.net/publication/22674718_Medicine_and_Patriarchal_Violence_The_Social_Construction_of_a_Private_Event.

126. Anat First & Michal Agmon-Gonnen, *Is a Man’s Car More Important Than a Battered Woman’s Body? Human Rights and Punishment for Violent Crimes Against Female Spouses*, 12 NEW CRIM. L. REV. 135, 138 (2009) (“We prefer to use the term ‘patriarchal violence’ over the accepted term ‘domestic violence’ because the term ‘patriarchal violence’ is an inherent reminder that violence occurring in the home is connected to sexism, to sexist thinking, and to male dominance. The term ‘domestic violence’ had served as a ‘soft’ term, for too long, implying that this violence exists in an intimate context, and therefore is less brutal and threatening.”); Rhonda Copelon, *Gender Violence as Torture: The Contribution of Cat General Comment No. 2*, 11 N.Y.C. L. REV. 229, 242–43 (2008) (recognizing the parallels between domestic battering and torture in the context of “patriarchal violence”); Jennifer Lisa Vest, *What Doesn’t Kill You: Existential Luck, Postracial Racism, and the Subtle and Not So Subtle Ways the Academy Keeps Women of Color Out*, 12 SEATTLE J. FOR SOC. JUST. 471, 475–76 (2013) (discussing racist manifestations of patriarchal violence); Darren Lenard Hutchinson, *Beyond the Rhetoric of “Dirty Laundry”: Examining the Value of Internal Criticism Within Progressive Social Movements and Oppressed Communities*, 5 MICH. J. RACE & L. 185, 193 (1999) (discussing the patriarchal violence in the form of domestic violence within the black community).

127. See generally ORIT KAMIR, *EVERY BREATH YOU TAKE: STALKING NARRATIVES AND THE LAW* (2001); Gad Barzilai, *Culture of Patriarchy in Law: Violence from Antiquity to Modernity*, 38 LAW & SOC’Y REV. 867, 869 (2004) (reviewing Orit Kamir’s *EVERY BREATH YOU TAKE* and arguing that stalking should be theorized as a form of male violence embedded in patriarchy—“patriarchal violence”).

incest;¹²⁸ sexualized violence; rape;¹²⁹ honor violence,¹³⁰ and other forms of private violence.¹³¹ And while “patriarchal violence” has been used to refer to these specific forms of violence, it has also been used to broadly describe the systemic violence and oppression women experience.¹³²

Susan Brownmiller and Robin West theorize the relationship between patriarchal violence and patriarchy. Susan Brownmiller posits that patriarchal violence serves as the “building block” for the patriarchy.¹³³ In her

128. Susan Ayres, *Incest in a Thousand Acres: Cheap Trick or Feminist Re-Vision*, 11 TEX. J. WOMAN & LAW 131, 149 (2001) (discussing Robin West’s “patriarchal constructs” which refer to how patriarchy privileges males in certain constructs and contrasting it with “patriarchal violence” which refers to sexualized violence perpetrated by men against women, all in the context of Jane Smiley’s *A THOUSAND ACRES* (1991)).

129. “Radical feminists see rape as arising from patriarchal constructions of gender and sexuality within the context of broader systems of male power, and emphasize the harm that rape does to women as a group.” Rebecca Whisnant, *Feminist Perspectives on Rape*, STAN. ENCYCLOPEDIA OF PHIL. (Aug. 9, 2021), <https://plato.stanford.edu/archives/fall2021/entries/feminism-rape/>.

130. Lea VanderVelde, *The Legal Ways of Seduction*, 48 STAN. L. REV. 817, 831–32 (1996) (discussing that seduction claims were meant to replace the “patriarchal violence” that would normally have followed the rape of seduction of one’s wife or daughter).

131. Crenshaw, *supra* note 104, at 1241 (“Drawing from the strength of shared experience, women have recognized that the political demands of millions speak more powerfully than the pleas of a few isolated voices. This politicization in turn has transformed the way we understand violence against women. For example, battering and rape, once seen as private (family matters) and aberrational (errant sexual aggression), are now largely recognized as part of a broad-scale system of domination that affects women as a class.”).

132. Lydia Bates, *Patriarchal Violence: Misogyny From the Far Right to the Mainstream*, S. POVERTY L. CTR. (Feb. 1, 2021), <https://www.splcenter.org/news/2021/02/01/patriarchal-violence-misogyny-far-right-mainstream>.

133. LERNER, *supra* note 2, at 46 (“Susan Brownmiller sees man’s ability to rape women leading to their propensity to rape women and shows how this has led to male dominance over women and to male

groundbreaking book, *Against Our Will: Men, Women and Rape*, Brownmiller hypothesizes about the first rapes and how they shaped the history of male-female relations:

His forcible entry into her body, despite her physical protestations and struggle, became the vehicle of his victorious conquest over her being, the ultimate test of his superior strength, the triumph of his manhood. Man's discovery that his genitalia could serve as a weapon to generate fear must rank as one of the most important discoveries of prehistoric time . . . From prehistoric times to the present, . . . rape has played a critical function. It is nothing more or less than a conscious process of intimidation by which *all* men keep *all* women in a state of fear.¹³⁴

supremacy.") (emphasis omitted).

134. SUSAN BROWNMILLER, *AGAINST OUR WILL: MEN, WOMEN AND RAPE*, 14–15 (1975).

In the violent landscape inhabited by primitive woman and man, some woman somewhere had a prescient vision of her right to her own physical integrity, and in my mind's eye I can picture her fighting like hell to preserve it. After a thunderbolt of recognition that this particular incarnation of hairy, two-legged hominid was not the *Homo sapiens* with whom she would like to freely join parts, it might have been she, and not some man who picked up the first stone and hurled it. How surprised he must have been, and what an unexpected battle must have taken place. Fleet of foot and spirited, she would have kicked, bitten, pushed and run, *but she could not retaliate in kind*. The dim perception that had entered prehistoric woman's consciousness must have had an equal but opposite reaction in the mind of her male assailant. For if the first rape was an unexpected battle on the first woman's refusal, the second rape was indubitably planned. Indeed, one of the earliest forms of bonding must have been the gang rape of one woman by a band of marauding men. This accomplished, rape became not only a male prerogative, but a man's basic weapon of force against woman, the principal agent of his will and her fear. His forcible entry into her body, despite her physical protestations and struggle, became the vehicle of his victorious conquest over her being, the ultimate test of his superior strength, the triumph of his manhood. Man's discovery that his genitalia could serve as a weapon to generate fear must rank as one of the most important discoveries of prehistoric times, along with the use of fire and the first crude stone axe. From prehistoric times to the present, I believe, rape has played a critical function.

Robin West articulates a similar perspective and explains that patriarchal violence is the primary “enforcement tool” that maintains our patriarchal society.¹³⁵ West defines patriarchal violence as one of the extralegal forces that forcibly maintains the patriarchal society. West analyses this relationship between the patriarchy and patriarchal violence and identifies patriarchal violence as a primary tool for enforcing the patriarchy:

In our culture . . . patriarchy is *for the most part* enforced not through legal norms, but through a combination of two sorts of *extralegal* forces. First, it is enforced through both legal and illegal, but in any event largely unregulated, private violence—rape, domestic violence, incest, sexual harassment, street hassling, and other forms of sexual assault. Second, it is enforced through the promulgation of a distinctively patriarchal *culture*, which consists in turn of norms that determine the way we behave by influencing the ways we think of ourselves and of our fate. Although the first of these—the patriarchal violence—is still largely unregulated by the state, its existence is rarely flatly denied by the legal and larger culture, and . . . it is increasingly recognized as a legitimate “problem” for both law enforcement and public health. Patriarchal violence, in other words, is increasingly viewed by even the mainstream culture as both illegal and undesirable. The very *existence* of a nonviolent and fully legal patriarchal culture, however, the purpose of which is to secure and prioritize men’s interests wherever they conflict with women’s, is often denied.¹³⁶

West’s theory of patriarchal violence as a primary enforcement mechanism of patriarchy remains salient today where we find it echoed by feminist and anti-hate organizations. It also provides the primary theoretical foundation for this Article and the patriarchal violence framework introduced in Part III. Levit and Verchick similarly note the relationship between patriarchy and patriarchal violence. They state: “[patriarchal] subordination occurs through complex patterns of force, social pressures, and traditions, rituals, and customs. This

Id.

135. WEST, *supra* note 66, at 132–33.

136. *Id.*

domination does not just occur in individual relationships, but is supported by the major institutions in society.”¹³⁷

More recently, the concept of patriarchal violence is being embraced outside of academia by feminist activists and organizations. The Daphne Programme, a program of the European Commission’s Rights, Equality, and Citizenship Program focused on ending male violence against women offers two definitions of “patriarchal violence”:

Patriarchal violence is then any kind of violence that creates or maintains men’s power and dominance, or avenges the loss of their power. Male dominance seems to be upheld primarily through violent means. These means are on a wide scale from verbal, psychological, economic and physical violence to sexual violence or murder. Another possible definition is that patriarchal violence is “. . . a collective term for the violence that is found throughout the world and that is rooted in the patriarchal power structures it defends.”¹³⁸

In 2019, Black feminist groups convened the Abolishing Patriarchal Violence Innovation Lab.¹³⁹ There, they built upon prior understandings of patriarchal violence and the Violence Matrix created by Professor Beth Richie.¹⁴⁰ Their work resulted in the following comprehensive definition of patriarchal violence:

Patriarchal [v]iolence . . . is an interconnected system of institutions, practices, policies, beliefs, and behaviors that harm[s], undervalues, and terrorize[s] girls, women, femme, intersex, gender

137. LEVIT & VERCHICK, *supra* note 117, at 23.

138. DAPHNE PROGRAMME, *supra* note 26.

139. Bates, *supra* note 132. As Charlene Carruthers, a founder of BYP100 (Black Youth Project 100), put it: “We are participating in various projects of abolition—abolition of prison, abolition of capitalism, and abolition of patriarchal violence.” CHARLENE A. CARRUTHERS, *UNAPOLOGETIC: A BLACK, QUEER, AND FEMINIST MANDATE FOR RADICAL MOVEMENTS* 18 (2018).

140. BETH E. RICHIE, *ARRESTED JUSTICE: BLACK WOMEN, VIOLENCE, AND AMERICA’S PRISON NATION* 132–34 (2012); Dr. Ritchie’s Violence Matrix is available at <https://niastories.files.wordpress.com/2013/09/the-violence-matrix.pdf>.

non-conforming, LGBTQ, and other gender-oppressed people in our communities. P[attributional violence] is a widespread, normalized epidemic based on the domination, control, and colonizing of bodies, genders, and sexualities, happening in every community globally. P[attributional violence] is a global power structure and manifests on the systemic, institutional, interpersonal, and internalized level. It is rooted in interlocking systems of oppression.¹⁴¹

The Southern Poverty Law Center (SPLC) and the Anti-Defamation League (ADL) are two of the leading voices in combatting hate in America. The SPLC has been a leader in creating a database of hate groups and identifying the various ideologies that ought to be labeled as such¹⁴² and the ADL has played a significant role in adopting hate crime legislation at both the federal and state levels.¹⁴³ Despite their position as respected anti-hate leaders, as of the early 2010s, neither the SPLC nor the ADL had seriously considered patriarchal violence to be worthy of their attention.

In 2012, the SPLC began discussing patriarchal violence when it published *Misogyny: The Sites*.¹⁴⁴ There, the SPLC identified twelve websites founded upon misogyny. It quoted

141. *What is Patriarchal Violence?: A Working Definition From the Abolishing Patriarchal Violence Innovation Lab*, BLACK FEMINIST FUTURE (Jul. 28, 2020), https://issuu.com/blackfeministfuture/docs/understanding_patriarchal_violence/8.

142. *Fighting Hate*, S. POVERTY L. CTR., <https://www.splcenter.org/fighting-hate> (last visited Apr. 11, 2023).

143. *Protect Civil Rights: Hate Crimes*, ANTI-DEFAMATION LEAGUE, <https://www.adl.org/what-we-do/protect-civil-rights/hate-crimes> (last visited Apr. 11, 2023) (The ADL “crafted the first model hate crime law in America. Today, 46 states and the District of Columbia have laws based on or similar to [the ADL’s] model . . . We helped lead the coalition of . . . organizations that worked for 13 years to secure the passage of the landmark Matthew Shepard and James Byrd Jr. Hate Crimes Prevention Act in 2009, which expanded federal hate crime legislation . . .”).

144. *Misogyny: The Sites, Intelligence Report*, S. POVERTY L. CTR., (Mar. 01, 2012), <https://www.splcenter.org/fighting-hate/intelligence-report/2012/misogyny-sites>.

some of the content on the various websites, including discussions of rape¹⁴⁵ and family violence.¹⁴⁶ When so-called “Men’s Rights Activists (MRAs)” complained about the SPLC report, the ADL toned down its condemnation, noting that it was targeting rage “directed at all women, not only perceived feminists.”¹⁴⁷ This response appears to suggest that SPLC found no fault with men so long as their hateful rage was only directed at feminist women, who presumably were somehow deserving of the rage, and not at non-deserving non-feminist women. The SPLC further clarified that it “did not label MRAs as members of a hate movement; nor did [it] claim that grievances they air on their websites—false rape accusations, ruinous divorce settlements and the like—are all without merit.”¹⁴⁸ It also made the point of acknowledging that “radical feminists do say hurtful things about men” and that “some radical feminists do hate men.”¹⁴⁹

Since 2012, the SPLC has continued to research and explore the ways in which patriarchal violence is similar to extremist violence. Building upon the feminist conceptualizations of patriarchal violence discussed above, in early 2021 the SPLC published *Patriarchal Violence: Misogyny From the Far Right to the Mainstream* to provide an organizational framework for understanding the many forms of patriarchal violence that harm and oppress women,

145. “Rape is now a political crime, not a crime of sex or violence. A man doesn’t have to rape in order to be a rapist. A man is a rapist until he somehow proves himself innocent.” *Id.* (citation omitted).

146. “[I]f you were allowed to beat your wife we wouldn’t be dealing with this crap.” *Id.* (citation omitted). “[F]emale initiation of partner violence is the leading reason for the woman becoming a victim of subsequent violence.” *Id.* (citation omitted).

147. Arthur Goldwag, *Intelligence Report Article Provokes Fury Among Men’s Rights Activists*, S. POVERTY L. CTR. (May 15, 2012), <https://www.splcenter.org/hatewatch/2012/05/15/intelligence-report-article-provokes-fury-among-mens-rights-activists>.

148. *Id.*

149. *Id.*

girls, and other gender-oppressed people.¹⁵⁰ That the SPLC is now amplifying the theory that all violence against women and girls is part of a single misogynistic ideology threaded through every aspect of life is potentially revolutionary. Despite the many-decades-long feminist theorization of patriarchy, patriarchal violence, and misogyny and the many-decades-long calling for recognition and redress of the harms women and girls experience as a result, the SPLC and other leaders in the fight against ideologically-based violence have failed, until now, to turn their attention toward eradicating misogyny and patriarchal hate, as they do with other forms of extremist hate and violence. Prior to 2018, while the ADL had been active in the fight for women's equality in many respects, it consistently failed to recognize misogyny as a form of extremist hate.¹⁵¹ However, in 2018, the ADL published *When Women are the Enemy: The Intersection of Misogyny and White Supremacy*.¹⁵²

The SPLC and the ADL's recent shifts toward recognizing misogyny as an extremist ideology on par with white supremacy signals that it is becoming taboo for mainstream theorists, especially those who otherwise recognize the special harms caused by extremism, to continue to ignore misogynistic extremism as an ideology and patriarchal violence as a manifestation of it. The patriarchal violence framework introduced in this Article can help the SPLC, ADL, and other organizations to recognize and understand the ideology that motivates violence against

150. Bates, *supra* note 132.

151. Press Release, Anti-Defamation League, ADL Report Investigates Links Between Misogyny and White Supremacy (July 24, 2018), https://www.adl.org/news/press-releases/adl-report-investigates-links-between-misogyny-and-white-supremacy_

152. ANTI-DEFAMATION LEAGUE, WHEN WOMEN ARE THE ENEMY: THE INTERSECTION OF MISOGYNY AND WHITE SUPREMACY (2018), <https://www.adl.org/sites/default/files/When%20Women%20are%20the%20Enemy%20-The%20Intersection%20of%20Misogyny%20and%20White%20Supremacy.pdf>.

women and girls and to draw parallels between patriarchal violence and other extremist violence such as white supremacy. Applying this framework to the many legal issues surrounding male violence against women will encourage more holistic solutions to social problems and crimes such as domestic violence, rape and sexual assault, and sex trafficking. This framework allows users to visualize the “dynamic interconnected system” that causes and perpetuates violence against women and girls. In addition to shedding light on how patriarchal violence harms women and girls, the framework reveals the special protections afforded to men and boys who perpetrate most interpersonal forms of patriarchal violence and related harms.¹⁵³ Moreover, it recognizes how patriarchal violence is normalized and internalized by everyone, including women, girls, and other gender-oppressed people.¹⁵⁴ Finally, it acknowledges that patriarchal violence disproportionately harms Black girls, “indigenous women and girls” and “women, intersex, gender non-conforming, other gender oppressed people”¹⁵⁵ and that, therefore, it is important to additionally explore the relationships between patriarchal violence and white supremacy.¹⁵⁶

Antuan Johnson critiques such explanations for why violence against women escapes categorization as hate:

[A]n inquiry into what constitutes hate becomes an inquiry about how hate appears to men. Thus, the standard of what constitutes a hate crime is defined in terms of its significance for men. With that understanding, it becomes clear that part of the ‘difficulty’ conceptualizing gender-bias crimes is related to a male-gendered view of hate. This gendered hate . . . is a male-biased construction of animus that views sex as incompatible with hate. . . . If there were a collective understanding of sex and hate that was not mutually exclusive, members of the legal community would

153. Bates, *supra* note 132.

154. *Id.*

155. *Id.*

156. BLACK FEMINIST FUTURE, *supra* note 141.

understand that the sexual assault of a woman, because she is a woman, constitutes a hate crime.¹⁵⁷

While recognition of violence against women as a manifestation of hate is not yet a mainstream view, the argument for such recognition is increasingly being made, especially among feminist theorists.¹⁵⁸ A qualitative exploratory study revealed the following explanations for the disinclination to see violence against women as motivated by hate: “institutional sexism, misogyny and a general unwillingness to help women”; “patriarchal cultural values” that “foster ignorance of the links between rape, violence motivated by hate, and the social acceptance of violence as an ‘expression of masculinity’”;¹⁵⁹ “many of the men in control of our systems have grown up in families who regard the practice of gender-based hate violence and abuse as normal or only slightly bad”;¹⁶⁰ “power to decide which groups are included in hate crime legislation is male-dominated”; “the exclusion of gender is a form of sex

157. Johnson, *supra* note 28, at 102.

158. See, e.g., Sarah Doan-Minh, *Corrective Rape: An Extreme Manifestation of Discrimination and the State’s Complicity in Sexual Violence*, 30 HASTINGS WOMEN’S L.J. 167, 169 (2019) (arguing that sexual violence is a “problem deeply rooted in traditional gender and sexual orientation norms”); Kathryn M. Carney, *Rape: The Paradigmatic Hate Crime* 75 ST. JOHN’S L. REV. 315, 319 (2001) (rape is “a crime that violates and defiles millions of women because of their gender and still fails to be recognized as a hate crime.”); Eric Rothschild, *Recognizing Another Face of Hate Crimes: Rape as a Gender-Bias Crime*, 4 MD. J. CONTEMP. LEGAL ISSUES 231 (1993) (discussing proposed legislation that would have created a federal cause of action for rape); Elizabeth A. Pendo, *Recognizing Violence Against Women: Gender and the Hate Crimes Statistics Act*, 17 HARV. WOMEN’S L.J. 157 (1994) (discussing existing understandings of hate crimes and analogizing crimes against women to them).

159. Aisha K. Gill & Hannah Mason-Bish, *Addressing Violence Against Women as a Form of Hate Crime: Limitations and Possibilities*, 105 FEMINIST REV. 1, 10 (2013).

160. *Id.* (quoting a representative of Scottish Women’s Aid).

discrimination, which serves to reinforce the existing power disparity between men and women.”¹⁶¹ In sum, violence against girls and women is not viewed as bias-motivated violence, because that simply is not how men choose to see it.

II. PATRIARCHAL VIOLENCE ORGANIZATIONAL FRAMEWORK

A. *Defining Patriarchal Violence*

I propose the following broad definition of patriarchal violence which strives to incorporate all of the above-discussed conceptualizations. Patriarchal Violence is all “violence that creates or maintains men’s power and dominance, or avenges the loss of their power.”¹⁶² It is the enforcement tool that sustains the patriarchy,¹⁶³ that is, the institutionalization of male superiority and female subordination. It manifests on internalized, interpersonal, social, and institutional levels through an interconnected system that harms, undervalues, and terrorizes girls, women, and other gender-oppressed people.¹⁶⁴ It often manifests as private interpersonal violence such as sexual harassment,¹⁶⁵ sexual assault, and family violence.¹⁶⁶ The harms caused by interpersonal acts of patriarchal violence are compounded by social and institutional patriarchal violence. Patriarchal violence creates a “process of intimidation by which *all* men keep *all* women in a state of fear.”¹⁶⁷

The comprehensive definition of patriarchal violence I

161. *Id.*

162. DAPHNE PROGRAMME, *supra* note 26.

163. WEST, *supra* note 66, at 132–33.

164. BLACK FEMINIST FUTURE, *supra* note 141.

165. WEST, *supra* note 66, at 132–33.

166. DAPHNE PROGRAMME, *supra* note 26.

167. BROWNMILLER, *supra* note 134.

adopt seeks to encompass all the seemingly disparate and discrete manifestations of patriarchal violence prevalent today. My intention is to enrich and encourage holistic discussion and understanding of all manifestations of patriarchal violence, for purposes of advancing discourse, teaching, lawyering, and activism. A comprehensive definition of patriarchal violence can connect the otherwise fractured discourse surrounding its many manifestations. Further, it can facilitate theorists and activists in their work by enabling them to tie their work back to an overarching conceptualization.

Like many before me, I recognize that we cannot solve complex problems without the language to fully discuss them.¹⁶⁸ For example, before we created language to discuss the distinct harms experienced by girls and women in the home (“domestic violence” and “female genital mutilation”) and in relationships (“date rape,” “marital rape,” and “intimate partner violence”); and to describe the ideologies and social norms that allowed for such violence (“male supremacy,” “misogyny,” “rape culture,” and “toxic masculinity”) we were unable to effectively begin the process of eradicating those harms. For thousands of years, girls and women have been victimized in the home, on the streets, in conflict zones, through religion, under the power of the state, where they worked, where they sought health care, in education, and in virtually every other facet of life. Virtually all harms experienced by girls and women were manifestations of patriarchal violence. It was not until we named and described these harms that we were able to begin the process of preventing and punishing them. Over the last century, women began to name these harms as domestic violence, intimate partner violence, harassment, discrimination, assault, marital rape, female genital mutilation, honor killings, child marriage, rape as a weapon

168. See Leary, *supra* note 61, at 267–68, 270–78; Ensler, *supra* note 61.

of war, criminalization of pregnancy, and forced pregnancy. Since naming these harms, theorists and activists have made tremendous progress in raising public awareness and reforming the law so as to ensure that these harms cannot continue with impunity. The definition introduced in this Article seeks to provide the language for identifying all the related but discrete harms that girls and women experience so that they can be discussed as part of one overarching problem: patriarchal violence.

With regard to overall violence, the World Health Organization (WHO) reached a similar conclusion in 2002: “[o]ne reason why violence has largely been ignored . . . is the lack of a clear definition of the problem. Violence is an extremely diffuse and complex phenomenon. Defining it is not an exact science but a matter of judgment.”¹⁶⁹ Moreover, we cannot solve interrelated harms by exclusively targeting discrete manifestations of those harms. The WHO further recognized that:

The complexity, pervasiveness and variety of violent acts prompt feelings of powerlessness and apathy. An analytical framework or typology is needed to separate the threads of this intricate tapestry so that the nature of the problem—and the action required to deal with it—become clearer. Up to now, work to counter violence has been fragmented into specialized areas of research and action. To overcome this shortcoming, the analytical framework should emphasize the common features and linkages between different types of violence, leading to a holistic approach to prevention. Few such typologies exist, and none is comprehensive or universally accepted.¹⁷⁰

This same sentiment applies to patriarchal violence as well. For example, the epidemic of rape is multifaceted and cannot be eradicated by targeting discrete aspects of the harm. We will not stop men from raping women and girls by

169. WORLD HEALTH ORG., WORLD REPORT ON VIOLENCE AND HEALTH: SUMMARY 4 (2002), https://apps.who.int/iris/bitstream/handle/10665/42512/9241545623_eng.pdf?sequence=1&isAllowed=y.

170. *Id.*

changing the statutory definition of the crime. While necessary, such revision of the law alone is unlikely to reduce the likelihood that a girl will be raped, it is unlikely to increase the likelihood that a girl will report having been raped, it may only minimally affect how police respond to a girl's claim, and while it may increase the likelihood that the girl's complaint will be prosecuted, it may have no impact at all on the likelihood of a conviction or a just sentence for the rapist.¹⁷¹ Similarly, we cannot solve the problems associated with family violence by merely increasing access to protective orders. While important, such legal change alone is unlikely to prevent the occurrence of domestic violence, to improve law enforcement responses to family violence calls, or to discourage judges from awarding custody to violent fathers.¹⁷² Zooming out even further, we cannot solve the broad problems of patriarchal violence and the overall subordination of women without creating a framework that connects all its manifestations, from childhood sexual assault, to sex discrimination in employment, to pornography, to sex trafficking.

Patriarchal violence is as prevalent and impervious as it is because of the many layers at which it is being perpetrated and perpetuated. A single cycle of patriarchal violence will often include multiple discrete manifestations. For example, when a woman is abused by her partner, she is experiencing patriarchal violence at an *interpersonal* level. If she seeks police assistance and is ignored, as is often the case, she is experiencing *legal* and *institutional* manifestations of

171. See Susan Estrich, *Rape*, in *FEMINIST JURISPRUDENCE* 159–87 (Patricia Smith ed., 1993).

172. See Gruber, *A “Neo-Feminist” Assessment*, note 82, at 589–90 (“The efforts to reform rape law through the prism of equal rights quickly exposed the limits of liberalism. Eliminating the formal prosecution barriers did little to address the cultural norms that led victims, police, and prosecutors to be reluctant to prosecute and juries to be reluctant to convict. . . . A similar genealogy characterizes domestic violence reform.”).

patriarchal violence, whereby law enforcement, through its failure to respond, is ignoring and thereby sanctioning the *interpersonal* patriarchal violence that prompted the victim to seek law enforcement assistance. Such *legal* and *institutional* patriarchal violence often re-victimizes the victim and discourages her and others from reporting future acts of *interpersonal* patriarchal violence. If her complaint is heeded by police but dismissed by the prosecutor, she is experiencing yet another manifestation of *legal* patriarchal violence, one where law enforcement is again perpetuating *interpersonal* patriarchal violence by failing to hold individual perpetrators of *interpersonal* patriarchal violence accountable. If her case is prosecuted but she ultimately recants and is then prosecuted for perjury, she is experiencing yet another manifestation of *legal* and *institutional* patriarchal violence. But this time, rather than merely ignoring or tacitly encouraging *interpersonal* patriarchal violence, the law and the state are now perpetrating a new discrete act of *legal* and *institutional* patriarchal violence by threatening to incarcerate the victim. If she recanted because she was being threatened by her abuser, then she is experiencing another manifestation of *interpersonal* patriarchal violence within the same cycle of patriarchal violence that began with the earlier act of *interpersonal* abuse. Thus, within this single cycle, the victim may experience three or more discrete acts of patriarchal violence: the physical assault that began the cycle, the dismissal by law enforcement of her claim, the threats that caused her to recant, and the prosecution for perjury. We must have clear language to identify each discrete manifestation of patriarchal violence within every cycle of patriarchal violence so that we can adequately identify, categorize, theorize, teach, and ultimately end all manifestations of patriarchal violence.

By deconstructing cycles of patriarchal violence experienced by a single victim, in addition to identifying each discrete manifestation of patriarchal violence, we can also

explore the relationship(s) between the discrete acts, that is, how the manifestations overlap or feed one another as well as how some acts compound the harm(s) experienced by the victim.¹⁷³ As *Backlash* author Susan Faludi articulated, efforts against equality “are encoded and internalized, diffuse and chameleonic.”¹⁷⁴ Deconstructing and naming the various manifestations of patriarchal violence that a single victim experiences in the course of a cycle of patriarchal violence and that can help expand our discussions and understandings of patriarchal violence. Clear and consistent language can also provide more opportunities to identify relationship(s) between discrete manifestations, enable greater clarity for purposes of teaching about patriarchal violence, and provide for heightened understanding.

Therefore, I seek to establish language to identify all manifestations of patriarchal violence that we see in the United States today. My work follows the model of the WHO which took on the task of defining violence and establishing language to identify specific types of violence. The WHO defines violence as:

The intentional use of physical force or power, threatened or actual, against oneself, another person, or against a group or community, that either results in or has a high likelihood of resulting in injury, death, psychological harm, maldevelopment or deprivation.

The definition encompasses interpersonal violence as well as suicidal behavior and armed conflict. It also covers a wide range of acts, going beyond physical acts to include threats and intimidation. Besides death and injury, the definition also includes the myriad and often less obvious consequences of violent behaviour, such as psychological harm, deprivation and maldevelopment that compromise the well-being of individuals, families and

173. This is the topic of another article I am in the process of writing.

174. Nina Renata Aron, *What Does Misogyny Look Like? A Brief History of the #MeToo Movement's Touchstone Term*, N.Y. TIMES (Mar. 8, 2019), <https://www.nytimes.com/2019/03/08/style/misogyny-women-history-photographs.html> (quoting SUSAN FALUDI, *BACKLASH: THE UNDECLARED WAR AGAINST AMERICAN WOMEN* (1991)).

communities.¹⁷⁵

To further facilitate discourse surrounding, and solutions for, violence, the WHO “divides the violence into three broad categories, according to who commits the violent act: self-directed violence, interpersonal violence, and collective violence.¹⁷⁶ Self-directed violence is violence directed at oneself and includes “suicidal behavior and self-abuse such as self-mutilation.”¹⁷⁷ The WHO divides interpersonal violence into two categories: family and intimate partner violence; and community violence.¹⁷⁸ Family and intimate partner violence is defined as “violence largely between family members and intimate partners, usually, though not exclusively, taking place in the home.”¹⁷⁹ Community violence is defined as “violence between individuals who are unrelated, and who may or may not know each other, generally taking place outside the home.”¹⁸⁰ The WHO’s final category, collective violence, is defined as “the instrumental use of violence by people who identify themselves as members of a group against another group or set of individuals, in order to achieve political, economic or social objectives.”¹⁸¹ This form of violence is meant to refer to “armed conflicts within or between states;

175. WORLD HEALTH ORG., *supra* note 169 (quoting WHO GLOBAL CONSULTATION ON VIOLENCE AND HEALTH, VIOLENCE: A PUBLIC HEALTH PRIORITY (1996)). The WHO also published a report on Violence Against Women which includes a framework for preventing such violence. U.N. WOMEN, A FRAMEWORK TO UNDERPIN ACTION TO PREVENT VIOLENCE AGAINST WOMEN (2015), https://www.unwomen.org/sites/default/files/Headquarters/Attachments/Sections/Library/Publications/2015/Prevention_Framework_unwomen_nov2015.pdf.

176. WORLD HEALTH ORG., *supra* note 169.

177. *Id.* at 5.

178. *Id.*

179. *Id.*

180. *Id.*

181. *Id.*

genocide, repression and other human rights abuses; terrorism; and organized violent crime.”¹⁸²

While the WHO violence framework is not necessarily wholly applicable to patriarchal violence, it serves as inspiration for the creation of a similar framework for categorizing various manifestations of patriarchal violence. The patriarchal violence framework I offer is one that I believe will best allow for the identification, organization, discussion, teaching, and ultimately the eradication of patriarchal violence in the United States—thus, it reflects the types of patriarchal violence that are most prevalent. I draw upon the three categories established by the WHO: self-directed, interpersonal, and collective. With regard to self-directed patriarchal violence, I expand upon the WHO definition to include all patriarchal violence motivated by internalized misogyny. I expand the WHO’s category of collective violence to also include the patriarchal violence that intersects with other oppressive ideologies such as white supremacy, racism, anti-Blackness, anti-Asian hate, xenophobia, homophobia, islamophobia, and antisemitism. Therefore, I include the WHO categories of self-directed, interpersonal, and collective violence in my framework with some modifications.

To further clarify between various manifestations of patriarchal violence, I add an additional broad category: institutional patriarchal violence, with a subset of legal patriarchal violence. I define Institutional Patriarchal Violence as the violence perpetrated directly or indirectly by institutions. Institutional Patriarchal Violence includes patriarchal violence perpetrated directly or indirectly within institutional settings, such as a: church, school, healthcare facility, workplace, prison, detention center, athletics organization, social organization, or other organization or institution. I define Legal Patriarchal Violence as the violence perpetrated directly or indirectly through legal

182. *Id.*

institutions. More specifically, Legal Patriarchal Violence is the patriarchal violence perpetrated or perpetuated through the rule of law, omission of law, interpretation of law, or enforcement of law.

B. *Patriarchal Violence Organizational Framework*

My Patriarchal Violence Organizational Framework recognizes the multi-faceted nature of patriarchal violence. Patriarchal violence can be found in the most intimate relationships as well as the most anonymous. It is committed on personal, interpersonal, and systemic bases. Patriarchal violence is perpetrated and perpetuated by individuals, groups, and institutions. All patriarchal violence, even the most personal and intimate, is linked because it is all implicitly or explicitly motivated by patriarchal ideology. This becomes more evident once we are able to see how all manifestations of patriarchal violence are related and interconnected.

Intimate Interpersonal Patriarchal Violence is perpetrated by a person or persons intimately known to the victim: a relative, intimate, trusted person, or close friend. It is committed by one or more individuals against another individual. It is often, though not exclusively, perpetrated in the home. Examples of Intimate Interpersonal Patriarchal Violence include: domestic violence, intimate partner violence, sexual abuse of a child by a person known to the child, familial and intimate partner sex trafficking, female genital mutilation, forced marriage, and honor violence.

Like Intimate Interpersonal Patriarchal Violence, Community Interpersonal Patriarchal Violence is perpetrated by a person or persons known or unknown to the victim. Community Patriarchal Violence is committed, generally, though not exclusively, outside of the home. Examples of Community Patriarchal Violence include sexual assault, rape, sexual harassment, sexual discrimination, sex trafficking, the creation and dissemination of pornography, and random sex- or gender-motivated physical attack.

Self-Directed Patriarchal Violence is perpetrated or perpetuated by a person against herself or other girls and women due to internalized patriarchal ideology. This is Patriarchal Violence that takes the form of self-harm, or the harm of another girl or woman, as a result of the perpetrator's prior victimization or internalized patriarchal ideology. This form of patriarchal violence includes suicide and other forms of self-harm a girl or woman uses against herself due to a previous victimization she experienced. It also includes instances when a girl or woman harms another girl or woman. In this case, Self-Directed Patriarchal Violence will often overlap with Intimate or Community Interpersonal Patriarchal Violence. It includes many types of recognized child abuse such as the sexual abuse of a child where the mother ignores her child's complaints or, worse, perpetrates, facilitates, or encourages the abuse of her child. It also includes the violence committed by a mother or other female relative performing the practice of female genital mutilation on her daughter or relative. Other examples include manifestations of Community Interpersonal Patriarchal Violence such as the violence perpetrated by women who groom or solicit girls or other women for sex trafficking.

Collective Patriarchal Violence is patriarchal violence perpetrated by those who identify themselves as members of a particular group against women and children who identify or are perceived to be members of another group, in order to achieve political, economic, or social objectives. This type of patriarchal violence is used as a tool to oppress people on the basis of their other identities. This violence is therefore doubly motivated by patriarchal ideology and an additional oppressive ideology, such as racism. Examples include the use of sexual assault or rape as a tool of war, racism, or genocide.

Institutional Patriarchal Violence occurs when institutions directly perpetrate or indirectly perpetuate, encourage, facilitate, tolerate, or ignore acts of Intimate or

Community Interpersonal Patriarchal Violence within the institution. Institutional Patriarchal Violence is systemic, and it occurs in both the private and public sectors. While it includes discrete acts of Interpersonal or Community Patriarchal Violence, it does so in an environment where such violence is, at best, ignored and, at worst, systematically perpetrated and encouraged. Examples include patriarchal violence committed by teachers against students, by clergy members against parishioners or congregants, by peers or co-workers against each other, by supervisors against subordinates, by foster parents against foster children, by guards against inmates or detainees, by law enforcement officers against detainees or victims, and by institutional care workers against those in their care (often the very young and very old).

Legal Patriarchal Violence is a subset of Institutional Patriarchal Violence. Legal Patriarchal Violence refers to the multitude of ways in which the law perpetrates and perpetuates acts of patriarchal violence. Because this framework is intended specifically for use by legal audiences for purposes of illuminating both discourse and teaching, it seems important to pay particular attention to patriarchal violence of a legal nature. Therefore, although all manifestations of legal patriarchal violence can also be characterized as Institutional Patriarchal Violence, my framework includes a specific category for Legal Patriarchal Violence.

Legal Patriarchal Violence is perpetrated or perpetuated by statutory and common law (as codified or by omission), interpretations of the law, and the enforcement (or the lack of enforcement) of law. Arguably, Legal Patriarchal Violence is an especially important manifestation because it is located in the governing system that has jurisdiction over all other manifestations of patriarchal violence and ultimately decides whether to criminalize and punish or whether to legalize and permit other manifestations of patriarchal violence. Legal Patriarchal Violence includes all patriarchal violence

committed, facilitated, condoned, ignored, or forgiven by the law and officers of the law. Legal Patriarchal Violence is committed by both act and omission. Examples of Legal Patriarchal Violence include: criminalization of girls and women who defend themselves from patriarchal violence; exclusion of victims of patriarchal violence from conceptualizations of self-defense; laws that deny or threaten girls' and women's right to control and protect their bodies; custodial determinations that place children with abusive fathers; failure or refusal to prosecute those who commit acts of patriarchal violence; incarceration of pregnant women and mothers of young children; failure to successfully prosecute and sentence those who have committed illegal acts of patriarchal violence; removal of children from their mothers; and failure to prevent and punish manifestations of interpersonal, self-directed, collective, and institutional patriarchal violence.

Category	Definition	Additional Explanation/Example
Intimate Interpersonal Patriarchal Violence	A subset of Interpersonal Patriarchal Violence Patriarchal Violence perpetrated by a person or persons intimately known to the victim.	Patriarchal Violence that takes place in the home Patriarchal Violence perpetrated by intimate partners or family members Intimate Partner Violence Child Abuse Female Genital Mutilation Forced Marriage Forced Pregnancy Honor Violence
Community Interpersonal Patriarchal Violence	A subset of Interpersonal Patriarchal Violence	Patriarchal Violence that takes place in the community

	<p>Patriarchal Violence perpetrated by a person or persons known or unknown to the victim.</p>	<p>Patriarchal Violence perpetrated by friends and acquaintances or strangers</p> <p>Sexual Assault Rape Sexual Harassment Forced Prostitution Pornography Trafficking</p>
<p>Self-Directed Patriarchal Violence</p>	<p>Patriarchal Violence perpetrated by a person against herself or other girls and women.</p>	<p>Patriarchal Violence that takes the form of self-harm or harm of another girl or woman as a result of an earlier manifestation</p> <p>Patriarchal Violence experienced by the perpetrator or as a result of the perpetrator's internalized misogyny</p> <p>Self-Harm (cutting, anorexia, bulimia, suicide, prostitution, pornography) Grooming Trafficking Child Abuse</p>
<p>Collective Patriarchal Violence</p>	<p>Patriarchal Violence perpetrated by those who identify themselves as members of a group against women and children, who identify or are perceived to be members of another group, in</p>	<p>Interpersonal, Self-Directed, Institutional, or Legal Patriarchal Violence perpetrated as a tool of another form of oppression such as terror, conflict, war, or group domination</p> <p>Sexual Assault in War Genocidal Rape Rape during Slavery</p>

	order to achieve political, economic, or social objectives.	Racialized Sexual Assault/Rape
Institutional Patriarchal Violence	Patriarchal Violence perpetrated, directly or indirectly, through institutions.	Patriarchal Violence perpetrated directly or indirectly within an institutional setting: church, school, healthcare facility, workplace, prison, detention center, athletics organization, social organization, or other organization or institution
Legal Patriarchal Violence	A subset of Institutional Patriarchal Violence Patriarchal Violence perpetrated, directly or indirectly, through legal systems.	Patriarchal Violence perpetrated by lawmakers, judges, prosecutors, or other legal actors through rule or omission of law, interpretation of law, or execution of law

III. APPLYING THE PATRIARCHAL VIOLENCE ORGANIZATIONAL FRAMEWORK

In this section, I apply the Patriarchal Violence Organizational Framework to deconstruct the harrowing patriarchal violence experienced by Jessica Gonzales as documented in her lawsuits against the Town of Castle Rock¹⁸³ and the United States.¹⁸⁴ This case includes specific manifestations of Interpersonal, Collective, Institutional,

183. *Town of Castle Rock v. Gonzales*, 545 U.S. 748 (2005).

184. *Lenahan (Gonzales) v. United States*, Case No. 12.626, Inter-Am. C.H.R., Report No. 80/11 (2011).

and Legal Patriarchal Violence. Application of the Patriarchal Violence Organizational Framework to Jessica's case facilitates: (1) the identification of discrete manifestations of patriarchal violence experienced by Jessica and her daughters; (2) the characterization of discrete manifestation(s) of patriarchal violence as: Interpersonal, Collective, Institutional, and/or Legal; (3) the recognition of how discrete manifestations of patriarchal violence are compounded by additional manifestations of patriarchal violence; and (4) the drawing of connections between seemingly discrete manifestations of patriarchal violence so as to understand how they are interrelated and interdependent.

Jessica and Simon Gonzales, were the parents of Leslie, 7, Katheryn, 8, and Rebecca, 10.¹⁸⁵ After their divorce, Jessica petitioned for and received a temporary restraining order against Simon due to his increasingly erratic, abusive, and stalking conduct.¹⁸⁶ The Order prevented Simon from molesting or disturbing the peace of Jessica or their three children.¹⁸⁷ The temporary order was made permanent.¹⁸⁸ While the permanent order barred Simon from seeing the children on most days, the custody order permitted him "certain 'parenting time' with the children, which included a

185. *Gonzales v. City of Castle Rock*, No. Civ.A.00 D 1285, 2001 WL 35973820, at 2 (D. Colo. Jan. 23, 2001), *aff'd in part, rev'd in part*, 307 F.3d 1258 (10th Cir. 2002), *en banc reh'g granted*, 366 F.3d 1093 (10th Cir. 2004), *rev'd*, 545 U.S. 748 (2005); Caroline Bettinger-López, *Jessica Gonzales v. United States: An Emerging Model for Domestic Violence & Human Rights Advocacy in the United States*, 21 HARV. HUMAN RTS. L.J. 183, 184 (2008).

186. Jessica Gonzales, Statement Before the Inter-American Commission on Human Rights (Oct. 27, 2014) [hereinafter *Gonzales's Statement*], <https://www.aclu.org/other/jessica-gonzales-statement-iachr>.

187. *See Gonzales*, 2001 WL 35973820, at 2.

188. *Id.*

pre-arranged, advance notice mid-week dinner visit.”¹⁸⁹ On several occasions, he violated the protective order, but the police did nothing.¹⁹⁰ One afternoon, Simon arrived at Jessica’s home and abducted her daughters, in contravention of the court’s custody and restraining orders, and without her permission.¹⁹¹ Jessica sought assistance from the police to locate and rescue her daughters.¹⁹² Despite her repeated calls, the police never took any action to find her children or arrest Simon for his violations of the law.¹⁹³ Jessica believes her racial identity, a “Latina whose ethnic background includes Blackfoot and Cherokee Indian as well as German and Irish descent” was “relevant to the treatment and services she received from the Castle Rock police.”¹⁹⁴ Early the next morning, Simon arrived at the police station with their three daughters in the cab of his pickup truck.¹⁹⁵ He opened fire on the police station.¹⁹⁶ All three girls were subsequently found dead in his truck.¹⁹⁷ It is believed that he killed them prior to his arrival at the police station.¹⁹⁸

Jessica sued the Town of Castle Rock under 42 U.S.C. § 1983 for violation of her due process rights.¹⁹⁹ The United

189. *Id.*

190. Gonzales’s Statement, *supra* note 186.

191. *Town of Castle Rock v. Gonzales*, 545 U.S. 748, 753–54 (2005).

192. *Id.*

193. *Id.*

194. Zanita E. Fenton, *State-Enabled Violence: The Story of Town of Castle Rock v. Gonzales*, in *WOMEN AND THE LAW STORIES* 380–81 (Elizabeth M. Schneider & Stephanie M. Wildman eds., 2011).

195. *Gonzales*, 545 U.S. at 754.

196. *Id.*

197. *Id.*

198. *Id.*; “The official position of the Castle Rock Police Department is that Simon killed his daughters prior to his arrival at the police station. Jessica contests this version of the events as no complete forensic investigation ever occurred.” Fenton, *supra* note 194, at 380.

199. *Gonzales*, 545 U.S. at 754.

States District Court for the District of Colorado dismissed Jessica's claim, holding that she failed to state a claim because her court-issued domestic restraining order did not create a property interest protected by the due process clause.²⁰⁰ Jessica appealed to the Tenth Circuit which found against her on her substantive due process claim and for her on her procedural due process claim.²⁰¹ The Supreme Court denied both of Jessica's claims, finding that its decision in *Deshaney*²⁰² foreclosed her substantive due process claim and that she had no cognizable procedural due process claim because the restraining order did not constitute an entitlement to police protection.²⁰³

Jessica, Leslie, Katheryn, and Rebecca Gonzales were victims of multiple discrete acts of Intimate Interpersonal, Collective, Institutional, and Legal Patriarchal Violence. The patriarchal violence experienced by Jessica and her daughters can be deconstructed through application of the Patriarchal Violence Organizational Framework:

Category	Definition	Jessica Gonzales
Intimate Interpersonal Patriarchal Violence	A subset of Interpersonal Patriarchal Violence Patriarchal Violence perpetrated by a person or persons intimately known to the victim.	All act of violence perpetrated by Simon against Jessica and her daughters during the parties' marriage. Each time Simon violated the Restraining Order.

200. *Gonzales v. Town of Castle Rock*, 366 F.3d 1093, 1095–96 (10th Cir. 2004).

201. *Gonzales*, 545 U.S. at 754–55.

202. *DeShaney v. Winnebago Cnty. Dep't of Soc. Servs.*, 489 U.S. 189 (1989).

203. *Fenton*, *supra* note 194 at 382–83.

		<p>Simon's abduction of Jessica's daughters.</p> <p>Simon's killing of Jessica's daughters or his role in causing their deaths.</p>
Community Interpersonal Patriarchal Violence	<p>A subset of Interpersonal Patriarchal Violence</p> <p>Patriarchal Violence perpetrated by a person or persons known or unknown to the victim.</p>	Not Applicable
Self-Directed Patriarchal Violence	Patriarchal Violence perpetrated by a person against herself or other girls and women.	Not Applicable
Collective Patriarchal Violence	Patriarchal Violence perpetrated by those who identify themselves as members of a group against women and children who identify or are perceived to be members of another group, in order to achieve political, economic, or social objectives.	The Police's refusal to respond to Jessica's repeated calls for help, to the extent that their inaction was motivated by their bias toward Jessica as a Latina or Native American woman.

Institutional Patriarchal Violence	Patriarchal Violence perpetrated, directly or indirectly, through institutions.	See Legal Patriarchal Violence
Legal Patriarchal Violence	<p>A subset of Institutional Patriarchal Violence</p> <p>Patriarchal Violence perpetrated, directly or indirectly, through legal systems.</p>	<p>Judicial order(s) that permitted Simon to have unsupervised time with Jessica's daughters.</p> <p>Failure of Colorado lawmakers to establish clear rules for the enforcement of restraining orders.</p> <p>Town of Castle Rock Police Department's refusal to enforce the restraining order against Simon when he violated the order in the past.</p> <p>Town of Castle Rock Police Department's failure to recognize, prevent, and respond to the danger posed to Leslie, Katheryn and Rebecca by their father when he abducted them</p> <p>District of Colorado Court's dismissal of</p>

		<p>Jessica's 42 U.S.C. §1983 claim.</p> <p>Tenth Circuit Court of Appeals' rejection of Jessica's substantive Due Process Claim.</p> <p>United States Supreme Court's rejection of Jessica's substantive and procedural due process claims.</p>
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By applying the Patriarchal Violence Organizational Framework to the case of Jessica Gonzales, one can identify, distinguish, and connect the various manifestations of patriarchal violence experienced by Jessica and her daughters. It becomes clear that the story began, not with the murder of Jessica's daughters as the legal case might suggest, but, rather, with the Interpersonal Patriarchal Violence perpetrated by Simon on his family during the marriage. It then continued with the Institutional and Legal Patriarchal Violence that culminated with a judge granting Simon unsupervised custody of Leslie, Katheryn, and Rebecca. Each time Simon violated the restraining order and forced contact with Jessica or the girls, another manifestation of Interpersonal Patriarchal Violence occurred. Each time the police refused to enforce Jessica's restraining order, compounding manifestations of Institutional and Legal Patriarchal Violence impacted Jessica and her daughters. When Simon abducted the girls, he perpetrated another act of Interpersonal Patriarchal Violence against both Jessica and his daughters. When the police ignored Jessica's repeated calls for help, they perpetrated additional acts of Institutional and Legal

Patriarchal Violence, thereby facilitating Simon's ultimate act of Interpersonal Patriarchal Violence, the murder of his daughters. To the extent that the police officers who ignored Jessica's calls for help were motivated by anti-Latina or anti-Indigenous bias, Jessica and her daughters were also the victims of Collective Patriarchal Violence. To the extent that the police officers' failure was due to a lack of protocol established by Colorado law, Jessica and her daughters also suffered Institutional and Legal Patriarchal Violence due to the law's failure. The dismissal of Jessica's legal claims by the District Court, Tenth Circuit, and Supreme Court were additional manifestations of Legal Patriarchal Violence.

Application of the Patriarchal Violence Organizational Framework to the story of Jessica Gonzales facilitates deeper exploration of patriarchal violence and illustrates how discrete manifestations intertwined to create Jessica's horrific reality. First, the framework enables users to purposefully deconstruct Jessica's story so as to identify each and every distinct manifestation of patriarchal violence. Second, it provides users with the opportunity to distinguish various discrete manifestations of patriarchal violence by categorizing them according to the perpetrator and the relationship between the perpetrator and victim. In so doing, users can compare and contrast the different types of patriarchal violence Jessica and her daughters experienced. Third, users will be encouraged to consider how the various manifestations of patriarchal violence experienced by Jessica compounded or otherwise affected one another. For example, users will recognize that Jessica suffered patriarchal violence at the hands of both her ex-husband and the legal system. Users may question how the Legal Patriarchal Violence consisting of a court order permitting Simon visitations with Leslie, Katheryn, and Rebecca impacted the interpersonal patriarchal violence they later experienced when Simon abducted and killed them. Similarly, a user might be prompted to question how the patriarchal violence committed by law enforcement in the nature of the police

officers' prior refusals to enforce Jessica's protective order, encouraged Simon to violate it when he later abducted and killed the girls. Fourth, by categorizing the various discrete instances of patriarchal violence that take place in multiple victims' stories, users will gain deeper understanding of the connections between seemingly discrete manifestations and will be prompted to compare the various types of patriarchal violence experienced by one victim in one case with the same type(s) of patriarchal violence experienced by another victim in another case.

CONCLUSION

In the Declaration on the Elimination of Violence Against Women, the United Nations acknowledged that violence against women "constitutes a violation of the rights and fundamental freedoms of women and impairs or nullifies their enjoyment of those rights and freedoms."²⁰⁴ The United Nations further recognized that violence against women:

[I]s a manifestation of historically unequal power relations between men and women, which have led to domination over and discrimination against women by men and to the prevention of the full advancement of women, and that violence against women is one of the crucial social mechanisms by which women are forced into a subordinate position compared with men.²⁰⁵

This Article seeks to facilitate further theorization of violence against women so as to deepen our understanding of it so that we may continue to work toward its eradication. By reframing "violence against women" as "patriarchal violence" this Article attempts to shift the focus to the cause of the violence women experience. As author Jackson Katz explains: "[t]he term 'violence against women' is a passive

204. G.A. Res. 48/104, *Declaration on the Elimination of Violence Against Women* (Dec. 20, 1993), <https://www.ohchr.org/en/instruments-mechanisms/instruments/declaration-elimination-violence-against-women>.

205. *Id.*

construction—there’s no active agent, it’s a bad thing that happens to women” . . . as if “nobody’s doing it to them.”²⁰⁶ By reframing “violence against women” as “patriarchal violence” we shift the focus to force a reckoning of why women are being victimized. While it is critical that we recognize that girls and women are most often subject to violence at the hands of men, it is more important that we recognize that such violence is part of a broader mission to preserve the patriarchal hierarchy. Emphasizing the ideological motivation of the violence over the sex or gender of the typical perpetrator will also facilitate the recruitment of men in the fight against patriarchal violence. Teaching and theorizing violence against women as if it is personal—unrelated to an overarching intentional social mission to keep women subjugated—is unacceptable. Instead, we must continue to concern ourselves with the ideological foundation of the deep violation of our human rights that continue to be waged against our bodies and our autonomy in the United States and throughout the world.

The Patriarchal Violence Organizational Framework introduced in this Article provides a mechanism by which theorists, teachers, students, and activists can better understand the many manifestations of patriarchal violence experienced by women and girls. It facilitates the deconstruction of the cycles of patriarchal violence experienced by individual women. It also serves as a visual aid to better enable users to recognize how preceding and subsequent manifestations of patriarchal violence cause and compound the harm experienced by a single victim. In addition, the framework provides categorizations that enable users to easily draw connections between the similar forms of patriarchal violence experienced by different girls and women. It is my hope that others will find that the framework facilitates deeper understanding of patriarchal violence and the experiences of girls and women who are

206. Gupta, *supra* note 20 (quoting KATZ, *supra id.*).

victimized by it.