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"Strike Me If You Dare": Intimate-Partner Violence, Gender, and Reform, 1865-1920

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“STRIKE ME IF YOU DARE”: INTIMATE-PARTNER VIOLENCE, GENDER, AND
REFORM, 1865-1920

A Dissertation

Submitted to the Graduate Faculty of the
Louisiana State University and
Agricultural and Mechanical College
in partial fulfillment of the
requirements for the degree of
Doctor in Philosophy

in

The Department of History

by

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ABSTRACT

Between 1865 and 1920, new gender expectations in the postbellum period, as well as the willingness to use the state to intervene in marriages led to social and legal reform that provided a mechanism to empower women and enforce their right to be free from violence. Women emerged from the Civil War more aware about the drawbacks of dependency. The postbellum period also witnessed massive changes with industrialization, which enabled women to participate in what were previously considered male pursuits. With their new awareness and the changes of industrialization, women negotiated a new definition of womanhood, which included the right to be free from intimate-partner violence. Reform organizations also reflected this change and pushed for recognition of this right. Courts, in turn, started to decide cases in favor of abused women, depriving men of the antiquated right of chastisement. After the 1890s, however, the issue of race in the South perverted intimate-partner violence into a method of disenfranchising African Americans. In the North, the rise of scientific experts by the 1920s helped conservative gender expectations to change public policies for abused women. These changes washed away progress towards addressing the problem of intimate-partner violence.

This dissertation applies the lens of gender to intimate-partner violence from 1865 to 1920 and offers insight to the history of gender and the law. It shows not only that gender is a process, created and recreated by the public depending on the historical context, but also that the social construction of gender has real consequences for men and women. Moreover, this dissertation complicates the view that history is necessarily progressive. Rather than a straight line, the path towards ending intimate-partner violence appears more like a wave with advancements and major setbacks. Change was not steady, and the social problem of abuse did

not become incrementally better over time. This perhaps does not offer solace to the modern-day movement against intimate-partner violence, promising things will get better over time, but it does encourage more critical analysis of the multifaceted problem of intimate-partner violence and the way evolving beliefs about gender have shaped American society's reactions and responses to gender based violence.

INTRODUCTION

In 1851, a white man, William Hussey, kicked his wife, Beulah, in the leg and punched her in the head; she then pressed criminal charges of assault and battery against him. The trial court judge instructed the jury that a husband had a right to “moderate chastisement” but not the right to “beat her [his wife] for mere wantonness and wickedness.”¹ Found guilty of senseless violence, William Hussey appealed, and the North Carolina State Supreme Court reversed the decision, stating:

We know that a slap on the cheek, let it be as light as it may, indeed any touching of the person of another in a rude or angry manner—is in law an assault and battery. In the nature of things it cannot apply to persons in the marriage state, it would break down the great principle of mutual confidence and dependence; throw open the bedroom to the gaze of the public; and spread discord and misery, contention and strife, where peace and concord ought to reign.²

Frequently cited by other courts during the antebellum period, *Hussey* continued to affirm the male privilege of chastisement and the doctrine of domestic privacy, which protected intimate-partner violence from legal intervention.

Thirty-three years later in 1884, a white man, Joseph Huntley, whipped his wife, Rachel, twenty times “with an ordinary switch the size of her little finger.”³ The whipping resulted in cuts that bled, but since Rachel could “go about as usual,” the lower court found the husband not guilty.⁴ Again, the North Carolina State Supreme Court reversed the decision, this time finding the husband guilty of assault and battery, saying:

There was also damage done to the peace, decencies and proprieties of the public. Such

¹ *State v. Hussey*, 44 N.C. (Busb.) 123 (1852).

² *Ibid.*

³ *State v. Huntley* 91 N.C. 617 (1884).

⁴ *Ibid.*

Offence [of beating his wife]... stir[red] up the wrath of the people, male and female, and provoke[d] them to violence and unlawful redress of the public grievance. Surely, if a man should thus violently whip a woman, or another man, or a boy, whom he could thus assault, it should be regarded as manifestly serious damage to the individual assailed, and like damage to the good order of society, to say nothing of its decencies and proprieties.⁵

As illustrated by the changes in the courts' rulings, by the 1870s and 1880s, the courts no longer recognized the male privilege of chastisement, and Joseph was convicted of assault and battery.

By the 1890s, southern courts had reinterpreted intimate-partner violence. In 1894, an African-American man, Milus Harris, slapped his wife several times and beat her with a board. The lower court, following cases similar to *Huntley*, found Milus guilty of assault with intent to kill. The Mississippi State Supreme Court reversed and remanded the decision, arguing that Milus Harris was guilty of assault and battery but not assault with intent to kill. The opinion of the state supreme court went on to discuss what the judges believed to be the source of intimate-partner violence — the “belief among the humbler class of our colored population of a fancied right in the husband to chastise the wife in moderation.”⁶ The problem, the court insinuated, lay not with whites but in the black community.

By the first decade of the twentieth century, courts throughout other areas of the country shifted their stance on intimate-partner violence too. In 1915, William Copper of Indiana faced charges of assault and battery for beating his wife. He had reportedly worked all day and came home to find his wife at the movies. William built a fire, made his dinner, and waited. When his wife returned, William “made a few remarks” and then began to hit her.⁷ She called the police

⁵ Ibid.

⁶ *State v. Harris* 71 Miss. 462, 14 So. 266 (1894).

⁷ “Wife at Movies and No Supper Justifies Beating Judge Would Blame No Man for Losing His Temper,” reprinted in *The Philadelphia Inquirer* January 10, 1915 (Philadelphia, Pennsylvania).

and pressed charges, but the court discharged the case. The judge chastised the wife for failing in her “domestic duties” and sympathetically told the husband, “I don’t blame any man for losing his temper under conditions similar to these.”⁸ The *Copper* case was permissive of the privilege of chastisement, reversing the rulings in the late nineteenth century.

Each of these four cases—*Hussey*, *Huntley*, *Harris*, and *Copper*—illustrate views of various courts from the antebellum period to the early twentieth century, and each portrays different reactions from the legal system at different points in time. The case law history on abuse is one in which the courts interpret and reinterpret old assault and battery criminal statutes but not in a neat, linear progression towards solving the problem of intimate-partner violence. No clear evolution existed because the male privilege of chastisement was socially constructed, which allowed for periodic shifts in the courts’ stance on privacy, abuse, and a woman’s right to be free from violence. But what exactly prompted the courts to revoke its sanction of the male privilege of chastisement after the Civil War? Why did southern courts racialize intimate-partner violence? Why did northern courts lose interest in prosecuting intimate-partner violence in the criminal courts by the early 1900s? These four introductory stories point to a complex socio-legal process.

In this dissertation, I argue that new gender expectations in the postbellum period as well as the willingness to use the state to intervene led to social and legal reform that provided a mechanism to empower women and enforce their right to be free from violence. Women emerged from the Civil War more aware about the drawbacks of dependency, and in their new awareness, they renegotiated a different definition of womanhood, which required the right to be free from violence. Institutions also reflected this change and pushed for recognition of this right.

⁸ Ibid.

Courts, in turn, started to decide cases in favor of abused women, depriving men of the antiquated right of chastisement. After the 1890s, however, the issue of race in the South and the return of more conservative gender expectations through scientific experts in the North washed away progress towards addressing the problem of intimate-partner violence.

Historians, such as Linda Gordon and Elizabeth Pleck, look at the development through the lens of family. They show how families became less of a private entity. The public felt that in order to perfect mankind, it also was invested in fixing relationships within the family, particularly parent to child and husband to wife. Progressivism linked family stability with stability of the larger society, and consequently social institutions and the law intervened in incidents of abuse and neglect. The family approach to intimate-partner violence in the late 1800s has definite merits since indeed the family dynamic changed during the period.⁹ But what about viewing intimate-partner violence—a gender based problem—through the lens of gender? How did the construction and reconstruction of gender expectations influence the shifting legal views of intimate-partner violence? Depending on gender expectations, the courts provided or denied women legal assistance. However, to understand this odd pattern of development, it is necessary to begin with the antebellum views of intimate-partner violence.

Like other cases in the first half of the 1800s, *State v. Hussey* clearly protected the male privilege of chastisement and denied women the right to be free from abuse. By this time, the antebellum women's movement had gained momentum in the United States. The movement was

⁹ See Linda Gordon, Heroes of Their Own Lives: The Politics and History of Family Violence: Boston, 1880-1960, (New York, N.Y., U.S.A: Viking, 1988) and Elizabeth H. Pleck, Domestic Tyranny: The Making of Social Policy against Family Violence from Colonial Times to the Present, (New York: Oxford University Press, 1987).

best articulated in the famous Seneca Falls *Declaration of Sentiments* in 1848.¹⁰ One of the central issues the declaration pointed to a social and legal problem—that of the “law giving him [man] power to deprive her of her liberty, and to administer chastisement.”¹¹ The antebellum women’s movement recognized women’s natural right to be free from violence and attacked the privilege of chastisement as a method of maintaining a patriarchy and disempowering women. Women’s advocates achieved little success on this issue. Only two states went so far as to pass legislation criminalizing wife beating in the 1850s, and a few, such as Connecticut, reportedly denied the male right of chastisement. Still, as Reva Siegel argues most states refused to intervene, which resulted in, as the Seneca Falls Convention noted, the “spread [of] discord and misery.”¹² If any doubts to the male privilege of chastisement existed, the North Carolina State Supreme Court case *State v. Black* (1864) clarified the law’s view of abuse.¹³ The judges in *Black* justified wife beating, claiming that the husband was legally responsible for his wife and that courts could not violate the right of family privacy. State courts tended to discourage

¹⁰ “Report of the Woman’s Rights Convention, Held at Seneca Falls, New York, July 19th and 20th,” (Rochester: John Dick at the North Star Office, 1848).

¹¹ *Ibid.*

¹² *Ibid.*; Reva Siegel, “The Rule of Love”: Wife Beating as Prerogative and Privacy” (1996). Faculty Scholarship Series. Paper 1092. http://digitalcommons.law.yale.edu/fss_papers/1092 States in the antebellum period generally (although not always) prosecuted a man who killed his female partner. Some states did intervene when men became violent to their female partners. Georgia and Tennessee, for example, passed laws criminalizing intimate-partner violence in the 1850s. Some, such as Louisiana and Michigan, fined abusers in severe cases of abuse, but these states did not recognize the right of a wife to be absolutely free from violence. Victoria Bynum examined the Piedmont area in North Carolina in the antebellum era and found thirty-nine women swore out peace warrants against their abusive husbands in three counties from 1850 to 1860. See Victoria E. Bynum, *Unruly Women: The Politics of Social and Sexual Control in the Old South*, (Chapel Hill: University of North Carolina Press, 1992.) “Lesser” forms of abuse, such as slapping or injuries that were not permanent, were not seen as criminal, and were not prosecuted. This is not the case after the Civil War.

¹³ *State v. Black*, 60 N.C. (Win.) 262 (1864).

charges of assault and battery against a husband because judges feared the impact on gender roles. If a wife could issue a complaint against her husband, then she challenged his authority. This, as *Black* argued, led to “insubordination” from the wife.¹⁴ The idea of manhood during the period required a clear gender hierarchy and submission from the wife.¹⁵ Charging a man with assault and battery for hitting his wife chipped away at the status of men, and courts recognized the possible risk. Before the war, most courts were not prepared to radically alter the status of men and women by criminalizing intimate-partner violence.

After the war, the country’s concern for intimate-partner violence developed from a complicated view of changing gender expectations.¹⁶ While the postbellum period attempted to resurrect antebellum notions of womanhood and confine women to the domestic sphere, changes

¹⁴ Ibid.

¹⁵ For more on marriage and marriage roles, see Stephanie Coontz, Marriage, a History: From Obedience to Intimacy or How Love Conquered Marriage, (New York: Viking, 2005) and Michael Grossberg, Governing the Hearth: Law and the Family in Nineteenth-Century America, (Chapel Hill: University of North Carolina Press, 1985). For information on marriage in the antebellum South, see Marli F. Weiner, Mistresses and Slaves: Plantation Women in South Carolina, 1830-80, (Urbana: University of Illinois Press, 1997), Carol K.R. Bleser, In Joy and in Sorrow: Women, Family, and Marriage in the Victorian South, 1830-1900, (New York: Oxford University Press, 1991). For other court cases discussing a husband’s control over his wife, see *Commonwealth v. Neal & wife*, 10 Mass. 152 (1813), *Rex. v. Knight and wife*, (notes thereto) 11 E. C. L. R. 335 N.C., and *Franklin Robinson v. Elisha Reynolds, & Sally, his wife* 15 Am.Dec. 673, 1 Aik. 174, (1826). In *Robinson v. Reynolds*, the judge argued that if a wife was “unmanageable and disobedient” to her husband then “he ought to exercise his marital right and regulate her conduct.”

¹⁶ This dissertation mainly focuses on the North and the South. The West during the 1870s was still being settled, and as territories or newly recognized states, the West is more difficult to assess, particularly using newspapers and court cases. A few historians have examined intimate-partner violence in the West during the period using petitions for divorce from Oregon that reached higher courts. For more information, see David Peterson, “Wife Beating: An American Tradition,” *The Journal of Interdisciplinary History*, vol. 23, No.1 (Summer 1992): 97-118; and David Peterson Del Mar, What Trouble I have Seen: A History of Violence Against Wives, (Cambridge: Harvard University Press, 1996).

resulting from the Civil War made a return to previous gender expectations of the nineteenth century not possible, at least immediately.¹⁷ As Drew Gilpin Faust argues in *Mothers of Invention*, many women witnessed firsthand the pitfalls of being a lady. Men could not always protect women, as evidenced on the home front during the war, which made self-reliance a necessity.¹⁸ After the Civil War, this reality made resurrecting womanhood problematic, yet still, newspapers consistently articulated the importance of submissive women and male protectors.¹⁹ The rhetoric of civilized men versus savages also entered into the public discourse.²⁰ Men who beat their wives were labeled “brutes,” “inhuman fiends,” and “unmanly,” by the press, the courts, and neighbors.²¹ By the 1870s, gender expectations shifted from ignoring the problem of

¹⁷ Many historians of women’s history have shown that these “spheres,” were in reality, not as rigid as previously supposed. Rather, the “spheres” were fluid as argued in Paula Baker’s “The Domestication of Politics: Women and American Society, 1780-1920,” *The American Historical Review*, Vol. 89, No. 3 (Jun., 1984), pp. 620-647. Acknowledging that fact, I use the term “sphere” not to counter those arguments but rather since to emphasize the expectation of gender performance. I also use the term “ideal” here and throughout the dissertation. Carl Degler in “What Ought to Be and What Was: Women’s Sexuality in the Nineteenth Century,” *American Historical Review* 79 (1974): 1467-90 and Helen Lefkowitz Horowitz in *Rereading Sex*, (Knopf: New York, 2002) have been instrumental in showing how Victorian America did not necessarily live up to the widely circulated ideals. However, the enforcement of these ideals by families, communities, and those in power (courts, legislatures, etc.) is key in this discussion.

¹⁸ Drew Gilpin Faust, *Mothers of Invention: Women of the Slaveholding South in the American Civil War*, (Chapel Hill: University of North Carolina Press, 1996): 17.

¹⁹ A few examples are: *The Columbus Daily Inquirer* Jan. 19, 1870; *Macon Weekly Telegraph* June 6, 1871; *Macon Weekly Telegraph* April 8, 1873; *Morning Republican* July 28, 1873; *Wheeling Register* April 5, 1877; *Wheeling Register* October 22, 1881.

²⁰ Gail Bederman, *Manliness & Civilization: A Cultural History of Gender and Race in the United States, 1880-1917*, (Chicago: University of Chicago Press, 1995).

²¹ A few examples are: *The Columbus Daily Inquirer* May 11, 1870; *The Times Picayune* March 30, 1871; *Morning Republican* July 9, 1873; *Wheeling Register* June 18, 1875; *Times Picayune* August 30, 1882.

intimate-partner violence to criminalizing it. Manhood involved relinquishing the privilege of chastisement, and womanhood included the right to be free from violence.

The new attack on intimate-partner violence extended legal and social protections to African American as well as white women. Newspapers throughout the 1870s condemned wife beating in all couples and described black battered wives similarly to white women who were abused with the words “pitiful,” “weak,” and “fearful.”²² This portrayal of black women as ladies in need of protection, however, was specific to the incidents of intimate-partner violence, but the application of womanhood in cases of intimate-partner violence suggests the country’s attempt (as contradictory as it may have been) at defining masculinity, femininity, and restraint.²³

By the 1870s, courts, like in the *Huntley* case at the beginning of this introduction, regularly prosecuted men with assault and battery for abusing their wives. They also allowed the testimony of wives as evidence against a husband and recognized the consequences of mental as well as physical abuse.²⁴ In a precedent-setting case, *Fulgham v. the State of Alabama*, the chief

²² *Wheeling Register* May 4, 1881; *Savannah Tribune* December 12, 1876; *Macon Weekly Telegraph* September 12, 1876; *New Orleans Times* August 8, 1874; *Morning Republican* August 23, 1873; *Macon Weekly Telegraph* April 30, 1872; *Times Picayune* October 31, 1871.

²³ In situations of sexual assault, especially when the accused assailant was white, African American women had little to no recourse for crimes against their person. Often, women of color were blamed for the rapes since white social expectations considered them hypersexual and incapable of saying “no” to sex. Deborah Gray White examines this Mammy v. Jezebel myth of black women in *Ar’n’t I a Woman?: Female Slaves in the Plantation South*, (New York: Norton, 1985), and Crystal Nicole Feimster analyzes the lack of protection for African American women against sexual assault in the New South in *Southern Horrors*, (Cambridge, Mass: Harvard University Press, 2009). Darlene Clark Hine also explores rape of African American women and what she calls the “culture of dissemblance” in “Rape and the Inner Lives of Black Women in the Middle West.” *Signs*, Vol. 14, No. 4, (Summer, 1989), 912-920.

²⁴ *State v. Huntley* 91 N.C. 617 (1884). The majority of opinion denied prior precedent in *Hussey* and argued the wife could in fact testify against her husband. *Huntley* also argued that Justices of the Peace had no jurisdiction for intimate-partner violence since such assault and

justice “charged that the proposition that a husband could moderately chastise his wife was a relic of barbarism.”²⁵ Other courts quickly followed *Fulgham* by abolishing legal protection of the antebellum male privilege of chastisement.²⁶ Wife beating was no longer compatible with American conceptions of civilization, masculinity, or femininity, and courts nationwide started punishing abusive husbands under the misdemeanor of assault and battery.²⁷ This was a marked change from the antebellum period in which family violence was viewed as private matter and a man’s “right” to chastise his wife went virtually unchecked.

Admittedly, intimate-partner violence then like now often went unprosecuted. While I argue that social and legal reform empowered women to demand freedom from violence, I also strive to convey the complexity of intimate-partner violence during the period, including when women did not show agency. Sometimes women dropped charges or refused to testify when the

battery was not trivial. The judges used mental suffering as evidence of the severity of wife beating.

²⁵ *Fulgham v. the State* 46 Ala. 143 (1871). Although there is a major case before *Fulgham-State v. Rhodes*, 61 N.C. 453 (1868)- I start with *Fulgham* since *Rhodes* still recognized the primacy of the family and state intervention only in severe cases of spousal assault. *Fulgham* goes further than the North Carolina Supreme Court case to argue that wife beating was not acceptable. For more information on the *Rhodes* case, see Laura Edwards, “Women and Domestic Violence in Nineteenth-Century Carolina” in Michael A. Bellesiles, Lethal Imagination: Violence and Brutality in American History, (New York: New York University Press, 1999): 114-136.

²⁶ For example of similar cases that followed *Fulgham*, see *Knight v. Knight* 31 Iowa 451 (1871); *Commonwealth v. McAfee* 108 Mass. 458 (1871); and *Shackett v. Shackett* 49 Vt. 195 (1876).

²⁷ Although *Fulgham* involves an African-American couple, the repudiation of the male privilege of chastisement extended to every race, ethnicity, and socioeconomic class. For information on white elites being charged with wife beating see Carolyn B. Ramsey, “A Diva Defends Herself: Gender and Domestic Violence in an Early Twentieth-Century Headline Trial,” 55 St. Louis University Law Journal 1347 (2011) 1; University of Colorado Law Legal Studies Research Paper No. 12-12. Available at Social Science Research Network: <http://ssrn.com/abstract=2096360>.

state pressed charges against their husbands. A few cases, for various reasons, had the words *nolle prosequi* written on their covers, denoting that the accused would not be prosecuted further.²⁸ Still, husbands could face legal and social consequences for spousal abuse. The court records testify to that, and more importantly, the extra-legal violence by the community showed that society did not whole-heartedly condone this gendered violence.

By the 1890s, reform for intimate-partner violence lost ground in the South largely because race dominated social concerns in the region. Without northern oversight or concern about the South's racial relations, southern states devised loopholes to impose segregation, disenfranchise black men, and deny African Americans civil rights. This shift in relations had implications for intimate-partner violence, as shown in the *Harris* case at the beginning of this introduction. Politicians and society viewed wife beating as the black community's problem, and intimate-partner violence became racialized. Newspapers described an African-American man who abused his wife as a "bad nigger" and "a blood thirsty negro."²⁹ Successful prosecutions were made more often against black men during this period, and punishing intimate-partner violence became a method of white elite control over African-Americans.³⁰

By the beginning of the early twentieth century, views on intimate-partner violence also changed in the North. People started to feel intimate-partner violence was not really a problem

²⁸ A few examples are: *State v. Stagno Salvador*, May 12, 1893, CRDC 2041; *State v. Jeffery Hill*, 30 Sept. 1885, CRDC 7593; *State v. James Gillen*, 8 Sept. 1882, CRDC 2911. New Orleans City Archives.

²⁹ *Charlotte Observer* August 25, 1896; *Wheeling Register* November 26, 1893.

³⁰ Historian Elizabeth Pleck, for instance, found "Between 1889 and 1894, fifty-eight out of sixty men arrested for wifebeating in Charleston, South Carolina were black." See Elizabeth Pleck, "Wife Beating in Nineteenth-Century America," *Victimology: An International Journal* 4 (1979): 65.

and that the suffragette and “New Woman” provoked her husband to be violent by attempting to be the man’s equal. In 1914, Boston scientist Dr. William T. Sedgewick articulated this mindset to the public through newspapers when he argued a man would commit violence against women if women persisted in public and political life.³¹ Essentially, Sedgewick warned women that male violence (physical and sexual) was the consequence of feminism. Abolishing conservative gender expectations and the separate spheres ideal gave men the inclination if not the right to abuse women, Sedgewick implied. This 1914 statement by a respected medical professional contrasts sharply with views on violence against women in the 1870s and 1880s. By the 1910s and 1920s, intervention in intimate-partner violence lessened as gender expectations reestablished men’s right to assert control over his wife, even through the use of physical force.

Similar to the *Copper* case at the beginning of this introduction, northern courts and agencies like the Society for the Prevention of Cruelty to Children (SPCC) also lost interest in punishing abusers. Instead, their new objective upheld family stability. In 1910, Justice William Day wrote the majority opinion in the U.S. Supreme Court case, *Thompson v. Thompson*, and declared that a wife could not sue her husband for damages from assault and battery because it would “open the doors of the courts to accusations of all sorts of one spouse against the other” and questioned whether the “exercise of such jurisdiction would be promotive of the public welfare and domestic harmony.”³² Quickly, privacy of family trumped prosecution of intimate-partner violence. Within the next decade, police officers and criminal courts stopped pressing charges against husbands for intimate-partner violence. Psychologists and social workers took

³¹ George MacAdam, “Feminist Revolutionary Principle is Biological Bosh,” *New York Times*, 18 January 1914, sec. 5, p. 2; as quoted in Bederman, 161.

³² *Thompson v. Thompson*, 31 S.Ct. 111 (1910).

control, upholding views of female accountability and victim blaming.³³ By the 1930s, Freudian psychoanalysis in the United States stressed internal conflict, and the battered wife was told the abuse was her fault. This provided a means of social control of women through imposing conservative gender expectations. Any progress in addressing the problem of intimate-partner violence was virtually erased.

Methodology

This dissertation examines the changing public policies for intimate-partner violence against women in heterosexual relationships through the lens of shifting gender roles in the second half of the nineteenth century. Legal intervention at first may seem like a top down method of control, but such a perspective overlooks critical social factors, particularly the changes in gender expectations. The majority of the women's testimony attests to a distinct transformation in people's attitudes. The courts did not create the shift in treatment of intimate-partner violence but rather enforced a new social norm by punishing abusive partners. Historians and legal scholars have debated the legal system as either a primary mover of social change or a responder to social pressure, and while most agree a blend of the two are evident, a general consensus on the more dominant influence does not exist.³⁴ Intimate-partner violence during the

³³ Pleck, 125-144.

³⁴ Historian Michael J. Klarman's From Jim Crow to Civil Rights argues law, particularly concerning the *Brown v. Board of Education* case, was and is largely influenced by social values. Klarman also discusses how judges rule (personal values or based on the letter of the law) and argues while a blend of both, judges rely on personal beliefs when the law is "less clear" (5). See Michael J. Klarman, From Jim Crow to Civil Rights: The Supreme Court and the Struggle for Racial Equality, (Oxford: Oxford University Press, 2004). Legal scholar Thomas Kearns agrees social views are the impetus for change in the legal system. He states, "Law, in the instrumentalist account, mirrors society. Changes in law tend to follow social changes, and often intend to do no more than make those changes permanent." See Thomas Kearns, *Beyond the*

late 1800s shows a blend of both as well. Judges could and did punish those who broke the law, and by policing those who still clung to antebellum notions of manhood and the “right” of chastisement, case law set new precedents that mimicked a larger shift in society. Politicians did not, in the majority of states, pass laws criminalizing intimate-partner violence. Rather, judges began reinterpreting assault and battery statutes on the books and started finding abusive husbands guilty of assault and battery when they beat their female partners. The fact that the change took place in case law subtly, informally, and unevenly throughout the country indicates judges responded to changes in social expectations. Then, the judges used the positions to teach men the new restriction on male power. The redefinition of gender expectations drove the new interpretation of assault and battery to repudiate the antiquated privilege of physical “correction.”

Post-Civil War masculinity, femininity, and case law, then, are all integral to understanding intimate-partner violence and female agency in the United States. Newspapers, manuscript collections, and court cases form the backbone of the research. Newspapers give insight to social attitudes. No less than three hundred twenty-eight articles were used in this dissertation, including newspapers ranging from New Orleans’ *The Times Picayune* to the *Chicago Daily Tribune*. Manuscript collections, such as the Micajah Wilkinson Papers and James Knapp Papers, contained journals and private correspondence that supported statements

Great Divide: Forms of Legal Scholarship and Everyday Life, in *Law and Everyday Life* 21 (Ann Arbor: University of Michigan Press, 1993). Historian Richard Polenberg seems to argue differently on the influence of courts. He intimates that the courts affect the larger society and impose changes and views. See Richard Polenberg, *Fighting Faiths: The Abrams Case, the Supreme Court, and Free Speech*, (Ithica: Cornell University Press, 1987). Legal scholar Reva Siegel uses a “preservation through transformation” argument stating judges tended to allow for social change somewhat but uphold the older hierarchy by readapting the ruling along another set of lines in order to have the same end result as prior to social pressure to change. See Reva B. Siegel, “‘The Rule of Love’: Wife Beating as Prerogative and Privacy,” *Faculty Scholarship Series*, Paper 1092, Yale Law School (1996).

made in the newspapers, further enabling the reconstruction of a public attitude on intimate-partner violence for this dissertation.

Court cases provide a look at the legal response during the period. Rather than cherry pick various cases from throughout the country, this dissertation relies largely on local recorder court records from Orleans Parish. I examined 1,228 assault and battery cases from Orleans Parish during the 1865 to 1910 period and found 202 that dealt specifically with some form of intimate-partner violence. Recorder courts provide important insight to the day-to-day responses from the lower courts, and give a better glimpse of the typical ruling in intimate-partner violence than federal Supreme Court cases. These local cases, along with some landmark state or federal court cases are a substantial component of this dissertation.

A study of the densest population settlement in Louisiana lends itself to a richer and more manageable analysis of the shift in social awareness and public policy. Moreover, since major works in the field by Linda Gordon and Elizabeth Pleck focus on northern cases, particularly Massachusetts, a southern state such as Louisiana provides a needed point of comparison. In the late nineteenth century, Louisiana was neither as aggressive in punishing wife beating as Massachusetts and Georgia were, nor was it as lax in its policies as states such as Arkansas.³⁵ As a result, Louisiana represents more of the median of the states and a glimpse into case law for the period. Moreover, it clearly illustrates the southern shift in policy during the 1890s that is not visible through northern court cases alone. Within the state of Louisiana, the population was

³⁵ See Laura Edwards's chapter in *Lethal Imagination*. North Carolina and Georgia quickly targeted "wife beating." For instance, in the *State v. Rhodes* (1868), North Carolina ruled against anything more than "moderate correction" of a spouse, and by the 1890s, North Carolina had a Constitutional amendment disfranchising "wife beaters." As early as Georgia passed a law punishing "wife beaters" with a misdemeanor. Arkansas, on the other hand, had no express legal consequences for intimate-partner violence and fewer court cases and newspaper stories on the subject.

clustered in the port city of New Orleans and its surrounding vicinity. In 1870, Orleans Parish was home to twenty-seven percent of Louisiana's population.³⁶ Even by 1900, twenty-one percent of the state's population resided within Orleans Parish making it more than five times the size of the next largest parish, St. Landry.³⁷ Examining Orleans Parish, then, provides a good portion of the court cases in Louisiana. Orleans Parish and the City of New Orleans also have maintained the best archives for Louisiana court cases in the period. As such, legal reform discussions in this dissertation will rely heavily on the records of these locales for the legal reform aspect of this study.

To illustrate the North's rolling back of reform in intimate-partner violence, I use various works discussing the views in psychology and social work. The Massachusetts and Louisiana Societies for the Prevention of Cruelty to Children provide critical insight into the changing goals in organizations. Case studies of social workers in Chicago also are used to demonstrate the influence of experts in family courts as well as the new primary objective of family stability. Most of the cases used are found in Dr. Ernest Mowrer and Harriet R. Mowrer's published results in *Domestic Discord: Its Analysis and Treatment*.

³⁶ This statistic was created by using the 1870 US. Census <http://www.census.gov/prod/www/abs/decennial/1870.html>. I divided the population numbers for Orleans Parish (197,418) by the total population of the state of Louisiana (726,915) and multiplied by 100.

³⁷ The same technique as described in footnote seven was used to compile this statistic as well. Population numbers derived from the 1900 U.S. Census. At this time, St. Landry included Acadia Parish as well.

Historiography

Such a multifaceted issue like intimate-partner violence warrants a comprehensive approach. Consequently, this dissertation builds upon and draws from multiple forms of scholarship both inside and outside the field of history. Historical works provide a critical foundation, especially since this dissertation spans four decades. In the postbellum period, the United States was still reeling from the Civil War. In *Shook Over Hell: Post-Traumatic Stress, Vietnam, and the Civil War*, Eric T. Dean, Jr., examines how returning soldiers attempted to readjust to civilian life but struggled from their war experiences. Their struggles offer insight into the shift in masculinity. Also, women on the home front took on new roles and questioned antebellum roles. Drew Gilpin Faust discusses the southern home front in *Mothers of Invention: Women of the Slaveholding South in the American Civil War* while J. Matthew Gallman focuses on the North in *The North Fights the Civil War: The Home Front*.³⁸ Both find antebellum manhood and womanhood could not remain intact. As LeAnn Whites argues in *Gender Matters: Civil War, Reconstruction, and the Making of the New South*, men and women experienced a shift in gender and sought to make sense of their changing roles.³⁹

Politically, Americans faced more changes. The reach of the federal government extended well beyond the borders of the states to force recognition of individual rights. Radical Republicans in Congress had gained control and were passing legislation to make the South, as

³⁸ See Drew G. Faust, *Mothers of Invention: Women of the Slaveholding South in the American Civil War*, (Chapel Hill: University of North Carolina Press, 1996) and J.M. Gallman, *The North Fights the Civil War: The Home Front*, (Chicago: I.R. Dee, 1994).

³⁹ See Leann Whites, *Gender Matters: Civil War, Reconstruction, and the Making of the New South*, (New York: Palgrave Macmillan, 2005).

Congressman Thaddeus Stephens said, “republican in spirit.”⁴⁰ Passage of the Fourteenth and Fifteenth Amendments sought to guarantee African-American men rights that the southern states sought to deny, but Henry Adams noticed, “the Fifteenth Amendment was ‘more remarkable for what it does not than what it does contain.’”⁴¹ Eric Foner in *Reconstruction: America’s Unfinished Revolution, 1863-1877* thoroughly covers this tumultuous period and argues that the reforms in Reconstruction were incomplete. He remarks on the many problems and inadequacies of the period, including some women’s issues. For example, women’s rights advocates Susan B. Anthony and Elizabeth Cady Stanton noticed the deficiencies in the amendments, specifically its lack of enfranchising women. In response, the National Woman Suffrage Association (NWSA) and American Woman Suffrage Association (AWSA) were formed. While the main focus for the NWSA and AWSA centered on extending the franchise to women, many other issues fell under their domain, and their leaders and members spoke in favor of several concerns of women, including intimate-partner violence.

By the late 1870s, Reconstruction was in decline, and industrialization seemed, to the majority of the white population, to be the larger threat. Anxiety over the consequences of industrialization plagued many Americans. Railroads expanded, connecting small towns to larger cities, and increasing numbers of individuals fled to the city for opportunity. Women gained economic opportunities to work outside the home and participate in leisure activities, which had previously been considered male pursuits. This increased autonomy in women fueled shifting gender expectations, and citizens feared these changes would be detrimental to society and to the

⁴⁰ Thaddeus Stephens, “Speech to U.S. House of Representative,” January 3, 1867.

⁴¹ Henry Adams, “The Session,” *North American Review*, 108 (April 1869), 613; as quoted in Eric Foner, *Reconstruction: America’s Unfinished Revolution, 1863-1877*, (New York: Harper & Row, 1988): 446.

family. Jackson Lears in *Rebirth of a Nation: The Making of Modern America, 1877-1920* posits that people at this time possessed “a widespread yearning for regeneration- for rebirth that was variously spiritual, moral, and physical.”⁴² From this desire for rebirth, social movements multiplied. Many felt the family was in crisis, and reform groups took these issues to the government. After all, as Gaines Foster notices in *Moral Reconstruction*, “If the federal government could abolish the sin of slavery, they [Christian Americans] claimed, it could also outlaw other forms of immorality.”⁴³ Reformers consequently sought help from the government to stamp out problems, instill morality, and protect families. This included family dynamics, especially women’s relationships to men. As I argue in this dissertation, reformers fought for women’s right to be free from violence.

Scholarship on families also provides important support for this dissertation. Stephen Mintz and Susan Kellogg in *Domestic Revolutions: A Social History of American Family Life* and Michael Grossberg in *Governing the Hearth: Law and the Family in Nineteenth-Century America* deftly trace the changes in family in American history. Mintz and Kellogg argue that despite family having existed as a private entity since the New Republic Era, the Civil War changed people’s views on the relationship between the family and the state. Instead of outside the bounds of the law, families by the late 1800s fell within the domain of public welfare, and consequently, neighbors and courts felt obligated to intervene when abuse or neglect occurred. Coinciding with this shift, Grossberg notices that between 1870 and 1890 Americans viewed marriages as more than a simple contract as romantic love grew to dominate social views on

⁴² Jackson Lears, *Rebirth of a Nation: The Making of Modern America, 1877-1920*, (New York: HarperCollins, 2009): 1.

⁴³ Gaines Foster, *Moral Reconstruction: Christian Lobbyists and the Federal Legislation of Morality, 1865-1920*, (Chapel Hill: University of North Carolina Press, 2002): 3.

marriage.⁴⁴ Although some reformers sought to tighten divorce laws between 1870 and 1920, the changing views of marriage altered expectation and influenced divorce, which increased fifteen times over the period.⁴⁵ In part, intimate-partner violence drove more liberal interpretation of divorce laws. Women's rights advocates, such as Lucy Stone, Amelia Bloomer, and Elizabeth Cady Stanton, petitioned state legislators to modify marital laws and enable abused women and women with alcoholic husbands to divorce their spouses. They did not have much success in changing the actual legislation on marriage, but judges shared some of these views by the end of the twentieth century. As Elaine Tyler May proves in *Great Expectations: Marriage and Divorce in Post-Victorian America*, judges typically granted divorces to wives for their husbands' cruelty, desertion, "unreasonable" sexual demands, and drunkenness.⁴⁶ As social awareness grew about the problem and courts criminalized violence against women, judges granted more divorces to help legally married women escape from abusive spouses. Wife battering and sexual abuse within marriage were not as tolerated anymore.

Acknowledging social anxiety and a perceived crisis in family, most works that discuss intimate-partner violence do so within the lens of family violence. Elizabeth Pleck in *Domestic Tyranny* and Linda Gordon in *Heroes of Their Own Lives* both focus on understanding shifts in the family and its implications for public policy on family violence. This approach is necessary to understand the changing family dynamics during the period. However, this dissertation seeks

⁴⁴ Michael Grossberg, *Governing the Hearth: Law and Family in Nineteenth-Century America*, (Chapel Hill: University of North Carolina Press, 1985): 84-102.

⁴⁵ Steven Mintz and Susan Kellogg, *Domestic Revolutions: A Social History of American Family Life*, (New York: The Free Press, 1988): 109.

⁴⁶ Elaine Tyler May, *Great Expectations: Marriage and Divorce in Post-Victorian America*, (Chicago: Chicago University Press, 1980): 8, 104-105.

to concentrate on intimate-partner violence through the lens of shifting gender expectations. It also seeks to inject the South into the narrative, which is absent in Pleck and Gordon's works. Intimate-partner violence differed from other forms of family violence and from region to region. Although the North and the South followed the same trajectory in criminalizing intimate-partner violence in the 1870s and 1880s, definite differences existed, particularly on the reasons for the decline of addressing intimate-partner violence. Race was also somewhat fluid in the South during the postbellum years, as C. Vann Woodward argues in *The Strange Career of Jim Crow*. The oppressive racial order that emerged in the 1890s was neither predetermined nor inevitable. During the 1870s and 1880s, then, race mattered less than the seemingly larger issue of gender expectations, as seen by the threat of rape by black men, and change resulted in which abusive men faced social and legal condemnation. The rise of what became known as the Jim Crow era in the 1890s, however, brought an end to concern for women's right to be free from violence, and instead made race the central social and legal issue again for southerners. Including the South corrects the narrative to address the issue distinctive differences of the region as well as the pressing issue of race. After all, as Edward Ayers argues, the New South in the postbellum period did not simply follow northern economic, political, and social patterns or "lose its of the region's distinctiveness within the nation."⁴⁷ Examining gender rather than the family as well as each region rather than the North as emblematic of the nation enables a clearer understanding of intimate-partner violence during the period.

⁴⁷ Edward L. Ayers, *The Promise of the New South: Life After Reconstruction*, (Oxford: Oxford University Press, 2002): x. Ayers and other historians point to the failure of Populism in 1896 as the main catalyst for the Jim Crow Era. His argument, like Woodward's, shows redefinition of relationships between blacks and whites in the South during the 1870s and 1880s. This exceptionally fluid moment permitted gender expectations to be addressed, albeit briefly, until race and white supremacy again became the central issue in the South by the 1890s.

Theoretical Framework

Feminist theory, gender studies, criminology, victimology, anthropology, and sociology all offer important theoretical foundations. Primarily, however, this dissertation utilizes postmodernist theories that stress the subjective creation of gender and the unequal distribution of power. Many feminist scholars and women's historians have discussed gender as a social construction. Joan Wallach Scott's 1986 article titled, "Gender: A Useful Category of Historical Analysis" profoundly impacted the historical profession and still serves as the basis for many other scholars in the field, as well as for my understanding of the uses of gender analysis.⁴⁸ Like many postmodernists, Scott recognizes gender as distinctive from biological sex, and she refutes the male/female dichotomy. Men are not automatically masculine any more than women are predestined to be feminine. Masculinity and femininity are behavioral performances influenced by expectations in society since, as feminist author Judith Butler states, there is no "right" gender.⁴⁹

Moreover, Scott, like many postmodernist historians, recognizes gender as a social and ideological process that has changed over time. To understand gender expectations, then, social values and customs of the period must be scrutinized. Definitions of masculinity and femininity are not constants but rather shift according to time, location, socioeconomic status, religious faith, race, and ethnicity. Scott, however, adds that gender serves as a useful lens through which to analyze history since "gender is a primary way of signifying relationships of power."⁵⁰ The

⁴⁸ Joan Wallach Scott, "Gender: A Useful Category of Historical Analysis," *American Historical Review*, 91, no. 5 (December 1986): 1053–1075.

⁴⁹ Judith Butler, "Imitation and Gender Insubordination," in *The Judith Butler Reader*, (Malden, MA: Blackwell Pub, 2003): 119-137.

⁵⁰ Scott, 1067.

dynamics of power and capturing the voice of disempowered groups are central to history, in general, and intimate-partner violence, in particular.⁵¹ After all, intimate-partner violence, as Lenore Walker has shown, is based on issues of power and control.⁵² The connections between sexism, power, and battering are not inevitable, but, as this dissertation will show, the links are clearly present from 1865 to 1920 and, more importantly, crucial to past understandings and the prevalence of intimate-partner violence.

For purposes of this dissertation, discussion of embodiment is purposefully neglected. Some domestic violence policy advocates point to the physical size of men and women as a cause in abuse. In these theories, men are viewed as naturally larger and women as naturally smaller.⁵³ Since size in male bodies, as Susan Bordo argues, is associated with aggressiveness and power, some domestic violence theorists posit masculinity prizes domination and power over physically smaller beings, such as women and children.⁵⁴ The link appears a prevalent cause to

⁵¹ Jesse Lemisch is the historian from the New Left period who coined the phrase and influenced the profession with his “history from the bottom up” theory. See Jack Tar in the Streets: Merchant Seamen in the Politics of Revolutionary America, (Manchester, NH: Irvington Publishers, 1968).

⁵² Lenore E. Walker, The Battered Woman, (New York: Harper & Row, 1979): xi.

⁵³ A few who believe size influences the choice/likelihood to batter are as follows: Kevin A. Fall, Shareen Howard, and June E. Ford, Alternatives to Domestic Violence: A Homework Manual for Battering Intervention Groups, (Philadelphia, Pa: Accelerated Development, 1999); L.K. Hamberger and Mary B. Phelan, Domestic Violence Screening and Intervention in Medical and Mental Healthcare Settings, (New York, NY: Springer, 2004); and Râachael Wyckoff and Sally Simpson, "The Effects of Self-Protective Behaviors on Injury for African American Women in Domestic Violence Situations," *Crime, Law and Social Change* 49.4 (2008): 271-288.

⁵⁴ Susan Bordo, The Male Body: A New Look at Men in Public and in Private, (New York: Farrar, Straus and Giroux, 1999). New masculinity at the turn of the twentieth century did hold a chiseled, athletic, physically aggressive male as an ideal, but the shift in gender expectations that causes intimate-partner violence reform begins decades before the new man that Gail Bederman and others describe. For more on the new masculinity and physical prowess at the turn of the twentieth century, see Gail Bederman, Manliness & Civilization: A Cultural History of Gender

even to modern day medical professionals.⁵⁵ Physical strength logically enables successful physical domination over another person, but most times physical abuse is accompanied with emotional abuse as well, which makes the victim more easily beaten regardless of physical size. Some recent scholars argue size is not in fact a contributor to violence but rather is a harmful overgeneralization (and borderline biological determinist argument) that glosses over the pervasiveness of intimate-partner violence and obscures the real issue—that of power.⁵⁶ Given the debated aspect of size and that physicality of the abusers did not enter into the court records' testimony, embodiment will not be a component of the analysis of intimate-partner violence during the late 1800s.⁵⁷

Sociologists have also written a wealth of material on gender-based violence. Sociologist and Criminal Justice Professor Susan Miller is an expert on the topic, particularly abuse in the

and *Race in the United States, 1880-1917*, (Chicago: University of Chicago Press, 1995) and John F. Kasson, *Houdini, Tarzan, and the Perfect Man: The White Male Body and the Challenge of Modernity in America*, (New York: Hill and Wang, 2001).

⁵⁵ Jarmila Mildorf, *Storying Domestic Violence: Constructions and Stereotypes of Abuse in the Discourse of General Practitioners*, (Lincoln: University of Nebraska Press, 2007). Mildorf analyzes medical doctors charts and statements on couples in intimate-partner violence and finds overwhelmingly, the doctors express disbelief when the victim is larger than the abuser. Size is prevalent in people's belief in factors contributing to intimate-partner violence. Especially in male victims of heterosexual intimate-partner violence and any victim in same-sex intimate-partner violence, size is not accepted by many theorists as a factor at all. A few who believe size is not an indicator in the choice to batter, see Jarmila Mildorf, *Storying Domestic Violence*; Robbin S. Ogle and Susan Jacobs, *Battered Women Who Kill: A New Framework*, (Westport, Conn: Praeger, 2002); and James M. Clark, *Behind the Fence: Examining Domestic Violence Attitudes and Behaviors between Military and Civilian Wives*, (Ph.D., Capella University), 2007.

⁵⁶ *Ibid.*; Laura L. O'Toole and Jessica R. Schiffman, *Gender Violence: Interdisciplinary Perspectives*, (New York: New York University Press, 1997).

⁵⁷ Southern newspapers in the 1890s did start to use size in their racialized descriptors of African American abusers, however. In this case, physicality mattered in proving black men as primitive and uncivilized thereby undeserving of political and civil rights. Still, for the initial shift in gender expectations and abuse, size did not appear as stated factor although power did.

home. Her works *Victim as Offender: The Paradox of Women's Violence in Relationships* and *The Victimization of Women: Law, Policies, and Politics* provide another component to this dissertation's theoretical framework. In part, Miller's writings helped to shape this dissertation's terminology. Intimate-partner violence is used to explain violence against women in some sort of relationship—whether it be a marriage, an engagement, courtship, or cohabitation. The phrases “family violence” and “domestic violence,” are not the most appropriate term for the scope of this dissertation. These phrases are commonly used as an umbrella term to incorporate incest, molestation, patricide, matricide, femicide, infanticide, child abuse, child cruelty, child neglect, and intimate-partner violence. Since this project seeks to understand certain dynamics in intimate-partner violence, family violence would not be specific enough. Moreover, family violence is, as Miller convincingly argues, a “more sanitized euphemistic term,” which avoids placing blame.⁵⁸ In a family-centered approach for identifying and correcting intimate-partner violence, the violence precipitating the need for treatment is not given a high priority since professionals seek to maintain the marriage, and instead, these professionals search for the other difficulties within the couple's relationship.⁵⁹ Taking a family-focused method, then, underscores the importance of power dynamics and spreads the blame to the victim as well as the batterer. Even the term “spousal abuse” and the contemporary “wife beating” are limited for the purpose of this dissertation since the violence examined does not exist only within the confines of marriage. “Wife beating” or “spousal abuse,” like “family violence” and “domestic violence,” are not inclusive enough and are infrequently used in this dissertation.

⁵⁸ Susan Miller, *The Victimization of Women: Law, Policies, and Politics*, (Oxford: Oxford University Press, 2011): 12.

⁵⁹ Thorne-Finch, 128.

Similarly, the word “batterer” is used to refer to the person responsible for the majority of violence within the relationship. Those who use violence in self-defense are not, within the confines of this dissertation, considered batterers. All forms of violence must be evaluated on their severity, and context is critical when examining intimate-partner violence. Therefore, women who the penal system might call “mutually violent” are not given the same status as batterer for physical assaults in the act of self-defense.⁶⁰

Although recent decades have empowered victims of intimate-partner violence by using the signage “survivor,” “victim” is better suited for this project. Not all the women discussed in this dissertation survived, and those who used the court systems and Progressive organizations for help called themselves victims. This is not to diminish the strength of anyone who has lived through intimate-partner violence nor is this to paint women as weak. Rather, “victim” serves to designate, as most dictionaries define, the individual harmed as a result of violence against their person.

Miller’s works provide more than help with terminology. Both Miller and journalist Ann Lloyd examine the problem of violent women. While Lloyd’s *Doubly Deviant, Doubly Damned: Society’s Treatment of Violent Women* focuses on women who use violence both as self-defense and as a means of retribution or control, her book is useful when viewed in conjunction with Miller’s *Victims as Offenders*. Lloyd and Miller examine the seemingly contradictory statuses women can hold as victim and offender. Both see how women who use violence are stigmatized more so than men who use violence.⁶¹ Biological determinist theories hold that women are, by

⁶⁰ Susan Miller, Victims as Offenders: The Paradox of Women’s Violence in Relationships, (New Brunswick, N.J: Rutgers University Press, 2005): ix-xii.

⁶¹ Miller, Victims as Offender: 3; Ann Lloyd, Doubly Deviant, Doubly Damned: Society’s Treatment of Violent Women, (London: Penguin Books, 1995): xviii.

consequence of their physical sex, feminine and therefore nurturing and the opposite of violent. Violence is, within the framework of biological determinism, a trait of men. Consequently, women are perceived as the “other.”⁶² Rather than being seen as only violent, violent women are viewed as “abnormal, unnatural evil monsters, witchlike and cunning, deadlier than the male.”⁶³ Moreover, Lloyd and Miller recognize that the use of violence generally differs between the sexes, which makes victim blaming all the more problematic. Men and women resort to violence for different reasons. Men use violence to instill fear while women use it primarily for self-defense or in frustration.⁶⁴ While some women (roughly five to ten percent according to most studies and one percent of this dissertation’s sample size) could be defined as batterers and use violence as a mechanism of control, the vast majority of women do not.⁶⁵ This fact delegitimizes much of the victim blaming and viewing couples as “mutually combatant.” This dissertation seeks to identify the reasoning behind that rise in perceiving women as having responsibility for being battered.

To examine the dynamics of gender and reform, this work focuses on violence against women. The choice is deliberate but not meant to be dismissive of male victims or to privilege heterosexual relationships. Since intimate-partner violence was defined as “wife battering” at the

⁶² Simone de Beauvoir in The Second Sex is well known for her work in discussing the polarized creation of ego and otherness. By designating something or someone as an “other,” an individual, particularly an individual shaped by Western androcentric expectations, consigns that “other” to a lower status. For women, then, being labeled as an “other” facilitates inequities between the sexes in gender expectations as well as in daily practice.

⁶³ Lloyd, xviii.

⁶⁴ Miller, Victims as Offenders: 23; Walker, 23-27.

⁶⁵ Walker, 29-31. For this sample size, only 2 incidents of intimate-partner violence with a male victim could be found compared to 202 incidents with a female victim.

turn of the twentieth century and comprised the majority of intimate-partner violence cases, female victims will be the focus of this dissertation. In a search of articles from 1865 to 1910 within the American Historical Newspapers database, only eight out of two hundred seventy-four articles and few criminal court cases I found mention “husband beating,” in which the husband was the victim. While the idea that real men cannot be beaten by women may be gender bias, current statistics uphold the estimate of women comprising the majority of intimate-partner violence victims at 75-85%.⁶⁶ Men can be and are victims of intimate-partner violence, but the dynamics in male victim/female batterer are too different from female victim/male batterer, especially at the turn of the twentieth century, and therefore are beyond the scope of this dissertation.

Likewise, same-sex intimate-partner violence has drawn more attention in recent years and does warrant attention, but again, while power and control are crucial, the dynamics vary somewhat from heterosexual intimate-partner violence during the period. Moreover, finding information on same-sex intimate-partner violence at the turn of the twentieth century is challenging given how homosexuality had become pathologized and increasingly stigmatized at the time.⁶⁷ None of the court cases I examined addressed assault and battery between two men or two women living together openly or discreetly in a same-sex relationship. Turn-of-the-

⁶⁶ See Center for Disease Control, “2012 Intimate Partner Violence Factsheet,” http://www.cdc.gov/ViolencePrevention/pdf/IPV_Factsheet-a.pdf; Bureau of Justice Statistics, Case Bureau Brief, “Intimate Partner Violence, 1993-2001,” February 2003. There are other sources that give varying percentages for female victims of intimate-partner violence, but the Center for Disease Control (CDC) and Bureau of Justice Statistics was used here since it is based on data from the National Crime Victimization Survey (NCVS) and the FBI's Supplementary Homicide Report. Many other use too small of survey samples to be considered very accurate.

⁶⁷ Richard von Krafft-Ebing and Charles G. Chaddock, *Psychopathia Sexualis*, (Philadelphia: F.A. Davis Co, 1892).

twentieth-century studies on gay and lesbian relationships have been explored in notable works, such as Lisa Duggan in *Sapphic Slashers: Sex, Violence, and American Modernity* and George Chauncey in *Gay New York: Gender, Urban Culture, and the Makings of the Gay Male World, 1890-1940*. *Sapphic Slashers* deals with intimate-partner homicide, but relatively little scholarship exists on non-lethal forms of intimate-partner violence between members of the same sex during the late nineteenth century, likely because of limited sources. While such issues are important, this dissertation focuses on violence against women, and the dynamic of same-sex intimate-partner violence is beyond the scope of this project.

Another component to the theoretical framework for this dissertation involves literature on reform. Social reform in United States history has generally undergone repeating cycles of the following steps: “moral suasion, coercion [usually through use of the state], backlash, and complacency.”⁶⁸ Starting with the Temperance Movement and Social Purity Movement in the 1870s, as Gaines Foster notes in *Moral Reconstruction*, groups attempted to change social problems through pointing out moral problems in society but met with little success until they relied, like other Progressives, on legislation to affect a difference. Using the state to affect change, however, required changes on other levels—including views on the government’s influence, the relationship between individual and society, the role of family, and gender expectations. The often-quoted anthropologist Clifford Geertz is useful since he argued that ideology can be analyzed as “a cultural system.”⁶⁹ Changing gender expectations of the time

⁶⁸ Ruth Engs, *Clean Living Movements: American Cycles of Health Reform*, (Westport, Conn: Praeger, 2001): 5. Although Engs’s book focuses on health reform, her discussion of the cycle is largely applicable to most reform, especially of reform for intimate-partner violence.

⁶⁹ Clifford Geertz, "Ideology as a Cultural System," in David E. Apter, ed., *Ideology and Discontent*, (New York, 1964): 62-64, 72.

show people renegotiating relationships between men and women and rethinking their views of the male privilege of chastisement. Society also drove reform as well as the decline of reform. Rather than small steps towards eradicating the problem of intimate-partner violence, reform for women's right to be free from violence rolled back, like a wave, by the turn of the twentieth century. This cycle illustrates a nonlinear progression to addressing intimate-partner violence. This cultural and cyclical view of change is central to the framework of this dissertation.

Organization

Organized along the lines of bottom up change, this dissertation is structured to examine each level of intervention. Chapter one establishes the changing gender expectations and behaviors, resulting from people's experiences during the Civil War and the process of industrialization. Women gained some economic rights and participated more in the public "sphere;" more importantly, women demanded some level of reciprocity in their relationships with men. Chapter two analyzes the change in the individuals, notably women, who internalized the right to be free from violence. Chapter three shows how larger groups in society viewed intimate-partner violence and how family and neighbors intervened. This chapter relies heavily upon newspapers and their discussion of gender and intimate-partner violence as well as testimony in Orleans Parish court cases to uncover the level of social awareness. Chapter four looks at institutions, such as the SPCC and WCTU, to see how these groups lobbied for the state to get involved in the social problem of intimate-partner violence. Chapter five takes Orleans Parish criminal court records from Louisiana and illustrates a shift in the courts' legal response to intimate-partner violence. Most states did not have any new law specific to intimate-partner violence; however, courts fleshed out new legal responses to wife beating. Chapters six and

seven reveal the major differences between the North and the South in addressing intimate-partner violence—the end of the movement. Chapter six shows how the South racialized intimate-partner violence during the 1890s to act as another method of racial control. Chapter seven examines the decline of the movement against intimate-partner violence in the North through relegating public policy towards experts, who prioritized family stability. In both the North and the South, the movement to eradicate intimate-partner violence fully ended by the 1920s.

Analyzing intimate-partner violence enables an in-depth look at the social and legal ties in addressing spousal abuse in the United States from 1865 to 1920. In the wake of changing gender expectations, courts reinterpreted the law to allow for female agency as well as state and social intervention in helping abused women. New understandings of manhood and womanhood promised to protect ladies from uncivilized, brutish men, and these new expectations encompassed white women, African-American women, poor women, and wealthy women. Women could and did seek legal redress for abuse during the late nineteenth century. This dissertation will add to the rich scholarship on gender, social reform, legal reform, and women's rights, but this dissertation aims at making needed connections between changing gender roles and intimate-partner violence. How these connections began have massive implications for public policy, even now. Understanding this period helps to uncover how gender expectations and racial ideologies can facilitate and hinder responses to intimate-partner violence, and these social links to public policy are crucial to devising effective solutions to the complex issue of spousal abuse.

CHAPTER 1
TRANSFORMING GENDER EXPECTATIONS
DURING THE CIVIL WAR AND RECONSTRUCTION

Oh great God! what means this carnage,
Why this fratricidal strife,
Brethren made in your own image
Seeking for each other's life? — “My God! What Is All This For?” (1861)⁷⁰

At the battle of Manassas, a dying Union soldier cried out, “My God! What is all this for?”⁷¹ His attempt to find meaning in his last breath resonated with many Americans who heard reports of the first major land battle and read the long lists of the dead. The soldier’s exclamation quickly became part of a song that gained popularity during the Civil War on both sides. The song’s lyrics spoke of men “duped” into fighting and unable to die the “Good Death” of a soldier—unquestioning, accepting of his fate, and honored to die for his country.⁷² “My God! What Is All This For?” encapsulated the frustrations of a population bewildered by the unprecedented number of casualties, trying to find meaning in a land filled with family members in mourning.⁷³ The Civil War—what historian Charles Royster aptly called “the destructive war”—challenged the entire nation and what they thought they knew.⁷⁴ It left Americans

⁷⁰ “My God! What Is All This For?,” Wolf C116, *American Song Sheets*, http://library.duke.edu/digitalcollections/songsheets_bsvg100466/ (Accessed 10/26/2013).

⁷¹ Ibid.

⁷² Ibid; Drew Gilpin Faust examines the myth of the “Good Death” during the Civil War in her book *This Republic of Suffering: Death and the American Civil War*, (New York: Vintage Books, 2008).

⁷³ Drew Gilpin Faust analyzes the song in more detail in *This Republic of Suffering: Death and the American Civil War*:176-179.

⁷⁴ Charles Royster, *The Destructive War: William Tecumseh Sherman, Stonewall Jackson, and the Americans*, (New York: Knopf, 1991).

scrambling to reconstruct their country as well as their beliefs, and it created a pivotal moment in which gender expectations became increasingly fluid.⁷⁵

The Civil War and Manhood

Antebellum views of manhood glorified men's service as soldiers. Fighting for God, country, and home, these military men fulfilled their ultimate role as protectors. Newspapers and condolence letters spoke of men who died proudly accepting their life as vital for the cause and believing they would be reunited in Heaven with God and lost loved ones.⁷⁶ Men internalized this message with nearly half of all white men of fighting age serving in the war in the North and three-fourths of white men of fighting age serving in the war in the South.⁷⁷ As early as 1861, however, the patriotic fervor that induced many men to enlist in the military in both the Confederacy and Union had already started to wane, especially as reports came back about men's experiences on the battlefield. If dying in the war was not a "Good Death," then what was the meaning of the war? And, more importantly, how many were these men?

Before the Civil War, the South's dominant view of manliness celebrated a more aggressive view of manhood, while the North emphasized restraint. Southern society often

⁷⁵ Gaines Foster in Moral Reconstruction examines the role of Christian lobbyists and reform efforts in the postbellum period. He argues, in part, that the Civil War provided the necessary central mechanism to spur on reform legislation. See Gaines Foster, Moral Reconstruction: Christian lobbyists and the Federal legislation of morality, 1865-1920, (Chapel Hill : University of North Carolina Press, 2002).

⁷⁶ Faust, This Republic of Suffering: 3-31.

⁷⁷ Ibid., 3.

celebrated white male activities, such as hunting, drinking, fighting, and swearing.⁷⁸ Still, religion, particularly evangelical denominations like Methodist and Baptist, remained integral to life, and served to temper southern male aggressiveness. Only with the abolition of slavery in 1865 did tensions between southern manhood and faith lessen some.⁷⁹ Slavery, many northerners contended, was a sin that included barbarity and vice, such as beating enslaved men and women. White southern men renegotiated gender expectations without the glaring hypocrisy of slavery. On the other hand, northern white manhood emphasized self-control, faith, and domestic virtue. Northern men obviously engaged in drink and vice, but they prided themselves on not being as dissipated and unrestrained as their southern brothers.⁸⁰ These competing interregional and intraregional images of manliness coexisted uneasily during the antebellum period. The Civil War, however, exacerbated these tensions.

In 1864, Union General William Tecumseh Sherman wrote, “War is cruelty, and you cannot refine it; and those who brought war into our country deserve all the curses and

⁷⁸ Ted Ownby, Subduing Satan: Religion, Recreation, and Manhood in the Rural South, 1865-1920, (Chapel Hill: University of North Carolina Press, 1990): 21-38.

⁷⁹ Foster, Moral Reconstruction: 7.

⁸⁰ Phillip Shaw Paludan, “A People’s Contest”: The Union and the Civil War, 1861-1865, (New York: Harper & Row, Publishers): 331. Manhood, like womanhood in the nineteenth century, was racialized, even in the North. Whiteness was integral to the ideal of either sex. In the South, this served to degrade African Americans, and in the North, this helped to establish a social hierarchy among multiple races and ethnicities, particularly in urban areas with Irish, Jewish, and Germans. Amy Greenberg examines competing images of manhood in the antebellum North. She focuses on restrained manhood and the growing influence of marital manhood that emphasized physical prowess and fighting abilities. While there was some overlap, northern restrained manhood conflicted with southern martial manhood. See Amy S. Greenberg, Manifest Manhood and the Antebellum American Empire, (Cambridge, UK: Cambridge University Press, 2005): 140.

maledictions a people can pour out.”⁸¹ He described war in the starkest of terms: “War is cruelty.”⁸² Even before Sherman’s transition to hard war with the destruction of civilian property and emancipation of slaves, soldiers recognized war indeed was hell.⁸³ Deaths alone could testify to such a statement. Roughly 620,000 men died in the Civil War, a number that surpasses American deaths in all other wars combined. Some historians, such as J. David Hacker, estimate that deaths actually reached as high as 750,000.⁸⁴ Regardless of the precise number, soldiers witnessed an unprecedented slaughter.

The reactions to such a large numbers of casualties caused some to betray their ideals of manliness and the “Good Death.” Losing close brothers, whether those of blood relation or those formed through a shared war experience, men sometimes wondered about the meaning of the war, like the soldier who uttered, “My God! What is all this for?”⁸⁵ Some wrote home about the depressing realities of war. Confederate soldier Samuel Watkins Rush wrote

My pen is unable to describe the scene of carnage and death that ensued in the next two hours. Column after column of Federal soldiers were crowded upon that line... Yet still the Yankees came....The sun beaming down on our uncovered heads, the thermometer being one hundred and ten degrees in the shade, and a solid line of blazing fire right from the muzzles of the Yankee guns being poured right into our very faces, singeing our hair and clothes, the hot blood of our dead and wounded spurting on us, the blinding smoke and stifling atmosphere filling our eyes and mouths, and the awful

⁸¹ William Tecumseh Sherman to James M. Calhoun, Mayor, E.E. Rawson and S.C. Wells, (Atlanta, Georgia) September 1864.

⁸² Ibid.

⁸³ Mark Grimsley, The Hard Hand of War: Union Military Policy Toward Southern Civilians, 1861-1865, (Cambridge: Cambridge University Press, 1995).

⁸⁴ J. David Hacker, “A Census-Based Count of the Civil War Dead,” *Civil War History*, Volume 57 No. 4, (December 2011): 306-347.

⁸⁵ “My God! What Is All This For?,” Wolf C116, *American Song Sheets*, http://library.duke.edu/digitalcollections/songsheets_bsvg100466/ (Accessed 10/26/2013).

concussion causing the blood to gush out of our noses and ears, and above all, the roar of battle, made it a perfect pandemonium. Afterward I heard a soldier express himself by saying that he thought, "Hell had broke loose in Georgia, sure enough."⁸⁶

Rush graphically expressed a fraction of what soldiers suffered. The low supplies, rampant diseases, primitive hospitals, and incompetent surgeons all were part of the military experience.⁸⁷ The men in Rush's company could only describe the war as hell, not as a worthwhile endeavor in which they took part.

Some could not buy into the "Good Death." To them, the preservation of the Union or establishment of the Confederate States of America was not worth the hundreds of thousands of deaths, and these men's experiences led men to question the larger issue of humanity. A number of soldiers, fueled with the desire for avenging their friends' deaths, sought to kill as many as their enemies as possible. In *This Republic of Suffering*, Drew Gilpin Faust argues that men in the war had begun to "delight in killing."⁸⁸ Some became "quite another being," possessed with "almost maniac wildness" as they fought and viewed the fields of dead.⁸⁹ Even when not fighting on the battlefield, soldiers acted at times without restraint. Occupation brought out the worst in other men as reports of stealing and sexual assault reached higher levels of command. As men fought, raped women, stole supplies, and butchered their enemies, what had become of the

⁸⁶ Samuel Rush Watkins, *Memoir of Samuel Rush Watkins*, (Chattanooga, TN: Times Printing Company, 1900): 223.

⁸⁷ Mary Phinney, Baroness von Olnhausen, *Adventures of an Army Nurse in Two Wars*, (Boston, MA: Little, Brown, & Co., 1903): 355.

⁸⁸ Faust, *This Republic of Suffering*, 37.

⁸⁹ As quoted in Faust, *This Republic of Suffering*, 36.

humanity of the soldiers?⁹⁰ How much were these soldiers really men— particularly northern men who celebrated restraint and self-control— if they harmed women and “delighted in killing”?⁹¹

Between 1861 and 1865, service as a soldier had been seen as a mark of manhood, but after the war, Americans started to shun veterans who did not escape unscathed. Amputations were performed “around the clock” in military hospitals, and body parts piled up outside the entrances to be seen by weary soldiers and army nurses.⁹² Men commonly underwent amputations of limbs to save their lives from the threat of gangrene infection, but in a time when medical men lacked knowledge of germs and infrequently washed their hands, such surgeries were dangerous. One Union soldier, upon losing a leg to an amputation shrugged it off saying, “a leg off is nothing.”⁹³ He attempted to hold onto the restraint of northern manhood and acceptance of his fate as a good soldier, but when removed from a camp hospital, he encountered the prying eyes of civilians. Newspapers reported the arrivals of trains with injured soldiers, and people came “to watch the spectacle of soldiers being unloaded and carried onto stretchers.”⁹⁴ Whether out of morbid curiosity or honor for those who served in the war, people gawked and stared at the amputees. At home, these men attempted to acclimate to domestic life with their injuries.

⁹⁰ In Occupied Women, E. Susan Barber and Charles F. Ritter explore the myth of a low rape war in the chapter titled “‘Physical Abuse...and Rough Handling’ Race, Gender, and Sexual Justice in the Occupied South.” See Alecia P. Long and LeeAnn Whites, eds., Occupied Women: Gender, Military Occupation, and the American Civil War, (Baton Rouge: Louisiana State University Press, 2009): 49-64.

⁹¹ Faust, Mothers of Invention, 36.

⁹² *Ibid.*, 3.

⁹³ As quoted in Frances M. Clarke, War Stories: Suffering and Sacrifice in the Civil War North, (Chicago: University of Chicago Press, 2011): 73.

⁹⁴ *Ibid.*, 78.

Many, however, could not make a successful transition. In a pamphlet for veterans, *The Empty Sleeve*, one soldier commented on the poverty his family faced as the result of losing an arm in the war:

‘Tis of an humble soldier who bore throughout the wars,
The flag of freedom’s conflict, and bears to-day the scars;
And of his wife and children, all famishing and poor,
Because the crippled parent can never labor more.⁹⁵

Those without an extensive support network found it difficult to continue as breadwinners and protectors for their families. Even if seen as physical scars of manliness and sacrifice, amputations caused internal conflict, and many disabled veterans faced a postwar life that challenged their conception of manhood.

Some men came home not with physical injuries but with debilitating emotional scars. The pressures of the war and threat of death left an imprint with which not all men could come to terms. The fear of snipers and the loud shelling made many men panic. One soldier wrote, “One second you are filled with anxiety; the next with fear; one second you want to, and the next second you don’t.”⁹⁶ Sometimes the pressure led men to act “with demoniacal fury and shouting and laughing hysterically.”⁹⁷ When they returned home, the war was not always left behind. A number of men continued to struggle with the memories and anxiety. Dr. Silas Weir Mitchell studied the phenomena and labeled it “shell shock” during the later part of the nineteenth century.⁹⁸ Mitchell mentioned that “soldiers who had ridden boldly with Sheridan or fought

⁹⁵ As quoted in Clarke’s *War Stories*, 150.

⁹⁶ As quoted in Eric T. Dean, Jr., *Shook Over Hell: Post-Traumatic Stress, Vietnam, and the Civil War*, (Cambridge, Massachusetts: Harvard University Press, 1997): 54.

⁹⁷ *Ibid.*, 55.

gallantly with Grant become...as irritable and hysterically emotional as the veriest girl.”⁹⁹ The war, Mitchell argued to the medical community, tested even the healthiest of males, and self-control or the lack of it did not explain the serious mental injury some men sustained.

Fearful of what an epidemic of shell-shocked men could mean for the war and manhood, mental hospitals throughout the country created reports during the war, arguing that “the aggregate population of citizens and soldiers has probably not furnished during the war a larger number of insane than would have occurred independently of the war.”¹⁰⁰ But, as historian Eric T. Dean, Jr., discovered, at least two hundred ninety-one men suffered from mental disorders caused by their war experiences.¹⁰¹ Some had to be institutionalized, such as Lt. Allen Wiley who suffered from insomnia, lapses where he relived the war, panic, anxiety, and rage. After beating his wife several times, Wiley’s wife filed for divorce and left him. He was finally institutionalized in Indianapolis in 1870.¹⁰² Men were supposed to be able to have enough self-control and strength to endure the hardships of the war, but clearly some could not. Were these men who suffered from the anguish of war not sufficiently masculine? Was the North and South’s idea of manliness somehow flawed if veterans returned unable to function within peacetime?

The Civil War impacted a whole generation of men. The majority of young, white men—a critical part of the racialized ideal of manliness—served in the war, and their struggles in

⁹⁸ See Silas Weir Mitchell, M.D., Fat and Blood: And How to Make Them, (Philadelphia : J.B. Lippincott, 1877).

⁹⁹ *Ibid.*, 39.

¹⁰⁰ As quoted in Paludan, “A People’s Contest”, 333.

¹⁰¹ Dean, Shook Over Hell, 100.

¹⁰² *Ibid.*, 110-111.

the postbellum period created a crisis in manhood. Northerners questioned whether restraint, duty, and self-control really should be something to which men should aspire. Southerners wondered if aggressiveness, physicality, honor, and duty really defined the ideal man. As men tried to make sense of what it meant to be a man in the postwar years, they were not alone. Women too threw off the rigid expectations of antebellum womanhood in large part due to their Civil War experiences.

The Civil War and Womanhood

Whether on the home front in the war torn areas of the South or in the industrialized urban centers of the North, women's experiences not only taught but also necessitated a shift in gender relations. With many men gone and serving in the war, women often had to take on what had previously been considered male duties. Women also faced hardships with which they alone had to deal. Confronted with such situations, women quickly learned they could not wholly confine themselves to the domestic sphere without repercussions. This awareness led to more fluid gender expectations in the postbellum period.

In both the North and the South, women encountered severe hardship during the Civil War. Many participated directly in the war effort as spies and soldiers. A still larger group of women served as nurses in the military. Approximately 13,000 women in the Union and Confederacy worked as military nurses, while still thousands more were volunteers.¹⁰³ As nurses, they witnessed some of the grotesque realities of the war. Emily Bliss Thatcher Souder commented in a letter: "The amputation-table is plainly in view from our tents. I never trust

¹⁰³ J. Matthew Gallman, *The North Fights the Civil War: The Home Front*, (Chicago: The American Ways Series, 1994): 117.

myself to look toward it.”¹⁰⁴ Female nurses witnessed the bloody scenes of field hospitals and the agony men faced. Souder commented, “dying [is] all around us and there is no time to say more than a friendly word.”¹⁰⁵ The heavy demands after a battle stopped women from even offering solace to the dying and those who recently had undergone surgery. As Souder recognized, the war resulted in an unprecedented number of deaths, and not all women stoically endured the graphic scenes of death, disease, and misery.

Some nurses tried to comfort themselves with the idea that these men at least died a “Good Death,” quietly accepting their fate as soldiers in a righteous war. Union nurse Mary Phinney wrote, “I don't remember one who ever expressed repentance; many wished to live, but all seemed to die without fear of the future.”¹⁰⁶ But by the end of the war, even she changed her description of the deaths of these soldiers. Phinney wrote during the Battle of Appomattox Court House,

It was no time to illuminate the hospital, especially this one, which in case of fire has only one narrow stairway, and has, in the third story, over a hundred patients; but...it must be done. Just as the lights were in full blaze, one poor fellow went to heaven; he looked up so scared and then lay back dead.¹⁰⁷

¹⁰⁴ Emily Bliss Thatcher Souder, Letter from Emily Bliss Thatcher Souder, July 16, 1863 in Leaves from the Battlefield of Gettysburg: A Series of Letters from a Field Hospital and National Poems (Philadelphia, PA: C. Sherman Son & Co., 1864): 144.

¹⁰⁵ *Ibid.*, 27.

¹⁰⁶ Mary Phinney, Baroness von Olnhausen, Letter from Mary Phinney, Baroness von Olnhausen, September 21, 1862, in Adventures of an Army Nurse in Two Wars (Munroe, James Phinney, ed.. Boston, MA: Little, Brown, & Co., 1903): 355.

¹⁰⁷ Mary Phinney, Baroness of Olnhausen, Letter from Mary Phinney, Baroness von Olnhausen, April 9, 1865, in Adventures of an Army Nurse in Two Wars, (Munroe, James Phinney, ed., Boston, MA: Little, Brown, & Co., 1903): 354-355.

The “Good Death” had given way to fear and anxiety, even as Confederate General Robert E. Lee surrendered. What was the purpose of the war, what protection did men afford if they did not fulfill the gendered requirement to resign themselves to their death?

While the battlefield and camp hospitals left their imprint on women, others keenly felt the cost of war on the home front. After all, Lincoln himself recognized the war was “essentially a people’s contest.”¹⁰⁸ Women mobilized the wartime patriotism through benevolent societies, fundraising, tableaux vivants, and other displays of pride in the Union or Confederacy. Civilians keenly felt the impact of the fighting. They dealt with shortages in supplies and food, inflation, displacement, disease, poverty, and violence, such as rape and theft in the occupied South.¹⁰⁹ This surely taught the lesson that men could not be relied upon to protect women all of the time. In both regions, women took part in the infamous draft riots and bread riots in Richmond and New York. In doing so, they engaged in aggressive public action, voicing an opinion they could not express through the franchise.

In the South, the hardships of the war were more intense. With a smaller population compared to the North, a higher percentage of southern men fought in the war, and consequently, a greater number of southern families were affected by absent husbands, brothers, and fathers. The war’s impact on southern women, who lived closer to the theatre of war because most of the fighting took place in the South, was graver than it was to northern women. These women of the South had to take on different tasks as well. Rather than going to work in munitions factories,

¹⁰⁸ Abraham Lincoln, July 4, 1861, Message to Congress, (Washington, D.C.), Abraham Lincoln Papers, Manuscript Division, Library of Congress, Digital ID# cw0031.

¹⁰⁹ See Alecia P. Long and LeeAnn Whites, eds., Occupied Women: Gender, Military Occupation, and the American Civil War, (Baton Rouge: Louisiana State University Press, 2009): 49-64.

many southern white women, like Mary Pugh of Louisiana and Hattie Motley of Alabama, took over management of the household or plantation. These women engaged in economic practices as “deputy husbands,” acting in the place of their spouses. These women also typically employed more violence when disciplining slaves.¹¹⁰ The obvious participation in the public sphere constituted a temporary but necessary wartime measure, but use of physical discipline—a male privilege—bordered on a violation of gender expectations. Partaking in what was considered a male pursuit shook conservative views of masculinity and femininity in the South.

As Civil War experiences created a space where gender roles were challenged, some women began to assert themselves more than previously. Women in New Orleans acted out in the well-known Battle of the Handkerchiefs by flouting Union regulations that stipulated one could not display Confederate patriotism. Waiving their handkerchiefs at a ship carrying Confederate prisoners of war, these ladies “were surly, and the guards at the head of the gangway heard many a caustic aside expressive of contempt for Yankees and devotion to the Confederates.”¹¹¹ Women also disrespected Union soldiers in occupied New Orleans under the

¹¹⁰ Laurel Thatcher Ulrich employed the term “deputy husband” in her influential work Good Wives: Image and Reality in the Lives of Women in Northern New England, 1650-1750 (New York, N.Y: Knopf, 1982). She argued that colonial women could act in their husbands’ places for economic transactions if needed. Since the publication of Good Wives, “deputy husband” has been employed more often in similar circumstances in American history. Laura Edwards, for instance, uses the phrase in her book Scarlett Doesn’t Live Here Anymore Southern Women in the Civil War Era, (Urbana: University of Illinois Press, 2000): 77. Drew Gilpin Faust and Marli F. Weiner explore the impact of the Civil War upon southern women. Both recognize plantation mistresses did in fact use more physical force when dealing with slaves by themselves, even if they saw this to be a failure on their part. See Drew Gilpin Faust’s Mothers of Invention and Marli F. Weiner Mistresses and Slaves: Plantation Women in South Carolina, 1830-1880, (Urbana: University of Illinois Press, 1998).

¹¹¹ Adelaide S. Dimitry, *War-time Sketches, Historical and Otherwise*, (New Orleans: Louisiana Print. Co. Press, 1911): 4.

infamous reign of General Benjamin “Beast” Butler.¹¹² They acted politically and publicly by openly defying Union rules. Some women verbally insulted Union soldiers while other women dumped chamber pots out the window on the occupying troops. Even Butler treated southern women as political actors by holding them accountable for such actions. In fact, Butler’s infamous Women’s Order declared rude females to be treated as prostitutes. Clearly, women—even women of status and wealth—did not strictly adhere to traditional ladylike behavior in the Civil War. The war broke down rigid gender barriers. When discussing the southern home front during the war, some, such as Louisianaian Sarah Morgan, went so far as to proclaim, “There are no women here. We are *all* men.”¹¹³ War required many women to take on “masculine” roles, placing the antebellum notion of womanhood in serious jeopardy. Many continued to seek the ultimate goal of marriage, with some finding husbands among soldiers camped nearby.¹¹⁴ Despite some attempts to cling to domesticity and ideal womanhood, the fact cannot be dismissed that one effect of the Civil War was for women to act independently and not “celebrate helplessness.”¹¹⁵ Women emerged more aware of the drawbacks of antebellum gender expectations and sometimes more critical of the institution of marriage.

¹¹² Alecia Long takes on the myth of General Butler’s infamous Order Number 28 in Occupied Women. She argues that the order (also known as the Woman’s Order) did not stop women from disrespecting Union soldiers in occupied Louisiana. See “(Mis) Remembering General Order No. 28: Benjamin Butler, the Woman Order, and Historical Memory in Occupied Women: 17-32.

¹¹³ As quoted in Gender Matters, 21.

¹¹⁴ Mothers of Invention, 147.

¹¹⁵ Occupied Women, 251.

After the War

The Civil War created what historian LeeAnn Whites aptly calls “a crisis in gender relations.”¹¹⁶ Following the war, women faced more challenges that hindered a return to rigid gender expectations. The Civil War took its toll in human lives with over 750,000 deaths and impacted an entire generation. Women then found a lack of available men to marry, and as a result, many were potentially without the ability to uphold the white upper class ideal of womanhood. In a letter to her grandmother in November of 1878, nineteen-year-old Thelia Bush from Louisiana wrote, “that old maid you spoke of marrying was old indeed but it is some encouragement to all the rest of us girls. It will make us think there is a chance for us whether there is or not.”¹¹⁷

Marriage remained important since it afforded women some advantages. Without marriage, “Old maids” were considered “abominable,” and they found in their declining years that they were “desolate and alone while the married woman...[was] moved by the love and ties

¹¹⁶ LeeAnn Whites, Gender Matters: Civil War, Reconstruction, and the Making of the New South, (New York: Palgrave Macmillan, 2005): 16. Some historians, such as Gail Bederman, emphasize careful consideration of phrasing these moment when gender constructs shift. Bederman argues that to imply a crisis in gender means that “manhood is a transhistorical category or fixed essence that has its good moments as well as its bad, rather than an ideological construct which is constantly being remade.” I agree with Bederman that gender is a process and not fixed. People were anxious about gender. Their fears, however, express more than anxiety given the changes in the status of African Americans and in the views of Southern womanhood. See Gail Bederman, Manliness & Civilization: A Cultural History of Gender and Race in the United States, 1880-1917, (Chicago: University of Chicago Press, 1995): 11.

¹¹⁷ Thelia Bush to Ms. Wilkinson, November 25, 1878, Collinsburg, Louisiana, Micajah Wilkinson Papers, Manuscript Collection 707, Hill Memorial Library, Louisiana State University, Baton Rouge, Louisiana, 70803. In the letters from Bush to Wilkinson, Bush states the average age of marriage in rural Louisiana was approximately fourteen until after the war when the lack of men impacted women’s ability to marry. A year later, Bush at the young age of twenty stated, “if I don’t get off pretty soon I will have to take an old bachelor.” The pressure to marry soon fills many of her letters to her grandmother.

of the family circle.”¹¹⁸ Family offered women protection against loneliness, lack of social status and respect, and economic destitution. Between unmarried young women and war widows, the rate of women without husbands increased. Rising numbers of single and widowed women proved women’s reliance upon men was not always possible, leading to a changing status of women in the postbellum years.

African-American women began to define their freedom after the war and created further challenges to rigid gender roles. In both the North and the South, African Americans were denied full social and legal equality, but in the South, African Americans faced the most intense transition from slavery to free labor. White widows on plantations complained about having to continue running their lands, particularly when confronted with the end of slavery and new opportunities for black men and women. As Darlene Clark Hine and Kathleen Thompson argue, “black Americans had three goals—to find their family members and reestablish families; to make a living; and to live, as far as possible, lives that did not resemble slavery.”¹¹⁹ Some attempted to follow northern advice, especially as given by the Freedman’s Bureau, to adopt values of “true womanhood” and confine black women to the private, domestic sphere.¹²⁰ As groups of African American men and women rushed to have their marriages legally recognized after the war, many martial contracts upheld this implementation of white gender values for

¹¹⁸ Thelia Bush to Ms. Wilkinson, December 12, 1880, Collinsburg, Louisiana, Micajah Wilkinson Papers, Manuscript Collection 707, Hill Memorial Library, Louisiana State University, Baton Rouge, Louisiana, 70803; O.M. Grisham to Sallie, June 19, 1904, Winnfield, Louisiana, Grisham-Kellogg-Faust Papers, Manuscript Collection 5048, Hill Memorial Library, Louisiana State University, Baton Rouge, Louisiana, 70803.

¹¹⁹ Darlene C. Hine and Kathleen Thompson, A Shining Thread of Hope: The History of Black Women in America, (New York: Broadway Books, 1998): 148.

¹²⁰ Mary Farmer-Kaiser, Freedwomen and the Freedmen’s Bureau: Race, Gender, and Public Policy in the Age of Emancipation, (New York: Fordham University Press 2010): 30.

black women. These legal contracts gave African American women the “rights and protections” of a wife but also required submission to the husband.¹²¹

Still, even when black men and women adopted white gender expectations, they did not relinquish their goals. Many historians, such as Nancy Bercau and Laura Edwards, have shown how black women both accepted and rejected these new white gender values to hold onto some autonomy. Even when black women worked for white households, they did not lose sight of their primary aims. Many white women complained that they could not keep servants. Anna McCall Watson wrote in her diary about this problem on Cross Keys plantation in Louisiana. Along with the weather, illness, and visitors, Watson would write about each time the cook or laundry “girl” left without notice and how she had to “do the laundry again” or had “breakfast to get” by herself.¹²² The high turnover rate showed that African Americans utilized this new freedom to move, locate family, and find better employment. With the death of slavery, racial upheaval destabilized gender roles, particularly the white middle class ideals.

For women, the transformation in gender expectations was particularly dramatic, but men faced a shift as well and were forced to redefine masculinity.¹²³ A male dominated society rested

¹²¹ Ibid., 32. Recent scholarship has challenged the long held view that the majority of African Americans sought to legalize their marriages, fearing white encroachment in their lives. See Andrew Slap and Michael T. Smith, This Distracted and Anarchical People: New Answers for Old Questions About the Civil War-Era North, (New York: Fordham University Press, 2013).

¹²² Cross Keys Plantation records, Manuscripts Collection 918, Manuscripts Department, Tulane University, New Orleans, Louisiana 70118. Anna McCall Watson’s diary covers the years 1868 to 1876.

¹²³ As LeeAnn Whites point out, some historians, such as Elizabeth Fox-Genovese in her work Within the Plantation Household: Black and White Women in the Old South (Chapel Hill: University of North Carolina Press, 1988), have argued that gender does not mean as much as class and race since not all women could exert the “rights” and status of womanhood. Even Linda Kerber argues “race trumped gender” for African American women in the post-war South. I seek to show, that while class and race do matter, prosecution for intimate-partner violence cut

on privilege and required power over women and people of color. The Civil War disturbed all this. The emancipation of over four million slaves knocked out one pillar of southern masculinity, and the shifts in women's attitudes weakened another part of the foundation in both the North and the South.

Regionalism after the war exacerbated this anxiety. As Nina Silber discusses in *Divided Houses: Gender and the Civil War*, southern masculinity and southern womanhood came under full attack as northerners sought to show how the southern way of life was inferior and even backwards.¹²⁴ The capture of former Confederate President Jefferson Davis illustrates the intense criticism southern men faced. Davis supposedly wore female attire, including dress and bonnet, in his attempt to avoid arrest. Northern newspapers and journals, such as *Harper's Weekly*, picked up on the story and added illustrations that mocked Davis for his cowardly behavior, but these journalists went further than just Davis. The drawing in *Harper's Weekly* included the letters "C.S." on the hatbox Davis carried and intimated that the entire South and former Confederate States were feminine as well.¹²⁵ Loss of the war, by itself, impugned southern manhood. How could martial valor or southern honor exist if the Confederacy was defeated?

across all lines. While some limits did exist, courts punished the crime, and all women could seek legal redress for abusive partners. As LeeAnn Whites states, clearly "gender matters." See *Gender Matters*: 3. Also see Linda Kerber, *No Constitutional Rights to Be Ladies: Women and the Obligations of Citizenship*, (New York: Hill and Wang, 1998): 67. Gail Bederman uses the term "manliness" to discuss the social construct of behavioral expectations and expectations for men prior to the 1890s. While the term masculinity emerges in the new aggressive male at the turn of the twentieth century, I choose to employ the term "masculinity" to Southern men, even prior to 1890 since Southern manhood did incorporate aspects of aggression and strength. For more information on Southern masculinity immediately after the Civil War see Ted Ownby, *Subduing Satan: Religion, Recreation, and Manhood in the Rural South, 1865-1920*, (Chapel Hill: University of North Carolina Press, 1990).

¹²⁴ Nina Silber, "Intemperate Men, Spiteful Women, and Jefferson Davis," in *Divided Houses: Gender and the Civil War*, (New York: Oxford University Press, 1992): 283-305.

¹²⁵ *Ibid*; *Harper's Weekly*, May 27, 1865. American Social History Project.

Gaines Foster states that the infamous capture of Davis in women's clothing "certainly suggested that on some level people perceived surrender as a form of emasculation."¹²⁶ The North constantly reminded the South of its loss, particularly with the start of Radical Reconstruction and the 1867 Military Reconstruction Act. Occupation humiliated many white southerners, particularly men who could not resume the political roles they held previously. By denying many white southern men the right to vote or hold office, northerners challenged southern men's masculinity. In rebuilding itself, the South faced the need to claim respect somehow. This required, in part, redefining white southern manhood and womanhood. The redefined gender roles enabled legal reform for women, such as in criminalizing intimate-partner violence.

Despite its regional distinctiveness, southern masculinity was predicated on northern respect. Part of the reconciliation and re-entry into the Union required the reduction of animosity between the sections and the northern admission of worth and honor of the South's efforts, even if it lost its gamble to secede. Examining northern travelers in the postbellum South, Gaines Foster finds that often southerners were defensive and quick to "put the Yankee in his or her place," but "if the traveler met the southerner properly, in other words if he or she thereby acknowledged southern honor, the southerner reciprocated with a kind welcome and considerate behavior."¹²⁷ This, Foster argues, shows that indeed southerners "valued northern respect."¹²⁸ In an attempt to "prove" themselves, southerners increasingly focused on being civilized.¹²⁹

¹²⁶ Gaines Foster, Ghosts of the Confederacy: Defeat, the Lost Cause, and the Emergence of the New South, 1865 to 1913, (New York: Oxford University Press, 1987): 26.

¹²⁷ Foster, 34.

¹²⁸ Ibid.

¹²⁹ Gail Bederman analyzes the invocation of "civilization" to "construct what it meant to be a man" (24), but her focus is on the turn of the twentieth century, particularly the 1880 to 1917.

To be civilized meant the South should shrug off the label of “backwards” and “brutal”—phrases that the North had used to define southern society and its reliance on slavery during the antebellum period. The South could re-establish its honor, its pride, and consequently, its masculinity by proving itself “civilized.” The term became a buzzword in southern newspapers, as did its opposite— “brutal.” The South contended that its superiority lay in its combination of old and new.¹³⁰ It held onto chivalry, neighborliness, and honor while it modernized by accepting the ideals of civilized society. The South’s industrial advancement, for instance, helped to make the region more “civilized.” Henry Grady, editor of Atlanta’s *Constitution*, gave a speech in 1886 to the New England Society of New York in which he spoke of the South as embracing industrialization in farming and transportation. Grady also praised the South for holding onto some of its older regional expectations. Edward Ayers describes Grady’s speech as “a rationale that allowed the South to have it both ways, to be proudly southern and yet partake in the new industrial bounty.”¹³¹ The tension of the old and new remained as the South sought to prove itself civilized.

While a remarkable book, her scope does not extend to the period discussed here or the region, but her discussion of masculinity and civilization was an asset in viewing southern masculinity immediately after the Civil War. See Gail Bederman, *Manliness and Civilization: A Cultural History of Gender and Race in the United States, 1880-1917*, (Chicago: The University of Chicago Press, 1995).

¹³⁰ Historians, such as Charles Shindo and Lynn Duménil, examine the 1920s and the tension over modern change. They showed how Americans simultaneously clung to the past and yet embraced the future. The same concept in terms of the tension, I argue, could be applied to the South after the Civil War. See Charles J. Shindo, *1927 and the Rise of Modern America*, (Lawrence: University Press of Kansas, 2010) and Lynn Duménil, *The Modern Temper: American Culture and Society in the 1920s*, (New York: Hill and Wang, 1995).

¹³¹ Edward L. Ayers, *Promise of the New South: Life after Reconstruction*, (Oxford: Oxford University Press, 2007): 21.

In order to obtain civilized status, however, the South also had to condemn behaviors of southerners that did not live up to the ideal. Before the 1890s, these terms were applied to those of any race or ethnicity since southerners did not condone uncivilized behavior. Men who abused their wives, for instance, were slurred as “brutes,” “monstrous fiends,” “inhumane,” and “unmanly.”¹³²

For many women, antebellum womanhood could not be resurrected intact, especially female submission. A former Catholic nun, Desiree Martin, wrote about southern women’s expectations of men. She said, “Men must be helpful and attentive to women. A society where no one would exercise restraint, where there would be no respect for one another would soon provide no enjoyment, and turn men into savages.”¹³³ In her journal, which was to become a book of advice for her nieces and nephews, Martin expressed the expected benefit for a female’s subordination—chivalry and protection.¹³⁴ If men did not place women on a pedestal and protect

¹³² A few examples are: *Columbus Daily Inquirer*, January 19, 1870; *Morning Republican*, July 26, 1873; *Macon Weekly Telegraph*, April 8, 1873; *Morning Republican*, August, 7, 1873.

¹³³ Desiree Martin, *Evening Visits with a Sister or the Destiny of a Strand of Moss*, (New Orleans, La: Imprimerie Cosmopolite, 1877); translation Claude Remillard and Denise R. Charchere, (Manchester, MO: Independent Publishing Corporation, 2004): 167. Restraint was a component of masculinity in the United States during the nineteenth century. The Victorian Age stressed restraint, particularly for men and emotion. For more information on restraint and manners in the nineteenth century see John F. Klasson, *Rudeness & Civility: Manners in Nineteenth-Century Urban America*, (New York: Hill and Wang, 1990). . Also, I use the term “Victorian” to refer to gender expectations of the nineteenth century. See Paul Robinson, *The Modernization of Sex: Havelock Ellis, Alfred Kinsey, William Masters, and Virginia Johnson*, (New York: Harper & Row, 1976): 2. Moreover, I want to stress the term “ideal” here and throughout the dissertation. Carl Degler in “What Ought to Be and What Was: Women’s Sexuality in the Nineteenth Century,” *American Historical Review* 79 (1974): 1467-90 and Helen Lefkowitz Horowitz in *Rereading Sex*, (Knopf: New York, 2002) have been instrumental in showing how Victorian America did not necessarily live up to the widely circulated ideals. However, the enforcement of Victorian ideals by those in power (courts, legislatures, etc.) is key in this dissertation.

them, Martin claimed it would “turn men into savages.”¹³⁵ Here she tied masculinity with its protectiveness and “restraint” to being civilized. When men did not help to keep a woman in comfort, society suffered and men became “savage.” Martin (perhaps unintentionally) helped prove the South with its new gender roles as respectable and civilized.

Martin’s writings illustrate more than this, however. She spoke of respect and seemed to suggest a sense of reciprocity between men and women. Men had to respect women by showing esteem in their behavior, such as being attentive and protective. Even while submissive, women insisted on respect. Manhood was dependent on men’s attitude and behavior towards women. Lack of restraint towards women and dereliction of duty to women meant that the man failed to live up to the new gender expectations.

These new expectations for men were evident in marriage vows. Adelbert Ames, a Radical Republican who served as Governor and U.S. Senator of Mississippi from 1868 to 1874, wrote to his fiancée, Blanche Butler, in 1870 about their upcoming wedding. In it, Ames discussed whether a wife should obey her husband.

You say you are not going to promise to "obey." Well, Love, that does not frighten me. Do you think people love, honor and obey because they promise to do so at the altar? Do all who so promise keep their word? If one did not love and honor, how could one get married? -- and be honor-able? If there be "love" and "honor" what need of the "obey" -- with them there would be no need of it as promised at the marriage ceremony, no "obey" at any time. When a wife ceases to find her love strong enough to be a motive power, no promise will control her to the good and happiness of her husband. Suppose you give "obey" its full force. Obedience without love, obedience to the will of any master, soon will become unbearable -- and unless a man be very little he would find such orders and

¹³⁴ Desiree Martin worked twenty-seven years as a nun with the Society of Sacred Heart before retiring and spending her last years with her brother and his twelve children in Grand Point, Louisiana. Martin took special interest in providing moral lessons to her nieces and nephews but particularly her nieces. The book curiously places emphases on manners and womanhood rather than religious instruction.

¹³⁵ Ibid.

such obedience the saddest moments of his life. No, Blanche, I do not ask that you promise to obey me -- I only ask that you love me -- love me and all that can tend to make our home happy will flow from that -- honor, for we could not love unless we honored each other.¹³⁶

Blanche Butler in a previous letter had refused to say she would obey her husband. Her refusal shows an assertion of the new womanhood emerging during the period. In response, Ames responds linking obeying to a master-servant relationship. This is not surprising given his political leanings as a Radical Republican. With the end of slavery, some linked other relationships to the dynamics of slavery. Given that the enslavement of African Americans had largely been accepted, particularly in the North, as an evil vanquished, similar relationships that denied autonomy of a person fell under scrutiny, such as husbands' dominance over their wives. Ames stated obedience was replaced by love and honor since men, he implied, should not base their marriages on expression of power and expectations of wifely obedience. Instead, mutual affection and respect served as the basis of his relationship with his soon-to-be wife. New expectations of manhood and womanhood meant intimate relationships between men and women were reciprocal rather than patriarchal as they had been before the Civil War.

Advertisements illustrated this emerging new manhood. In a promise to cure colic, Dr. M.A. Simmons Liver Medicine's ads depicted a tired father holding a crying infant. In the background, the mother slept undisturbed and a crocheted piece on the wall contained the saying, "Home Sweet Home." Underneath, the advertisement described its product saying, "Many midnight hours find a multitude of tired fathers walking the floor with screaming babies who are

¹³⁶ Aldebert Ames to Blanche Butler, June 28, 1870, Washington D.C., Chronicles from the Nineteenth Century: Family Letters of Blanche Butler and Adelbert Ames Married July 21st, 1870, vol. 1, (Ames, Blanche Butler, comp., Clinton, MA: Privately published, 1957): 719. Interestingly, Blanche Butler was daughter of former General Benjamin Butler. After Regulators took over the election in 1874, Ames resigned his position as Mississippi State Senator, and the family returned to Massachusetts.

in agony with colic....It is enough to tempt the father in the household similar to the one illustrated above to turn in the Home Sweet Home inscription.”¹³⁷ Placed within a memorandum book sold largely to men, the ad portrayed the father as an involved parent, taking on what had previously been claimed as a task of the mother. The mother, on the other hand, seemingly deserved rest and a break from the demands of raising children. Although not likely a practice taken on by all men, the advertisement touched on some emerging views of fatherhood during the late 1800s whether lived experience or aspirational. (If the advertisement did not reflect society or its ideal in some manner, then the company would have been terribly ineffective in its selling tactics.) Since Dr. M.A. Simmons Liver Medicine remained a popular tonic until at least 1901, the message at least hit a broad audience.¹³⁸

Despite expectations for changes in men, not all women were believed to deserve such respect from men. Desiree Martin described a northern woman on a train going through Ohio, and this female passenger was, she declared, “a pseudo-sophisticated lady,” “one of those Always First type ladies, who seemed to believe the ship, the train, and the world were created exclusively for their own particular convenience.”¹³⁹ A self-interested woman lived against the feminine ideal of selflessness. By nurturing and helping others, a woman supposedly fulfilled her

¹³⁷ Memorandum Book , vol. 50, Daniel Trotter Papers, Manuscript Collection 990, Hill Memorial Library, Louisiana State University, Baton Rouge, Louisiana, 70803.

¹³⁸ *Dr. M.A. Simmons Song, Fortune, Dream, and Cook Book*, (St. Louis: Dr. M.A. Simmons Medicine Company, 1901). The company started in Mississippi in 1840 and continued to grow particularly in the 1870s and 1880s. The tonic appeared popular in the South and had other companies who tried to copy it. See *The Southwest Reporter*, vol. 23, (St. Paul: West Publishing Company, 1894): 171-172. I cannot find record of the company after 1901 (although that is not to say it did not exist after that year), but Dr. M.A. Simmons Medicine Company had to have closed no later than 1906 with the passage of the Pure Food and Drug Act.

¹³⁹ Desiree Martin, *Evening Visits with a Sister or the Destiny of a Strand of Moss*, (New Orleans, Louisiana: Imprimerie Cosmopolite, 1877): 187.

duty, and this woman Martin described defied the expected norm. As a result, she forfeited the respect of men and the status of a “true” lady. Desiree Martin articulated this idea when she reminded her nieces,

However, if gentlemen are bound to be considerate and courteous toward women, remember too, my dear nieces, this is no excuse to take advantage of that kindness and courtesy . . . it is only ostentatious and temperamental women who behave on the trip as the lady about whom we just spoke.¹⁴⁰

Men and women did not automatically deserve certain treatment by the very nature of their sex. Instead, women were expected to show deference to men provided men acted respectfully towards women. A sort of reciprocity existed between the sexes that enforced adherence to gender expectations, which is important to note.

Despite the overall stress placed upon female submissiveness, Desiree Martin, perhaps influenced by her experience during the war and the military occupation of Louisiana, conveyed another hint of female autonomy when she later asserted, “[r]espect is a barrier that protects big and small equally, and which makes it possible to look at each other face to face; and I repeat to you, the woman who respects herself always has, by an inalienable right, dignity and respect.”¹⁴¹ Her use of the phrase “inalienable right” resonates with the American values of natural law—the concept that as human beings, individuals are born with rights and not given these rights by any government—as expressed in the Declaration of Independence and the United States Constitution. A woman is entitled to “dignity and respect” if she feels herself worthy, not if a man decides she is worthy. This implies more than the Victorian adoration of the “angel in the house.”¹⁴² Women held value independent of men, which was a new component of womanhood

¹⁴⁰ Ibid., 158.

¹⁴¹ Ibid., 187.

and different from the antebellum feminine ideal. The new view might require women to be dependent upon men, but it also required more from men than previously.

The Civil War provoked a transformation in gender relations and forced the redefinition of masculinity and femininity. In some ways, antebellum notions of gender remained intact. The country clung to past notions to create stability amidst intense change, but still no one could completely resurrect the past. Too much had changed. Slavery ended, wiping out a crucial foundation of social organization in the South. The war forced women to face the drawbacks of relying completely on men. In the North, wartime experiences and reform movements also forced a change in gender expectations. Overwhelmingly, women looked to the state to mediate the new gender relationship. The war and its aftermath galvanized women, creating a heightened awareness of the inequality between the sexes. Throughout the country, whether conservative or liberal, many women recognized the problem of complete female dependence.

Women knew some burdens they would have to bear alone, and so even as northern and southern society rebuilt itself on the foundations of a gendered hierarchy, it could not recreate antebellum manhood and womanhood. This dynamic allowed for a new womanhood that simultaneously subordinated women and provided avenues, albeit small and complicated, for the advancement of the “weaker sex,” particularly on the issue of intimate-partner violence.

¹⁴² Coventry Patmore, *The Angel in the House*, (London: Macmillan & Co, 1863).

CHAPTER 2 ABUSED WOMEN AND THE RIGHT TO BE FREE FROM VIOLENCE

I asked my wife where my dinner was, and she [asked] where I had been all day long. I said, “Give me my dinner”... I kicked the chair in the street.... My wife said, “You shit, strike me if you dare.” — Sylvester Conlon, 1884¹⁴³

In September of 1884, Sarah Conlon demanded to know where her husband Sylvester had been all day, and when he threatened to become violent, she refused to back down. She challenged him saying, “Strike me if you dare.”¹⁴⁴ When he did, a neighbor overheard Sarah promise “she would fix him for that,” and she did.¹⁴⁵ Sylvester Conlon spent time in jail and lost his family, as Sarah vowed never to return to his household with their child. The fluid gender expectations after the Civil War created an opportunity for women to renegotiate relationships with men. In particular, the postbellum years prompted female agency in combatting the problem of intimate-partner violence. While not all women were as bold as Sarah Conlon, women internalized the right to be free from violence, and many demanded it.

Linda Gordon in *Heroes of Their Own Lives* argues “many women clients did not seem to believe they had a ‘right’ to freedom from violence” even if they morally condemned abuse and fought against it.¹⁴⁶ Most women did not verbally articulate a “right” to not be abused, but their

¹⁴³ *State v. Sylvester Conlon* CRDC 5573 (1884).

¹⁴⁴ *Ibid.*

¹⁴⁵ *Ibid.*

¹⁴⁶ Linda Gordon, *Heroes of Their Own Lives: The Politics and History of Family Violence, Boston, 1880-1960*, (New York: Viking Penguin Inc., 1988): 256. Gordon’s section on intimate-partner violence focuses on the North and mainly uses child protection agencies rather than the courts. This would account for the difference in women’s mentality. New definitions of womanhood in the South, as I have argued, required protection and gave a sense of agency. Moreover, women’s tactics differed in order to receive help from the courts and from the SPCC. The SPCC’s main goal was to help abused children. Women had to show the father’s abuse towards the mother also impacted the child. The SPCC could only offer limited help to the

actions insinuated such a mentality. The very act of pressing charges suggested that they believed the abuse was wrong and that violence was an unacceptable behavioral choice. Betty Williams in 1881 stated in her testimony, “He hit me on Saturday night...and this is the reason I had him arrested.”¹⁴⁷ Betty’s statement seems so simple. Arguably, she wanted protection, but in going to the recorder’s court and pressing charges, Betty Williams asserted her belief that husbands cannot abuse their wives. She did not drop the charges, and so her husband George stayed in jail for twenty-four hours for his attack. Although George might not have changed his ways, Betty’s actions suggest that women possessed the right to be free from violence.

Power

Ultimately, intimate-partner violence rested on the issues of power and dominance, which is why renegotiation of gender roles emboldened women to attack the male privilege of chastisement. As Elizabeth Janeway perceptively states, although it is not the only method, “sex is the most intensely stressed physiological fact that has been used to distance a group from power by ranking its members low.”¹⁴⁸ Abuse aimed at asserting or maintaining dominance of those in power, which in the late nineteenth century were, in general, men. Since legally and socially the male sex held positions of power in relationships with women, even men of color and poorer socioeconomic status who had relatively little power in society could exert authority in their own home.¹⁴⁹ Many Orleans Parish cases in the postbellum era possess blatant male

abused wife, which did not include punishment of the batterer. Consequently, women’s approach to the SPCC in the North and courts in the South would not be the same.

¹⁴⁷ *State v. George Williams* (1881) CRDC# 1304.

¹⁴⁸ Elizabeth Janeway, *Powers of the Weak*, (New York: Knopf Press, 1980): 9.

¹⁴⁹ Some more recent studies suggest while power resides as the central issue in intimate-partner violence, abusers who feel disempowered in other areas will be more likely to

displays of power. In 1885, John Heir told his wife Elise not to go outside, but she went to tend to her garden anyway. He responded by beating her. In her testimony, Elise stated,

He said you go nowhere or I will kill you.... He come and cursed me for all the dirty names.... He held me by the throat...and then he slapped me in the face...[and] in the mouth with his hand, and then he pushed me down and come out with a stick of wood and hit me again in the side... and he kicked me too.¹⁵⁰

She testified that he had a hard day at work and was contentious upon his return home. John provided no reason why he did not want her to work in the garden, but when she disobeyed him, he flew into a rage and viciously beat her. Perhaps he felt he had the right to chastise his wife with physical punishment, or perhaps he sought a compensatory form of power at home because of his problems at work. Regardless, John Heir's actions suggest that he sought to feel dominant through abusing his wife.

In another instance in 1887, Annie Hannewinckle charged Gust, her husband, of twenty years with assault and battery. The incident started over a debate about money while they were sitting on the front porch with their three children. He called Annie a "damn so and so," to which she responded he should be ashamed of calling her a name and he had "no reason to be growling like that."¹⁵¹ Gust threatened her by yelling, "I'll show you what I am growling about," and then put his threat into action by hitting her.¹⁵² Annie openly questioned Gust's financial business as

compensate by engaging in physical or emotionally abusive behaviors. This might have influenced men of color or poorer socioeconomic classes in the late nineteenth century (especially considering the lack of legal and social equality as compared to wealthy white men), but ultimately, the violence rested on power over the female partner. See Julia C. Babcock, Jennifer Waltz, Neil S. Jacobson, and John M. Gottman, "Power and Violence: The Relation Between Communication Patterns, Power Discrepancies, and Domestic Violence," *Journal of Consulting and Clinical Psychology* 1993, Vol. 61, No. 1, 40-50.

¹⁵⁰ *State v. John Heir* (1885) CRDC# 7410.

¹⁵¹ *State v. Gust Hannewinckle* (1887) CRDC# 10128.

well as his language in front of their children. In doing so, she threatened his role as head of the household, his ability to provide for the family, and his decision-making. Gust retaliated first by verbally insulting his wife and then by physically abusing her. The entire incident took place in the presence of the children, asserting his male dominance and driving the lesson home that he was in charge.

In a similar situation, Lizzie Hill confronted her husband Jeffery, which led to his reassertion of power through violence. Lizzie accused Jeffery of carrying on an affair with another woman, and she demanded he end it. Jeffery defiantly told her he would “have” that woman and Lizzie could do nothing to prevent it.¹⁵³ In the altercation, Jeffery demanded to know where his clothes were so he could go spend the night with his mistress. As Lizzie showed him, he hit and then choked her. Somehow during the attack, she escaped. Jeffery’s adultery may have been many things, but it strongly suggested that he held power in his ability to cheat on his legal wife, even if it made her miserable. He did not recognize marriage as a union intended to make both partners happy. His pleasure superseded her needs, and his dominance mattered more than her emotional and physical well-being.

Power drove violence against women in the postbellum years. In the *Hill*, *Hannewinkle*, and *Heir* cases, men used force either to maintain or to reassert their position of dominance over their wives. Anxiety over men’s loss of power over women and women’s more public roles dominated the period, and some lashed out in a desperate attempt to hold onto what had previously been a male privilege. Still, the fluidity in male and female expectations permitted some changes in the roles of men and women. Even if not a complete gender revolution, many

¹⁵² Ibid.

¹⁵³ *State v. Jeffery Hill* (1885) CRDC#7593.

women spoke out against their abusive partners and presented their families, the community, and the legal system changed notions of power that had to be renegotiated.

Table 2.1 Plaintiffs in Intimate-Partner Violence Cases in Orleans Parish, 1865-1900¹⁵⁴

Plaintiff	Number of IPV Cases	Percentage of IPV Cases
Abused Women	186	92%
District Attorney	13	6.5%
Community/Family Member	3	1.5%

As shown in Table 2.1, the overwhelming majority (92%) of plaintiffs were abused women who brought their violent partners to court. This statistic supports the concept that women internalized the events of the Civil War and the need to renegotiate their rights within their relationships with men. As a result, the male right of chastisement lost favor as women asserted their right to be free from violence. From courtship to cohabitation to legal marriage, women demanded this right to be free from violence in every type of relationship with men.

¹⁵⁴ A total of 10,181 cases exist on assault and battery in Orleans Parish from 1870 to 1900. The statistics in the table are formed from a random sampling of 1,228 assault and battery cases. Out of those 1,228, the ones that involved intimate-partner violence (courtship violence, abuse against a common law wife, and wife beating) totaled 202. The numbers in Table 2.1 reflect findings from the types of plaintiffs in those 202 cases.

Courtship

As gender expectations were being redefined, courtship rituals shifted. In the antebellum period, southerners initially relied on family and community organizations, particularly churches, to help assist in the path to matrimony. With the guardian's consent, men would call on intended partners, and under the watchful eyes of a chaperone or parent, the couple would get to know each other. The man typically bestowed compliments and small gifts upon his intended until he declared his feelings. After which, the man and the woman's guardian arranged the marriage.

After the Civil War, courtship changed. One of the most noticeable differences could be seen in the role of love in romantic relationships. As historian Karen Lystra argues, intimate relationships in the postbellum era centered on the notion of love, and emotion mattered.¹⁵⁵ Women increasingly wanted men to prove their love, and many engineered challenges for men to solve as testimony to their affection.¹⁵⁶ Romantic love, then, took precedence over other issues that dominated women's reasons to marry in American history prior to the late 1800s. Wealth, companionship, social status, and the family's consent still mattered to many women but now to a lesser degree than love. Women expected reciprocity in the form of mutual affection.

The influence of new gender expectations further altered courtship rituals by permitting women to assert themselves in a variety of ways. For example, some women in the rural South resurrected an old Irish tradition that allowed women to propose marriage on leap years, and

¹⁵⁵ Karen Lystra, Searching the Heart: Women and Men, and Romantic Love in Nineteenth-Century America, (New York: Oxford University Press, 1989). For a similar discussion of sentiments in courtship, see Ellen Rothman, Hands and Hearts: A History of Courtship in America, (New York: Basic Books, 1989).

¹⁵⁶ *Ibid.*, 157-191.

some took advantage of it.¹⁵⁷ Twenty-year-old Thelia Bush from Louisiana noted in a letter, “there will be a great many more weddings before this year is out for you know this is leap year and the young ladies will have a fair chance to go to see the young men.”¹⁵⁸ According to Bush, women not only proposed to men on leap year but also looked forward to it. Generally, brief breaks from a traditional hierarchy of gender or class serve as a safety valve to release anxiety over power.¹⁵⁹ The leap year tradition in the postbellum South performed the same ends. With masculine authority in abeyance, women could assert themselves in a controlled manner through the leap year proposals.

Courtship, however, changed more drastically in the city. With increasing numbers of women working, mechanized transportation, and recreational facilities, courtship no longer took place on the front porch, particularly for working and poorer socioeconomic classes. In *Cheap Amusements*, Kathy Peiss skillfully demonstrates this shift and argues that dance halls, amusement parks, and theaters altered courting rituals for young urbanites. Many Americans during the antebellum period had taken pride in local autonomy. Communities determined their own policies and value system with little involvement from the rest of the country, but as Robert

¹⁵⁷ This tradition was also mentioned in the “Picayunes for the Ladies,” *Time Picayune* (May 16, 1880): 10.

¹⁵⁸ Thelia Bush to Ms. Wilkinson, January 29, 1880, Collinsburg, Louisiana, Micajah Wilkinson Papers, Manuscript Collection 707, Hill Memorial Library, Louisiana State University, Baton Rouge, Louisiana, 70803.

¹⁵⁹ This general argument is expressed in a few historians’ works. One example frequently used is in the analysis of Pieter Bruegel’s *The Fight Between Carnival and Lent* painting from 1559. Historians claim the feast before Lent was a “world turned upside down” with inversion of class-based power, but the day provided an outlet for poorer socioeconomic classes to release their frustrations thereby maintaining the elite’s power and control. See Brian P. Levack, Edward Muir, and Meredith Veldman, *The West: Encounters and Transformations to 1715*, (Essex: Longman Publishing Group, 2007).

Wiebe states, these “island communities” witnessed a gradual loss of influence and power.¹⁶⁰ Parents no longer controlled their children’s movement or curbed their desire for “mixed-sex fun.”¹⁶¹ Although Peiss’s work focuses on turn-of-the-twentieth-century New York, the same behavior can be seen in working-class women (of any race) in the South as well.

In 1882, New Orleanian Peter Johnson expressed frustration over the change. He saw his daughter with a man and ran to stop them from continuing their outing. Johnson testified, “I went up to the place where they were and caught them in the act. She broke and run.... I told him he need not run that all I wanted was my daughter.”¹⁶² The parental worry over the loss of control was also depicted in children’s stories. “Who Would A-Wooing Go” told a southern tale about a frog who would not listen to his mother’s advice on who to marry. Instead of finding another frog, he pursues a mouse. The story ends with a cat eating his friend the rat, a kitten eating his intended the mouse, and a duck eating him. Quite obviously, the moral of the story was for children to listen to their parents about courting.¹⁶³ The change in courtship rituals created anxieties over parental authority, but in an urban setting, families waged a losing battle and could not maintain the control they once had. Young women, particularly in urban settings, took to deciding their spouses based on romantic love and without their families’ consent.

¹⁶⁰ Robert H. Wiebe, The Search for Order: 1877-1920, (New York: Hill and Wang, 1967): xii.

¹⁶¹ Kathy Peiss, Cheap Amusements: Working Women and Leisure in Turn-of-the-Century, (New York. Philadelphia: Temple University Press, 1986). Although in flux, I avoid use of the word “dating” for this period since the modern view of “the date” did not emerge till the 1920s with the proliferation of cars. See Beth L. Bailey, From Front Porch to Back Seat: Courtship in Twentieth-Century America, (Baltimore: Johns Hopkins University Press, 1988).

¹⁶² *State v. James Davis* (1882) CRDC# 3050.

¹⁶³ Charles H. Bennett, “The Frog Who Would a Wooing Go,” (New York: McLoughlin Bros. publishers, New York, 1875).

Women entered into the public sphere more and more, increasing contact with the opposite sex. Without the watchful eyes of parents, these women entered into intense emotional bonds where the couple adopted a “shared identity.”¹⁶⁴ This required vulnerability and included a power dynamic. Many, such as Lizzie Jones at the start of this chapter, went out with groups of female friends to listen to musical performances and met up with men. They rode the streetcars and enjoyed the nightlife. But this desire for leisure time and “mixed-sex fun” placed women in a sometimes vulnerable position. As Peiss discusses, women often made less than men and relied on their male companions to “treat” them to an evening of fun. Men paid for dinner, drinks, dance tickets, or whatever outing planned, and they expected a return. As a result, “treating” often required some level of sexual compensation.¹⁶⁵ Women were then left with a “sexual debt.”¹⁶⁶ Coupled together, a “shared identity” and pressure for sexual favors created a situation where women’s autonomy could be threatened and their partners could become violent to maintain a sense of control. Some boyfriends ignored new definitions of manhood and felt entitled to “chastise” or “control” their female partners.

Disagreements and intimate-partner violence occasionally resulted from these “sexual debts.” In the summer of 1887, Eliza McRea had been seeing Willie Hennessey but had refrained from becoming sexual with him. One evening, he followed her as she came out of her house. McRea testified, “he said ‘where are you going?’ I told him I was going to my aunt’s. He came up to me and asked if I was going to sleep with him. I said no. [Then] he hauled off and punched

¹⁶⁴ Lystra, 9-10.

¹⁶⁵ For more information on treating, see Kathy Peiss, Cheap Amusements and Elizabeth Clement, Love for Sale: Courting, Treating, and Prostitution in New York City, 1900-1945, (Chapel Hill: University of North Carolina Press, 2006).

¹⁶⁶ Elizabeth Clement, Love for Sale: 3.

me in the eye.”¹⁶⁷ Hennessey felt entitled to some sexual remuneration and a certain level of control over McRea. McRea, however, reasserted herself, denying him complete power in the relationship. Instead of having sex with Hennessey as so-called payment for the outing or passively accepting the beating, McRea refused Hennessey on both accounts. She, moreover, believed she was entitled to legal protection even if she had been “treated” by Hennessey, and McRea illustrated new gender expectations by displaying a level of autonomy and pressing charges on her abuser.¹⁶⁸

Intimate-partner violence during courtship often erupted when the woman disagreed with her boyfriend. Sometimes the disagreement could be as simple as not wanting to go out on the town that evening. When John Green called on his girlfriend, Rosetta Williams, she told him that she did not feel up to leaving her house. Green responded by grabbing her arm and hitting her. He seemingly could not tolerate a “no” from the woman he was courting, which demonstrates Green’s sense of power and privilege. Williams, however, illustrated new gender expectations. Her refusal to go out that evening suggests a right to act as she would like without being told what to do by her boyfriend. Williams’s actions also indicate a right to be free from violence by having Green arrested for his abusive actions.¹⁶⁹ New courtship rituals did not maintain antebellum notions of male power and privilege, including the “privilege” of chastisement.

Sometimes intimate-partner violence in courtship was less in “the heat of the moment” and more of a premeditated act to exert power, but even in systemically abusive courtships, women demanded the right to be free from violence. In 1887, George Samuels followed his

¹⁶⁷ *State v. Willie Hennessey* (1887) CRDC# 9950.

¹⁶⁸ *Ibid.*

¹⁶⁹ *State v. John Green* (1884) CRDC# 5627.

girlfriend Emma Conrad through the streets harassing her on several occasions. After one intense verbal altercation, Conrad stopped by New Orleans's fourth police precinct and asked an officer for protection. She said, "You would see me home. I am in trouble."¹⁷⁰ When pushed for more information, Conrad told the police officers that her former boyfriend Samuels was following her again and had threatened to beat her. A Sergeant Klotter agreed to walk her home, and once they reached her house, Samuels arrived on the scene with a friend and yelled at Conrad. The officer sent Samuels home and advised Conrad that the best thing she could do was go to bed. Despite his assurances, Sergeant Klotter noticed she was still very frightened. Conrad's fear was well founded. She testified Samuels returned two hours later with his friend, came into her home, snatched her from her bed, and beat her till she was unconscious.¹⁷¹

Samuels shadowed Conrad's movements all afternoon on May 20, 1886, intimidating and harassing her. His actions were a premeditated act of violence intended to break Conrad emotionally and physically. Samuels told her, "You got the best of me [by breaking up first]," and the loss of control sent him on a frenzied quest to regain the upper hand between the two of them. His attempt to exert dominance did not stop at the beating. During the testimony, Samuels's lawyer cross-examined Conrad and tried to clear his client of any responsibility by asking, "Are you not subject to epileptic fits?"¹⁷² Conrad flippantly responded, "Only when I get hit."¹⁷³ Despite months of emotional and physical abuse, Conrad believed she had the right to be courted free from violence. She expected the police to protect her from a potential act of violence

¹⁷⁰ *State v. George Samuels and John Schnieder* (1886) CRDC# 8592.

¹⁷¹ *Ibid.*

¹⁷² *Ibid.*

¹⁷³ *Ibid.*

from a man she had been seeing by declaring, “You would see me home.”¹⁷⁴ When Samuels denied responsibility for his actions, she still held him accountable by pressing charges and remaining consistent about his guilt in her testimony. The changes in gender expectations courtship rituals, and as Conrad showed through the court case, men could not wield unchecked violence against women.

As in *Samuels* case, some men refused to accept women’s decision to end a relationship and lose power. The case of Emma Starks further illustrates this clash between old and new views of gender expectations. On November 10, 1881, Starks enjoyed an evening out with a female friend. They met up with the men they were seeing at the time, and the two couples gambled and danced at the Keno Room.¹⁷⁵ After a few hours, they left, and Starks spotted her ex, Andrew Williams. She knew being in the company of other men would create an issue with Williams, and so the couples split. Starks and her female friend walked more quickly towards their homes until Williams ran up to them, punched Starks, and then tried to stab her. She pressed charges, which resulted in him spending four days in jail.

Throughout all of it, Starks displayed a distinct sense of self. She spent evenings out on the town, passed time in the company of different men, and filed suit against her attacker. In her testimony, she stated, “I used to have him,” indicating a sense of ownership of her past lover.¹⁷⁶ Her case attests to the amount of power she held in the relationship as well as the desire to be free of his continued and unwanted abuse. Single women like Starks became more autonomous in the postbellum period, participating in leisure activities and the work force. As they did so,

¹⁷⁴ Ibid.

¹⁷⁵ *State v. Andrew Williams* (1881) CRDC# 1805.

¹⁷⁶ Ibid.

many took pride in their emerging sense of self, and as women exerted this new autonomy, they upheld the right to be free from violence in courtship.

Engaged women asserted the same right to be free from abuse as women being courted. In a similar situation to Emma Conrad, Ada Wheeler attempted to break off her relationship with her fiancé, Morris Hamilton. She had been lying down on the porch when Hamilton approached the house. He asked Wheeler to come inside, but she refused. He barked back, “No, come inside. I don’t want to tell my business to everybody.”¹⁷⁷ Still, she would not accede to his wishes, and in the presence of neighbors, Wheeler said, “Here Morris, there is your ring. I don’t love you no more and I don’t want to carry it [the engagement] out anymore.”¹⁷⁸ He asked her if she truly meant it. After confirming she did not love him, he pulled out a pocket knife, attacked her, and cut her hand.

Throughout it all, Hamilton could not accept that his fiancée would leave him, at least not of her own will. He held strong feelings for Wheeler even outside of marriage, illustrating the intensity of engagements during the late 1800s. When he lost his shared identity with his fiancée, he turned to violence, endangering the life of the woman he supposedly loved after hearing her emphatic claim that she stopped loving him. Wheeler, on the other hand, illustrated new gender expectations by upholding romantic love as the primary reason for marriage. When she no longer loved him, she ended the engagement. Wheeler also displayed the new gender expectations by acting with autonomy. She refused Hamilton’s wishes to keep the argument private. She refused for power to be consolidated in the hands of men. When attacked, Wheeler pressed charges, and despite Hamilton’s claim that someone forced her to do it, Wheeler insisted she alone filed the

¹⁷⁷ *State v. Morris Hamilton* (1887) CRDC# 10182.

¹⁷⁸ *Ibid.*

complaint and wished to prosecute. In their actions, Hamilton and Wheeler exhibited new power dynamics that accompanied emerging gender expectations.

Overall, but in urban areas especially, courtship rituals changed in ways that gave women more independence in their intimate relationships with men. Women more frequently chose boyfriends and fiancés that reciprocated romantic feelings of love. Power, more importantly, could not be held solely by men. Women expected a say in a relationship free from abuse. When their partners violated these expectations, women often chose to end the relationship and demand punishment for these men who transgressed the new gender roles.

Common Law Marriage

In the antebellum era, some states began to recognize marriages in which individuals privately exchanged vows or cohabitated openly as husband and wife. These common law marriages often took place in more rural areas in the nineteenth century when records were kept sporadically and among the poorer socioeconomic classes, who lacked the monetary means to contract a marriage. Since the legal system wanted to make marriage more accessible to the entire American population, courts generally followed the “*maxim semper prasesumitur pro matrimonio* (the assumption is always in favor of matrimony).”¹⁷⁹ But by the 1870s, common law marriages came under attack.

Purity reformers and evangelicals pushed to regulate marriage even more than it had been.¹⁸⁰ Proponents of stricter marriage requirements felt acknowledging common law marriage

¹⁷⁹ Nancy Cott, Public Vows: A History of Marriage and the Nation, (Cambridge: Harvard University Press, 2000): 39.

¹⁸⁰ For more information on the Social Purity Movement see David J. Pivar, Purity Crusade, Sexual Morality, and Social Control, 1868-1900, (Westport, Conn.: Greenwood Press, Inc.,

encouraged moral depravity by condoning couples living together and engaging in sex outside of marriage. Not surprisingly, they believed the government in general and legislation in particular should be used in creating change. The state, they argued, could and should intervene, even in what was previously considered private affairs. Contemporary sociologist George Eliot Howard argued, “you can make people better by law.... A good marriage law is prevention—social prophylaxis.”¹⁸¹ Some argued explicitly that denying the legality of common law marriage would be enough. Others supported stricter requirements for marriage celebrations, including who could officiate and how many guests had to be present. The movement for marital reform gained a broad backing with religious conservatives and women’s rights advocates, such as Elizabeth Cady Stanton. Stanton believed stricter marital requirements would prevent unions without a woman’s consent or full understanding, and coupled with more liberal divorce laws, these changes would keep women from being trapped in a bad marriage. The Purity Movement did not agree with Stanton’s logic, but they worked together for marital change. Whether for women’s interests or moral uplift, many Americans supported reforming the legal system’s view of marriage.

Detractors argued increased regulation of nuptial celebrations would disproportionately influence poorer socioeconomic classes and people of color. Without funds to purchase the marriage license or pay the officiant, couples would continue to live together without the rights and privileges associated with the legal institution of marriage. This, they argued, would be to the detriment of society. Most of their complaints stemmed not from a desire for equality— but

1973). For more information on the Progressive Movement see also Michael McGerr, *A Fierce Discontent: The Rise and Fall of the Progressive Movement in America, 1870-1920*, (New York: Free Press, 2003).

¹⁸¹ As cited in Michael Grossberg, *Governing the Hearth: Law and the Family in Nineteenth-Century America*, (Chapel Hill: University of North Carolina Press, 1985): 85.

rather from fiscal conservatism. Property and children were at the top of the list of concerns. Children born in these unions would be illegitimate and deprived of the mandatory support of the father, and successions and property would also be denied to the widows and heirs. Financial responsibility of these children would then fall to the community or state. Society, anti-marital reformers argued, would suffer.

People of color would also be impacted by the proposed changes. Although some African Americans rushed to have their marriages legalized and protected after the war, numerous others feared white expectations would be imposed in their marriages if made legal, specifically the ability to end these relationships. Those who were wary of negative consequences kept their relationships outside of legal sanctions in what historian Nancy Bercaw calls “taking up and sweethearting.”¹⁸² Sometimes the relationship involved simply a sexual or financial arrangement, but “taking up” or “sweethearting” could lead to a private vow between the couple, which was viewed in the African-American community as a form of marriage. But, this also meant courts would not recognize their variation of marriage. Marital reform had the potential to disproportionately affect those less wealthy, those living in rural areas, and people of color. Despite serious disapproval, many states enacted stricter legislation on what constituted a legal marriage thereby outlawing common law marriages.¹⁸³

¹⁸² Nancy Bercaw, Gendered Freedoms: Race, Rights, and the Politics of Household in the Delta 1861-1875, (Gainesville: University Press of Florida, 2003): 106-107. Although taking up and sweethearting were viewed as distinct from marriage, some couples, as Bercaw states, did view those alternative living arrangements as a precursor to marriage. She also uses the term “quitting” to refer to the end of these relationships, which was less formal but easier for African American men and women to obtain.

¹⁸³ Although states attempted to curb “bad” marriages and the rise in the divorces with new legislation, divorces continued to increase. Between 1889 and 1906, the divorce rate had grown to fifteen times what it was prior. See Steven Mintz and Susan Kellogg, Domestic Revolutions: A Social History of American Family Life, (New York: Free Press, 1988): 109.

Some states, such as Louisiana, rarely recognized common law marriages even before the marital reform movement. As early as its territorial days, Louisiana passed legislation acknowledging marriage as a civil contract that was made when the parties were “willing to contract, able to contract, and did contract pursuant to the forms and solemnities prescribed by law.”¹⁸⁴ The civil code article remained vague in what detailed the ceremony, but consent was crucial. If either party was forced by violence, if the woman was raped and not yet “restored to the enjoyment of liberty,” or if either party misrepresented themselves, then the marriage would be rendered invalid.¹⁸⁵ Ceremonies, however, could not be performed by just anyone. Articles 102 and 103 specify only justices of the peace, parish judges, “minister of any gospel, or priest of any religious sect” could perform the ceremony provided they abided by the law, including a “special license issued by a parish judge.”¹⁸⁶ For marriage to be legitimate in Louisiana, the state required consent, licensure, and an approved official to perform the ceremony. By 1877, the state legislature of Louisiana added another article in the civil code requiring at least three witnesses (all must be over the age of twenty-one).¹⁸⁷ Although Louisiana recognized common law marriages legal in other states, Louisiana common law marriages rarely held up in civil court.¹⁸⁸

¹⁸⁴ The State of Louisiana, Louisiana Legal Archives vol. 3, part 1, compiled edition of the civil codes of Louisiana, (Baton Rouge: Louisiana State Law Institute, 1940): 51. In 1825 and 1870, a few changes in the punctuation of the description were made, but the content remained the same.

¹⁸⁵ Ibid. Article 91.

¹⁸⁶ Ibid.

¹⁸⁷ Edmund Augustus Peyroux, *Revised Civil Code of the State of Louisiana to which where added useful abundant references to the decision of the Supreme Court, annual reports and also references to the acts of legislature up to and including the session of 1882*, (New Orleans: Geo Muller Printer, 1885): 133.

However, even if judges did not formally recognize common law marriages, people continued to live as man and wife without a legal seal of approval. The practice remained entrenched despite attempts to dissuade or eradicate it.

The changes in common law marriage and changes in gender expectations created an unstable power dynamic in common law marriages. Common law husbands could not maintain their authority as women asserted themselves. In 1888, Mary Antoine sought to prosecute her common law husband William Anderson for abuse. She stated they had been living together for nine years as husband and wife and had two children. One night, he came in her room while she was sleeping and choked her. Unlike some women, Antoine had the resources to leave with her two children, and she fled the home soon after the incident.¹⁸⁹ Antoine considered the physical violence reason enough to break a nine-year common law marriage, taking advantage of an opportunity legally married women did not possess. Since they never legally solemnized the relationship, she could leave without seeking the court's intervention. But as often happens with

¹⁸⁸ Since common law marriages came under attack during the postbellum era and since some states, such as Louisiana, refused to recognize them, intimate-partner violence in common law marriages falls under the non-marital intimate-partner violence category. The court case cited for Louisiana's legal recognition of other states' common law marriages was *Taylor v. Swett* 3 La. 33 (1831). Also, I use the term "common law marriage" to refer to the committed relationship of two individuals living together regardless of race instead of "concubinage." Although concubinage was when a couple lived together "in a committed relationship without benefit of marriage," common law marriage appears better a term for this discussion (10). Often the couple in the court records would refer to each other as husband and wife with the added phrase "although not legally married." To them, they felt married and did not use any other phrase to refer to their arrangement. Sometimes, the couple would eventually seek legal sanction of their marriage. Additionally, other states did and still do recognize common law marriage. Consequently, I have chosen to stay with the phrase "common law marriage" rather than "concubinage" or even "cohabitation." For more information on concubinage in New Orleans, particularly the form called *plaçage* which involved an interracial relationship, see Alecia Long, *The Great Southern Babylon: Sex, Race, and Respectability in New Orleans, 1865-1920*, (Baton Rouge: Louisiana State University Press, 2004).

¹⁸⁹ *State v. William Anderson* (1888) CRDC# 10255.

intimate-partner violence, leaving proved the most dangerous part of the entire relationship.¹⁹⁰

Married or not, Anderson spun out of control, not able to deal with his loss of power over

Antoine. On the evening of January 19, she testified that he found her at her friend's house and

jumped into the room with a cotton hook in his hand. I ran and tried to get away from him. I got into the bed, he came after me, began to beat me with the cotton hook, he kept beating me until he hurt his hand with the cotton hook he then took the broomstick beat me with that then took me up bodily and threw [me] out of the door and as I started to get up, he kicked me....¹⁹¹

Anderson seemingly could not accept the end of his common law marriage and the repudiation of his "right" to control his common law wife, and so he found her and beat her again. She successfully escaped and sent a child to contact her aunt, who called for the police. Anderson did not internalize the new masculinity but rather upheld an antiquated view of manhood. To him, legal sanction of his marriage did not matter. Antoine was "his" and as such, subject to his authority and methods of "discipline." Antoine, however, acted under the new views of womanhood in the postbellum period. She expected a certain level of protection and reciprocity. When he violated her gender expectations of him by abusing her, she left. Although the exact catalyst that touched off the violence is unknown, the abuse clearly serves as an example of intimate-partner violence based on a dynamic of competing gendered forms of power.

In a similar case, Elizabeth (Lizzie) Andrews pressed charges against her common law husband of five years, Major Anderson. He accused Andrews of having a relationship with

¹⁹⁰ There are no statistics on intimate-partner homicides during the postbellum period. Presently, seventy-five percent of intimate-partner homicides are committed as the victim attempts to leave the relationship. See Hallie Bongar White and James G. White, "Testifying about Lethality Risk Factors," Southwest Center for Law and Policy & Office on Violence Against Women, U.S. Department of Justice, 2005.

¹⁹¹ *State v. William Anderson* (1888) CRDC# 10255. Cotton hooks were found in many court cases involving assault and battery. Since they were common in areas dependent on cotton as a cash crop, these instruments were accessible and could inflict significant damage given their sharp end and heavy metal construction.

another man, Daniel Jordan, and despite her protests of innocence, Anderson did not believe her.¹⁹² He choked Andrews and pulled a knife on her, insisting he was going to kill her. Andrews testified that her common law husband had a history of violence and was extremely jealous. In her testimony before the Recorder Court, Lizzie Andrews stated, “The accused is a very jealous man and continually accuses me of being untrue and having criminal intercourse with other men. He has often ill treated me.”¹⁹³ Anderson sought to control Andrews and ensure her fidelity through violence. The violation of new gender expectations, however, led Andrews to have her common law husband arrested.

The *Major Anderson* case illustrates how poorer socioeconomic groups internalized the new views of gender and how the courts ruled on abuse in common law marriages. None of those involved in the suit—the plaintiff, defendant, or witnesses—could read, write, or sign their names. All made their mark in the court records with an “x.” Although illiteracy cannot be the sole predictor of socioeconomic class, the ability to read and write indicates a lack of a rudimentary education and suggests Andrews and Anderson did not belong to any middling or elite family.¹⁹⁴ Her living situation is also evidence of economic hardship. Andrews and Anderson rented a room from Jane Green on Plum Street.¹⁹⁵ Instead of a bedroom, they lived in

¹⁹² *State v. Major Anderson* (1886) CRDC# 8059.

¹⁹³ *Ibid.*

¹⁹⁴ Statistics on education in postbellum era show roughly half of 5 to 19 year olds were enrolled in school. “Rates for males and females were roughly similar throughout the period, but rates for blacks were much lower than for whites....Following the Civil War, enrollment rates for blacks rose rapidly from 10 percent in 1870 to 34 percent in 1880.” See Tom Snyder, ed., 120 Years of American Education: A Statistical Portrait, chapter one (Washington, D.C: U.S. Dept. of Education, Office of Educational Research and Improvement, National Center for Education Statistics, 1993).

¹⁹⁵ *State v. Major Anderson* (1886) CRDC# 8059.

the kitchen and had been renting at that location for some time. Given her poorer socioeconomic status, Andrews could have reinterpreted gender expectations differently since those in power typically decide social expectations.¹⁹⁶ In a way, she did. Marriage, to Andrews, did not have to be legally recognized with a formal ceremony and license and instead she accepted a common law marriage as suitable and as a valid form of marriage. She insisted they lived as husband and wife, which showed an emotional commitment more than simple cohabitation. But, in another way, Andrews showed similar views with other women during the period. She internalized the new womanhood, and she refused to permit her common law husband the male privilege of chastisement any longer.

New gender expectations included a sense of reciprocity, particularly in working class relationships. Working-class common law wives expected assistance in the home. Some noted their financial assistance to the family income entitled them to help with domestic chores. Others believed the new gender expectations did not define women solely in terms of the home. Still, they expected their husbands to contribute in some way. Jane Robinson, for example, certainly required respect and assistance with the housework. In 1887, she filed assault and battery charges against her common law husband Sam Carney. Carney wanted to go to sleep, but Robinson insisted he take out the mattress and create a pallet for them to sleep in the living room. After all, she argued, he had not gone to work, so he had not done anything to make him tired. If he did not

¹⁹⁶ Most postmodernist theorists argue those in power help to formulate or uphold what constitutes “normal” and “not normal.” Those considered abnormal are denied access to power. Also, scholarship on disempowered groups has shown how minorities reinterpret and reappropriate these values. See Larry May and Jeff Brown, eds., Philosophy of Law: Classic and Contemporary Readings, (Oxford: Blackwell Publishing Ltd., 2010): 133. See also Dianna Taylor and Karen Vintges, Feminism and the Final Foucault, (Urbana: University of Illinois Press, 2004): 222-223; Michel Foucault, Discipline and Punish: The Birth of the Prison, (New York: Pantheon Books, 1977); and Keith Jenkins, The Postmodern History Reader, (London: Routledge, 1997).

help, she threatened he would have to sleep in the bedroom with the children. Carney responded by yelling, “I will be God damn if I do,” and then he began to curse and beat her.¹⁹⁷

As part of the working class, Robinson and Carney both found seasonal work to make ends meet. They could not afford a home with enough bedrooms but rather slept in the living room and had the children share a common bed. Despite their financial situation, Robinson had the right to be free from physical and emotional violence. She also expected Carney to fulfill his obligation as a man and as a partner by assisting with the domestic chores. When he violated this understanding by not helping and hitting her “two licks in the face,” Robinson had him arrested. She asserted a right to be free from violence and challenged his power by asserting her contribution to the household.

The new gendered expectations infiltrated all socioeconomic levels and even relationships outside of marriage. Many women no longer supported the antebellum male privilege of chastisement. These women began to recognize their economic and domestic contributions to the household and believed that power needed to be renegotiated in these relationships. In courtship and common law marriages, women held more legal rights since they were not civilly dead and subsumed under their husband’s identity as in the law of coverture.¹⁹⁸ This could have translated into internalizing a level of autonomy from their male partners, but during this period, even legally married women demanded the right to be free from violence.

¹⁹⁷ *State v. Sam Carney* (1887) CRDC# 9873.

¹⁹⁸ Coverture defined women as civilly dead as her identity was subsumed under her husband’s. This had been the legal identification of women since colonial America. For more information on coverture in the United States, see Hendrik Hartog, *Man and Wife in America: A History*, (Cambridge, Mass: Harvard University Press, 2000); Linda K. Kerber, *No Constitutional Right to Be Ladies: Women and the Obligations of Citizenship*, (New York: Hill and Wang, 1998); and Sally Kitch, *The Specter of Sex: Gendered Foundations of Racial Formation in the United States*, (Albany: State University of New York Press, 2009).

Legal Marriage

Once married, the new gender dynamic did not taper off. Even men recognized a different interaction between husband and wife. John McKowen from Louisiana wrote to his sister Sallie Henry about his widowed mother's recent marriage and remarked,

I hope that Mama is happy in her new home and is learning to boss her husband as every good wife, who resolutely intends to be happy in her own home, should, and I hope that her husband takes kindly to the bossing as every happy husband must do if he really wants to be happy in his married life.¹⁹⁹

He based the ideal marriage around the concept of happiness for both the husband and wife, not the husband alone. Moreover, McKowen linked happiness in marriage *not* to the complete submission of the wife but rather on a degree of female assertiveness. The wife held the position of “boss” in the home under new gender and marital expectations, and the husband should “kindly” yield to his wife’s command of the household. If a wife became unhappy, she could seek a divorce. In fact, after the Civil War, unhappily married women increasingly sought divorce. Historian Carl Degler found that two-thirds of divorces in the late 1860s were granted to women and argues this shift in divorce signaled in part “another sign of women’s drive for greater autonomy within their marriage.”²⁰⁰ In fact, among Orleans Parish court cases for

¹⁹⁹ John McKowen to Sallie Henry, December 20, 1895, Wilson, Louisiana, McKowen-Lilley-Stirling Family Papers, Manuscript Collection 4356, Hill Memorial Library, Louisiana State University, Baton Rouge, Louisiana 70803.

²⁰⁰ Carl N. Degler, At Odds: Women and the Family in America from the Revolution to the Present, (New York: Oxford University Press, 1980): 168. Elaine Tyler May also notices a shift in divorce in the second half of the nineteenth century in her case study of Los Angeles. May states, “the late nineteenth century witnessed a slight straining against the limits of Victorianism” as “altered sex roles” reshaped marital expectations and the court’s response. See Elaine Tyler May, Great Expectations: Marriage and Divorce in Post-Victorian America, (Chicago: The University of Chicago Press, 1980): 49.

intimate-partner violence from 1870 to 1900, legal marriages accounted for 61% of the cases while extramarital intimate-partner violence comprised only 39% of the sample size.²⁰¹ Clearly, postbellum marriages did not resurrect an intact patriarchy and sought to renegotiate relationships with their husbands.

The role of wife after the Civil War shifted to include visibility and participation in the public sphere. Using maternalist rhetoric, women argued their moral “nature” would be of benefit to the larger society, and consequently, the emerging gender expectations were not completely different to those of the antebellum period. In particular, the glorification of white women as domestic and moral remained. Both regions engaged in memorial activities including the creation of cemeteries, the relocation and burial of soldiers, the building of monuments, participation in decoration days, and the establishment of Memorial Day.²⁰² In Memorial and Decoration Day speeches, men praised women not only for honoring the dead but also for their emotional and moral “nature.” In 1873, Confederate Colonel Thomas Hardeman applauded these women’s actions, saying

These noble women come, when spring flowers bloom, to plant the memorial shrub and shed their tears of love over the humble mounds that tell where our heroes sleep. For this I give them honour and praise today.²⁰³

Hardeman praised southern women in this particular speech for their sacrifice in the Civil War and for their continued love for the wounded and fallen soldiers. He noted that these women

²⁰¹ From the sample, 123 (61%) cases I examined were of marital intimate-partner violence.

²⁰² For more on Decoration Days see David Blight, Race and Reunion: The Civil War in American Memory, (Cambridge, Mass: Belknap Press of Harvard University Press, 2001) and Gaines Foster’s Ghosts of the Confederacy.

²⁰³ John R. Ficklen Papers, Mss. 144, 209, Louisiana and Lower Mississippi Valley Collections, LSU Libraries, Baton Rouge, La.

were “the perfection of beauty and glory of the land” for their emotional fidelity to their men.²⁰⁴ This is key to the new gender expectations. Women could hold an exalted status through devotion to men but not independently of them. These southern women’s reassurance of men’s sacrifice and loss eased the grief of defeat and strengthened a weakened sense of manhood by emphasizing the sacrifice of southern men for the protection of southern women.

In spite of the conservative tone of women’s roles in memorial days, these women acted as they had not done in the past—as public advocates. They stepped outside of the home and publicly honored fallen men, even Confederate soldiers. Instead of being viewed as treasonous, women were viewed as nonthreatening and helped paved the way for such Confederate tributes to be acceptable. Nurturing and moral remained in the new womanhood, but the division of distinct spheres gave way to a more public female whose viewpoints and actions could have an impact. Although couched in maternalist terms, they altered the relationship between men and women, even as they held onto older characteristics of womanhood.

Wives, especially those in upper socioeconomic classes, were encouraged to join benevolent societies and become leaders of the community. One Louisiana woman advised a female relative to do as much since “this is an absolute cure for blues, is a strong anchor and fine encouragement for your husband, and in short makes you a good and valuable citizen rather than a hippo-condriac [sic] and drone and impediment to society.”²⁰⁵ Heading charities and other helpful organizations, then, made women useful and an asset to her husband and to the larger

²⁰⁴ Ibid.

²⁰⁵ O.M. Grisham to Sallie, June 19, 1904, Winnfield, Louisiana, Grisham-Kellogg-Faust Papers, Manuscript Collection 5048, Hill Memorial Library, Louisiana State University, Baton Rouge, Louisiana, 70803.

society. Confining oneself to the home completely was not advisable, and in the newer, more public role, women exerted more influence.

Women also became more visible in the public by participating in what historian Kathy Peiss calls “cheap amusements.”²⁰⁶ For instance, women gathered in public squares to talk or listen to music, as Lizzie Muldaner did in New Orleans.²⁰⁷ They sometimes went with their male partners, but women also participated in leisure activities with female acquaintances or sisters. With the economic recessions of the 1870s, 1880s, and 1890s, women increasingly entered into the public sphere. Although most white women remained outside the workforce, more and more women had to earn an income, particularly women of color.²⁰⁸ The Census of 1900 estimated more than twenty percent of women worked and declared that “although far from customary” working women were “by no means unusual.”²⁰⁹ In 1887, for example, Anna Marks testified that her husband was unable to support them and she had to work part time to earn money to buy shoes for their baby.²¹⁰ Necessity compelled her to find extra income for the household. Although Marks and Muldaner ventured outside the home for different reasons, their presence in

²⁰⁶ Kathy Peiss, *Cheap Amusements: Working Women and Leisure in Turn-of-the-Century New York*, (Philadelphia: Temple University Press, 1986). Peiss examines working women in a northern urban setting, but her argument can be extended to the South, albeit urban areas like New Orleans.

²⁰⁷ *State v. Mat Lumbaro* (1887) CRDC# 9901.

²⁰⁸ For more information on the history of women and the workforce, see Alice Kessler-Harris, *Out to Work: A History of Wage-Earning Women in the United States*, (Oxford: Oxford University Press, 1982).

²⁰⁹ U.S. Census Bureau, “Statistics of Women at Work,” U.S. Census of 1900, pg. 9, <http://www.census.gov/prod/www/abs/decennial/1900.html> (accessed January 9, 2013).

²¹⁰ *State v. Henry Marks* (1887) CRDC# 10180.

the public sphere illustrates the increasing visibility of women in what previously had been considered male activities.

Many wives agreed that their husbands had no right to abuse them. Their repudiation of the male privilege of chastisement took various forms. Some women showed a sense of agency by verbally standing up to their abusive husbands. Mrs. Bax pressed charges on her husband, and in her testimony, she stated the argument was over her treating him “coolly.”²¹¹ When her husband cross-examined her and asked if she would improve her attitude, she refused because, she reasoned, “he wasn’t treating me properly and I wasn’t going to do any better.”²¹² Like former nun Desiree Martin, Mrs. Bax seemed to expect a sort of reciprocity in male-female relationships.²¹³ When her husband did not seek to make her happy, Mrs. Bax declared she did not have to behave submissively. Instead, she argued with him and defended her supposedly cold treatment of him. She implied that only when he acted as a loving and protective husband would she in turn conform to the role of a loving and submissive wife. Even if some husbands like Mr. Bax wanted obedience, society could not resurrect the expectation of complete female subordination in the postbellum period. The conditions of the Civil War made women recognize the consequences of upholding the antebellum feminine ideal, and new views of womanhood required a different type of marriage based more on respect and a give-and-take mentality.

Other women physically confronted their abusive spouses, believing the men’s violation of new gender expectations warranted a like response. Virginia Wilson testified, “he rushed in

²¹¹ *State v. A. Bax* (1884) CRDC# 5062.

²¹² *Ibid.*

²¹³ See prior references to Desiree Martin in chapter one. Desiree Martin, *Evening Visits with a Sister or the Destiny of a Strand of Moss*, (New Orleans, La: Imprimerie Cosmopolite, 1877); translation Claude Remillard and Denise R. Charchere, (Manchester, MO: Independent Publishing Corporation, 2004.

and gave me a shove me, and I shoved him back.”²¹⁴ Wilson expressed the belief that he was subject to the same treatment as he shows her. Another woman, Mary Shields, stated that after her husband struck her, she hit him with a spoon she had in her hand.²¹⁵ When he made a movement towards her after, she “struck him in the mouth.”²¹⁶ Shields’s actions appear self-defensive because she fought back rather than remain passive.²¹⁷ In a case involving an African-American couple, the wife, Anne Dagan (alias Anne Williams), similarly fought back. When the court asked her why she beat her husband, Anne said, “I tell you sir, he got just what he deserved. I ain’t no dog, and I ain’t going to be thrashed in that way.”²¹⁸ She explicitly stated that her husband had no right to strike her, believing she possessed the right to be free from marital violence, and she took a stand to stop it. Despite what some historians claim, these women did not seek to “perform” as a lady to gain sympathy and successful prosecution from the court.²¹⁹ Physically violent behavior could be classified as unfeminine in most other situations, but in intimate-partner violence, women could and did strike back without being judged. After all, the husbands first violated redefined gender expectations by being abusive to their wives. Shields,

²¹⁴ *State v. James Wilson* (1887) CRDC# 9856.

²¹⁵ *State v. G.C. Shields* (1887) CRDC# 9767.

²¹⁶ *Ibid.*

²¹⁷ Linda Gordon in *Heroes of Their Own Lives* also shows female agency with abused women sometimes fighting back.

²¹⁸ “An Unhappy Pair,” *The Daily Picayune*, May 7, 1879, (New Orleans, Louisiana).

²¹⁹ Some claim women had to play innocent victims before the court. See Beverly J. Schwartzberg, “Grass Widows, Barbarians, and Bigamists: Fluid Marriage in Late Nineteenth-Century America,” Ph.D. Dissertation (University of California, Santa Barbara, 2001): 73-74.

Wilson, and Williams, like other women, openly refuted any male privilege of chastisement and did not hide their defensive behavior from the court.

Of all the 202 cases of intimate-partner violence examined, only three women expressed the belief in the privacy of the family or the husband's right to chastisement. This accounts for approximately one and a half percent of the cases of intimate-partner violence—an astounding minority.²²⁰ In 1882, police dragged James Gillen to a Recorder's Court to answer for abusing his wife. Mrs. Gillen never sought to press charges but rather the watchman in the neighborhood arrested James. When asked to testify on the incident, Mrs. Gillen stated, "I didn't wish to prosecute him... He wanted his way, and I wanted mine. It was my fault as much as his."²²¹ When the judge asked where she received her black eye, Mrs. Gillen responded, "It was done in the family. I didn't wish to go against my husband."²²² Despite the police having witnessed the abuse, Mrs. Gillen insisted she held accountability. She avoided a detailed description of the events and gave vague responses upholding the concept of the privacy of the family. She insisted she did not want charges pressed since it was a family affair, even if she felt she had a right to hold different views from her husband on certain issues. Although women such as Mrs. Gillen internalized some sense of guilt or privacy of family, clearly most women no longer accepted a

²²⁰ Only 3 (1.5%) of cases involved women expressing a belief that the husband had some sort of right to beat her. Since I examined 33 nolle prosequi cases, 2 cases or 6% (one of the cases in which the women who internalized guilty still resulted in conviction) of the cases women internalized guilt were dropped. I think both statistics are helpful. The first (1.5%) helps to show how few women viewed intimate-partner violence as beyond the reach of the courts. The second (6%) shows even among the cases dropped, the majority of women did not hold a belief the husband had the right of chastisement. Nolle prosequi cases, therefore, do not undermine the argument of women's overall agency due to new conceptions of womanhood.

²²¹ *State v. James Gillen* (1882) CRDC# 2911. Mrs. Gillen's first name never appears in the testimony.

²²² *Ibid.*

complete patriarchy, including total female submissiveness. Gender ideals had changed too much to resurrect such antiquated views.

Overwhelmingly, women internalized the change in gender expectations. Ninety-eight and a half percent of the women in the 202 cases examined from Orleans Parish during the period of 1870 to 1900 asserted that their male partners did not have the right to raise a hand against them. Their testimony illustrates a large shift on the individual level about how women viewed intimate-partner violence, and women constituting the majority of the plaintiffs further supports a different attitude about what had previously been a male privilege. Through refusing to submit to physical and emotional violence, women renegotiated every type of romantic relationship with their male partners and affected social attitudes. Their repudiation of a man's right to chastise his wife affected other members of society, the community, and the public at large. Fluid gender expectations, then, allowed for social reform on the issue of intimate-partner violence.

CHAPTER 3
THE FAMILY, COMMUNITY, AND INTIMATE-PARTNER VIOLENCE

He [the accused] made a big excitement. The little girl called me. I went in as quick as I could. He had [his wife] on the bed and was choking her. When I came in he said, "I will kill you." I told my husband to go and call the policeman. He did not come quick enough, and I went myself and got two policemen. — Hannah Anderson, 1887²²³

At ten o'clock in the evening on July 26, 1887, Hannah Anderson awoke in her New Orleans apartment to the cries from a nine-year-old girl begging for someone to help her mother. Hannah quickly followed. She arrived on the scene to find a man choking his wife and threatening anyone who dared stop him. Instead of turning a blind eye to uphold the privacy of family, Hannah hurried to intervene, calling to her husband for help.²²⁴ Hannah's actions and demand for the police to do something suggest a rising level of awareness of intimate-partner violence and society's moral obligation to stop it.

During this period the public stepped in to protect many different women, not just those in keeping with the antebellum conception of a lady. The *Wilson* case in 1887 illustrates that point. Virginia and James Wilson separated multiple times during their sixteen-year marriage, and James reportedly told Virginia to become "a decent woman."²²⁵ James never specifically testified as to what Virginia did to make her an "indecent" wife, but when she refused his sexual advances that night, James insinuated Virginia engaged in extramarital affairs. He came over that summer night intent on reconciling the marriage and seeing if they could live in the same house again. Virginia turned him away and acted defiantly. She kept blowing out the matches he lit to smoke, and when he shoved her, she shoved back. James possessively clung to his dominance

²²³ *State v. James Wilson* (1887) CRDC# 9856.

²²⁴ Hannah Anderson's husband is not referred to or listed in the report by his first name.

²²⁵ *Ibid.*

and perceived power over her life, by threatening, “I will kill you so you won’t be of any service to me or anybody else.”²²⁶

Far from demure and submissive, the abused woman, Virginia Wilson, did not exemplify the typical “proper” woman. She left her husband several times, fought back, refused his wishes, and found a job to singlehandedly provide for herself and her daughter. Although Virginia, like other abused women, violated the antebellum notion of “true womanhood,” this did not exclude them from societal protections. Hannah and the police intervened, throwing aside the concept of family privacy and male privilege, which suggests the public agreed not only on a broader view of what was acceptable of a woman but also on new limitations to men’s behavior.

The Wilson case of New Orleans, Louisiana involved at least three levels of intervention: family, community, and the law. The nine-year-old daughter sought help from Hannah Anderson, Hannah found watchmen, and the police and court used criminal statutes of assault and battery to enforce Virginia Wilson’s right to be free from abuse. These multiple forms of intervention demonstrate a high level of public awareness about intimate-partner violence that infiltrated every aspect of society. Greater awareness generated a level of visibility to a social problem prompting action. A high level of public awareness changed the dominant message from accepting the male privilege of chastisement to ending intimate-partner violence, making silence no longer acceptable. When this happened, people then condemned the perpetrator and sought to protect a woman’s right to be free from violence. Intimate-partner violence came out of the shadows in the 1870s and 1880s as people discussed the problem, raised awareness, and held the abuser accountable. Although laws in the majority of states did not change, judges responded by interpreting old assault and battery statutes to hold the batterer legally accountable. Rather than

²²⁶ Ibid.

solely a top down, the shift also began with people taking a stance against intimate-partner violence on an individual then communal then state level.²²⁷

Family

At the core of this change lay a shift in the family power dynamic that allowed for increased family intervention in intimate-partner violence. Gender anxieties from the Civil War undermined male authority, and women's experiences taught the need for a level of autonomy. Continuation of a male-led gender hierarchy came with stipulations. In both the North and South, women demanded a more reciprocal relationship between the sexes. Some insisted on equal rights while others wanted legal protection. Whether radical or conservative in their goals, women sought to alter the power dynamics, particularly in marriage. When men became abusive, they violated the new understanding in heterosexual relationships governed by gender expectations in the postbellum decades. Consequently, violent men forfeited their other family members' respect and deference. Like in the Wilson case where the nine-year-old daughter went in search of help, family members, including siblings and children frequently witnessed intimate-partner violence. Often they became the first level of intervention. Those who interceded on their mother's, sister's, or daughter's behalf tended to do so without any remorse for breaking supposed deference to the male head of the house. In return for submission of one's wife and children, men had to be protective and refrain from violently chastising the other family members. Violating this new understanding meant an abusive man could not command respect or power.

²²⁷ Sharon Block, *Rape and Sexual Power in Early America*, (Chapel Hill: University of North Carolina Press, 2006). Block also argues about rape, a form of gender based violence, is based on the issue of gender and power. She has a similar construction to illustrate her argument of a bottom up movement concerning the social problem of rape in early American history.

To uphold these new gender expectations, families sought to make the abuser stop, with some resorting to defensive acts of physical violence themselves. On September 27, 1883, Theresa Busch cooked a breakfast for her family when her husband, Herman, asked her to go somewhere with him. When she said no, he became angry and demanded the money she had in her pocket, but she kept refusing. Unable to accept defiance from his wife, Herman tried to enforce submission. Theresa testified,

When I refused he caught a hold of me by he collar saying he would choke me... Threw me down... While in that position, Mary Senyetter, my daughter took a stick and beat him to make him let me go. He then jumped up got a hold of a piece of iron that we use as a poker and struck me in the face cutting my face.²²⁸

Theresa and Herman's daughter, Mary, already married and moved out of the house, still intervened to stop her father from beating her mother. Instead of calling for help or yelling at her father, Mary grabbed an object and tried to force him to leave her mother alone. In doing so, Mary acted, reciprocating with the same behavior her father used with her mother. Both women were not submissive and obedient. Theresa defied Herman. Mary beat him. These women's actions seemingly threatened a traditional gender hierarchy, but by abusing his wife, Herman violated the new gender expectations. As a result, women behaved less submissively and intervened in intimate-partner violence.

Male family members intervened as well. New definitions of masculinity required men to be protective of women, including protecting a woman from her own male partner. Husbands possessed a significant amount of legal and social power over their wives. When he became abusive, a husband or male partner violated the new terms of gender. This weakened his claim to privacy and dominance in his household, and intervention became necessary. William Joyce transgressed these expectations when he abused his wife, Mary, and child, Katie. Mary left the

²²⁸ *State v. Herman Busch* (1883) CRDC# 4192.

Joyce home refusing to live with an abusive husband any more and sought assistance from her brother, James. William sought after his wife and daughter and eventually found them staying at James's house. On November 20, 1885, William demanded his family return to him. He called to Katie telling her to come to him, but she began to cry and hid behind her mother. Mary told her husband to leave and that she would not force their daughter to go with him. William responded by yelling obscenities and grabbing Katie by the arm. Mary testified,

I says, "You are looking for another term in the workhouse." He abused me and James says, "You can't abuse her in this house," and ordered him out. He [William] raised his hand to strike me. I told James to go out and get a policeman. As he was going out, William tripped him and beat him, and I went out to his assistance.²²⁹

The house belonged to James. It was his property. As such, James insinuated William did not possess any rights while there but rather was subject to the authority of the owner. Moreover, William's abuse violated the new limits to manhood, so he had no right to force Mary and Katie to return with him. While James acted to protect Mary, she was not a passive victim. She told James to find an officer and seek legal help. She also went to assist her brother when he was tripped by William.²³⁰ Together, brother and sister worked to end the violence, knowing a man's right did not extend to beating a woman, even if the woman was his wife.

While some sons learned abuse from their fathers and perpetuated the cycle of violence, others turned against their abusive dads. For example, sons of the abused woman could and did file charges of assault and battery against their violent father. In the Lee family, the father, Ben, had a history of abusing his wife, Adelina.²³¹ Their child, Scott, filed suit against his father for

²²⁹ *State v. William Joyce* (1885) CRDC# 7825.

²³⁰ *Ibid.*

²³¹ *State v. Ben Lee* (1884) CRDC# 5151; *State v. Ben Lee* (1884) CRDC# 5421. Testimony in both cases stated he had abused her on several previous occasions.

one of the attacks, hoping to protect his mother and end the violence. He succeeded despite the fact that he had not been present the night of the abuse to serve as a witness.²³² If not a witness or victim, then what right did Scott have to file criminal charges? His actions suggest his knowledge of the abusive past and his position as a family member granted him the right to hold his father accountable. The court summarily recognized Scott's petition to press charges and found the father guilty. This suggests a son could replace the father as leader of the family and be the one who upholds the ideals of manhood in the late 1800s. The father/husband lost his position of authority because of his violence.

Often young sons used a weapon as an equalizer, marking the level of determination family members had in ending intimate-partner violence. On July 30, 1884, a New Orleans newspaper, *The Daily Picayune*, printed a story entitled, "Misdeeds and Mishaps: Domestic Discords."²³³ The article described an incident in the Hener family that "ended in a court scrape."²³⁴ The father created a "disturbance" by "beating his wife unmercifully."²³⁵ The son tried to stop his father by hitting him with a blunt object. The police arrested both the father and son, although they let them go when the bonds were met. The son, whose age and first name remained unprinted, did not stand by and allow his father the privilege of chastisement. Rather, he physically denied the respect or deference typically due to the head of the family. The protective act came at a cost. Charged with assault and battery, the son paid a fine and spent some time in jail. Even in the face of such consequences, the son still intervened. Family

²³² *State v. Ben Lee* (1884) CRDC# 5421.

²³³ "Misdeeds and Mishaps: Domestic Discords," *The Daily Picayune*, July 30, 1884, New Orleans, Louisiana.

²³⁴ *Ibid.*

²³⁵ *Ibid.*

members could (and some did) silently witness spousal abuse, but when they intervened, they made deliberate choices that showed disapproval of intimate-partner violence and the abusive men, whose violence transgressed their expectations of male behavior.

While the Hener case did not result in a fatality, sometimes a family member died in the attempt to stop the abuse. In July 1891, Elias Phips of rural Boone, Louisiana, saw his father come home drunk and beat his mother.²³⁶ Unable to stand by, fourteen-year-old Elias grabbed a musket and shot his father. At the time of publication, the newspaper believed the abusive husband would die, and young Elias sat in jail awaiting the court's judgment. The exact reason Elias used a gun can never quite be known. Perhaps, he felt he could not stop his father without a weapon or perhaps he became enraged at his father for repeatedly being so violent to the family. Whatever the exact reason, Elias Phips's actions do show that male power had limitations. The father forfeited his position of authority when he mercilessly beat his wife. This murder, while an extreme and illegal response, also showed a lack of respect for the father and a protectiveness of the mother.

Family members also often risked their own safety when they tried to stop the abusive partner, which demonstrated their level of commitment to a loved one and to the right to be free from violence. In 1887, an African-American woman, Mary Bassinger, took her children and left her abusive husband, Will. Mary surrounded herself with female relatives and rejoined them in her mother's home. As historians, such as Laura F. Edwards, have shown, these family links held immense value in the nineteenth century, especially for African Americans.²³⁷

²³⁶ "Death Notice," *Wheeling Register*, July 14, 1891, Wheeling, West Virginia.

²³⁷ See Laura F. Edwards, *Gendered Strife and Confusion: The Political Culture of Reconstruction*, (Urbana: University of Illinois Press, 1997). As Edwards and other historians

Will called for Mary to come talk to him at the gate, but she refused saying she wanted nothing to do with him. Will yelled, “If you don’t come it will be worse for you.”²³⁸ Despite the separation, he felt he was entitled to a level of compliance and submission from his wife, and in an effort to maintain his dominance, he threatened her with violence. Will, however, compromised his rights by becoming abusive, and Mary’s defiant behavior portrayed many women’s view of marriage as reciprocal. At the very least, the wife possessed the right to live a peaceful life without the presence of abuse.

After the verbal threat, Mary’s mother came home and told Will to leave or she would go to court and make a complaint. Mary’s mother also refused to listen to the demands of an abusive man. Undeterred, Will jumped the fence, yelling at the mother claiming she “harbored Mary for other men.”²³⁹ Mary’s mother refused to address his jealous accusation but still tried to block his path firmly declaring, “You are not going in there after her.”²⁴⁰ Will ran around her and into the room where Mary hid with the children. He dragged Mary out of the house, beat her with a stick, and then bit her hand. A neighbor alerted Mary’s sister Cora, who was living nearby, that Mary was being attacked, and Cora quickly arrived remarking, “That nigger got cheek enough to come into my mother’s yard and beat you!”²⁴¹ Infuriated, Will attacked Cora with a knife, stabbing her in the back twice, and then went after Mary again. He pulled his wife onto the front steps, and

have argued, African-American households differed from the white ideal before the Civil War and were more matriarchial.

²³⁸ *State v. Will Bassinger* (1887) CRDC# 9764.

²³⁹ *Ibid.*

²⁴⁰ *Ibid.*

²⁴¹ *Ibid.*

cut her twice on the face and once on the leg. Some of the wounds were as long as three and a half inches.

Mary's mother and sister's intervention went beyond a token overture. These women viewed the mother's home as a place of safety, even perhaps a bastion of female power. The household of women protected and empowered Mary so that when her husband came demanding their children, he was met with staunch resistance. As Cora testified, they did not believe Will, despite being Mary's husband, had any right or would dare to step foot on the property much less harm anyone in their family. Cora left her home to help her sister. She also degraded Will by calling him "nigger," and she physically challenged him, facing the danger of being stabbed. Cora, like her mother and Mary, felt Will had no power or right to harm anyone in the home, even if one of the women was his wife. Will's behavior cost him his children, his wife, respect of his in-laws, and his authority over his family. Mary's female relations stood against Will, but their intervention came at a price. They placed themselves in physical danger to protect Mary and deny Will what he believed to be his right of chastisement. The female family members collectively stood against the abusive husband. Their actions testify to the lengths these women were willing to go in order to stop the violence.

Community

Family intervention was not removed from the larger society. Neighbors and community members also acted to stop intimate-partner violence, reflecting a larger social change. When enough people altered their notion of gender in the postbellum period, the collective conscious shifted to expect limits on male power, including the denial of the male privilege of

chastisement. By the 1870s, society had come to condemn intimate-partner violence, and members of the local community felt the need and the right to step in and stop the abuse.

Community members involved themselves in intimate-partner violence sporadically throughout American history. In the colonial era, small communities generally concerned themselves when individuals disrupted the harmony of the settlement.²⁴² When they did, councils banished the offender or demanded public repentance, and groups humiliated the abuser with skimmington rides, parading the transgressor through the town as people made noise and yelled. Mary Beth Norton argues that colonial Americans accepted “moderate physical correction” of wives, and when that did not work, “it reflected negatively on him and raised the possibility others might intervene, not only to protect the wife from harm but also to instruct him in the responsibilities of household leadership.”²⁴³ In spite of recorded community intervention, the colonial family remained a private entity, particularly members of the family such as a wife whose identity was subsumed under the husband’s identity and control.²⁴⁴

Before the Civil War, society occasionally intervened when a man assaulted his partner, but male dominance still ranked higher in priorities than addressing intimate-partner violence. Facing intense scrutiny from anti-slavery advocates, southern justifications of slavery included paternal benevolence, which argued slave owners took care of and showed kindness to those

²⁴² Mary Beth Norton addresses this issue in Founding Mothers and Fathers: Gendered Power and the Forming of American Society, (New York: Random House, 1996). For more on colonial intimate-partner violence, see Elaine Forman Crane, Witches, Wife Beaters, and Whores: Common Law and Common Folk in Early America, (Ithaca: Cornell University Press, 2011) and Christine Daniels and Michael V. Kennedy, eds, Over the Threshold: Intimate Violence in Early America, (New York: Routledge, 1999) for intimate-partner violence in the formation of the United States.

²⁴³ Founding Mothers and Fathers, 78.

²⁴⁴ Historians often discuss this loss of status, particularly legal status, as *feme covert*.

dependent upon them. In charge of potentially a wife, children, servants, and slaves, a man's dominance meant he had to take care of them and not simply maintain the hierarchy through discipline. Restraint and even kindness then entered the dynamic, at least in theory.²⁴⁵ How could a man control "unruly" members of his family, be aggressive, and simultaneously show restraint? Society and men struggled with how to integrate the conflicting mandates.²⁴⁶ When neighbors did involve themselves, they commonly argued the couple disturbed the peace and sometimes arrested both the husband and wife.²⁴⁷ Ultimately, the community wanted to restore balance and uphold a male hierarchy prior to the Civil War.

Reasons for community intervention shifted by the 1870s and 1880s. The most obvious reason to intervene occurred when the abuse took place in a public area. Public spaces grew in the postbellum period as cities increased in size and municipal planners sought to regulate the burgeoning city landscape. As discussed in an article by contemporary sociologist and economist E.R.L. Gould, people required "adequate out-door breathing spaces" and "wholesome facilities

²⁴⁵ Some historians discuss paternal benevolence as simply justification for the continuation of slavery. Viewing slavery as "best" for the slave—a system in which the owner was kind and treated the slaves as part of his family—ideally mitigated the harsh view of abolitionists and books like *Uncle Tom's Cabin*. See Lacy K. Ford, *Deliver Us from Evil: The Slavery Question in the Old South*, (Oxford [England: Oxford University Press, 2009) and Edlie L. Wong, *Neither Fugitive nor Free: Atlantic Slavery, Freedom Suits, and the Legal Culture of Travel*, (New York: New York University Press, 2009).

²⁴⁶ I use the term "somewhat" since the South generally disapproved of intimate homicide, but generally, spousal abuse was accepted. Although, two southern states did pass laws against wife abuse prior to the Civil War (Tennessee in 1850 and Georgia in 1857), other southern states, such as North Carolina, upheld the right of chastisement (*State v. Jesse Black* 1 Winston 266).

²⁴⁷ "Recorder's Court, Second Municipality," *The Daily Picayune*, March, 19, 1840 (New Orleans, Louisiana). A similar case in which both the husband and wife were arrested was found in "Local Matters," *The Sun*, October 21, 1852 (Baltimore, Maryland).

for recreation.”²⁴⁸ New York City’s Central Park serves as an example of the new city planning and creation of public spaces, but cities in other regions set areas aside for people to interact and “breathe.”²⁴⁹ The city of New Orleans acquired the land for City Park in 1850 but left the land unimproved until 1886. It also purchased land for current day Audubon Park in 1871. By 1879, the local government named the area the “New City Park,” and it served as the site to the 1884 World’s Fair (the Cotton Centennial Exposition).²⁵⁰ After 1886, the city undertook major improvements to the land in order to make it a more decorative and attractive park. To Gould and others, including Frederick Olmstead, “Undoubtedly the most important requisite is small open spaces, well distributed over a city, but numerous located in populous districts.”²⁵¹ In some neighborhoods, small pieces of land in the middle of streets and near canals sat empty and served as small “parks” where adults and children congregated. Regardless of the setup, public spaces served the entire public and required social policing given the purposes they served and the visibility of what occurred there.

In a neighborhood in Algiers (an area annexed into the city of New Orleans by 1870), William Teal argued with his wife Elizabeth. She left the house, walking along a nearby canal. In full view of several neighbors, William hit Elizabeth and knocked her down into the canal. One woman, Mrs. Putnam, sought to help Elizabeth but was rebuffed when William yelled, “Do not,

²⁴⁸ American Statistical Association, *Publications of the American Statistical Association, vol. 1: 1888-1889*, (Boston: W.J. Schofield, Printer, 1889): 46.

²⁴⁹ Ibid.

²⁵⁰ John Smith Kendall, A.M., *History of New Orleans, vol. 2*, (Chicago: The Lewis Publishing Company, 1922): 683.

²⁵¹ American Statistical Association, 58-59.

woman, you [come] over here to my house any more.”²⁵² Other female neighbors went to Elizabeth despite William’s threats. Ellen Butler and Mrs. Leddey testified they “heard a woman scream...her face bleeding. She was wiping the blood from her face with a towel. I asked Mrs. Teal to my house and we would put dry clothes on her; she went with me to the house and we changed her clothes.”²⁵³ Corporal Morgan, a police officer who lived nearby, was sleeping at the time of the incident but woke up due to the screaming coming from the streets. Morgan testified he “saw a crowd of people,” took an affidavit from Elizabeth Teal, and arrested her husband for assault and battery. He could have affirmed family privacy and the power of men to physically chastise their wives by charging William with disturbing the peace. Instead, Corporal Morgan arrested William for assault and battery, recognizing the importance of the incident and the neighbors’ outrage over the spousal abuse. The public visibility of the violence necessitated the neighbor’s intervention, and several stepped up to do something about the abuse. In the testimony, each witnesses’ statement showed they felt the husband had no right to act as he did. By defying William Teal’s threats to leave his wife in the ditch, the neighbors’ actions spoke against the supposed right of chastisement as well as for the social responsibility for addressing intimate-partner violence.

Crowds frequently formed when members of the community overheard a domestic dispute. While some gathered likely out of curiosity, others intervened or went for the local watchman. These actions illustrate large-scale societal disapproval and the responsibility to intervene. The long-held value of family privacy did not trump the right of a woman to be free from violence. In the post Civil War period, an abusive husband could not claim the right to

²⁵² *State v. William Teal* (1881) CRDC# 1786.

²⁵³ *Ibid.*

family privacy because he lost much of his power by violating newly defined gender expectations. Sometimes communities resorted to a form of vigilante violence against the abusive man to enforce expectations, but most interventions, even when numerous people were involved, sought to protect the female victim and hold the male perpetrator responsible.

On a Sunday during the summer of 1886, Louisa Johnson prepared to attend church when her estranged husband Martin came to her home. As the landlady attempted to block the entrance, Louisa tried to escape down a back alley but was caught by Martin and beaten “near to death.”²⁵⁴ Concerned, the landlady came with a crowd of others loudly protesting what Martin had done. Part of the crowd then brought Louisa to a hospital while some alerted the police so they could make an arrest. In an attempt to avoid prosecution, Martin tried to claim Louisa’s injuries were from an accidental fall. Louisa and the witnesses denied any such possibility, and the court agreed with the plaintiff. As part of his sentence, Martin Johnson spent a total of six months in jail for assault and battery. The crowd’s involvement shows an attempt to regulate behavioral and gender expectations through legal means. They gathered after hearing of the abuse and refused to disperse. The crowd intervened by shaming Martin for using violence, by helping Louisa seek medical help, and by finding patrolmen. Rather than vengeance, the group of neighbors sought to hold the abusive partner accountable before the law.

Sometimes groups intervening in abusive relationships did resort to violence, particularly if they lived in less populated areas where there was a shortage of police. Remote locations limited witnesses’ ability to seek justice through the legal system. In one case, a white man named Winn owned a small amount of land in the small town of Collinsburg, Louisiana. Most people in the area knew of his notoriously cruel treatment of his wife. Winn not only beat her

²⁵⁴ *State v. Martin Johnson* (1886) CRDC# 8562.

severely on multiple occasions, but he also had an African-American mistress that he called his “Sunday wife.”²⁵⁵ People constantly talked about his behavior as “cruel” and Winn in need of “justice.”²⁵⁶ Finally, in August of 1877, a crowd decided to take justice into their own hands. They waited till he beat his legal wife again, and while he sat eating dinner with his wife bleeding on the floor of their home, someone shot him through the window. One white neighbor, Nancy Willard, declared the shooting “justice.”²⁵⁷ She went on to say, “I don’t suppose any boddy [sic] cares. His every day Wife is a hard working woman and has got a crop of her own and workes [sic] it her self.”²⁵⁸ Winn’s killer was never found, in part due to the lack of concern by the townspeople.

In beating his wife, Winn’s actions violated social expectations—expectations held in common with larger urban areas. The townspeople intervened believing they had a right to do so although their sense of justice included murdering the abuser. To them, murder seemed fitting because Winn lost the privileges and rights of manhood by abusing his spouse and arguably by engaging in an openly sexual relationship with a black woman. Still, the extralegal violence took place after another incident where Winn abused his wife, suggesting the shooter acted because s/he believed men did not have the right to beat their wives. Nancy Willard’s comments about

²⁵⁵ Nancy Willard to Ms. Wilkinson, August 13, 1877, Collinsburg, Louisiana, Micajah Wilkinson Papers, Manuscript Collection 707, Hill Memorial Library, Louisiana State University, Baton Rouge, Louisiana, 70803; and Nancy Willard to Ms. Wilkinson, October 22, 1877, Collinsburg, Louisiana, Micajah Wilkinson Papers, Manuscript Collection 707, Hill Memorial Library, Louisiana State University, Baton Rouge, Louisiana, 70803.

²⁵⁶ Ibid.

²⁵⁷ Ibid.

²⁵⁸ Ibid.

Winn suggest the community had a broad base of support for depriving Winn not only of any respect or manhood but also his very life.

Crowds proved the broad base of public support for intervention by more than their sheer numbers; they also proved public support by their diverse backgrounds. Sometimes groups were comprised of different races. The heterogeneous mixture suggests a broad base of support for dealing with intimate-partner violence as well as a fairly high level of awareness the social problem it posed. The Gillen case illustrates one instance of cross-racial alliance. Mr. and Mrs. James Gillen—a white married couple—had a “spat,” in which the husband punched his wife in the eye.²⁵⁹ Neighbors heard the screams of “Watch!” and “Murder!” and ran to intervene. One policeman estimated a total of three or four hundred people of different races stood outside the house, yelling at the abuser, while six individuals carried Mrs. Gillen to safety at the local grocery. Officer Furlough further testified, “She [Mrs. Gillen] was bloody and looked very bad, and I took her to the hospital. She told me Mr. Gillen did it and she wanted it stopped.”²⁶⁰ The level of intervention here was astounding. The wife’s cries generated a large social response, a response that crossed racial lines. In this case, a general view of intimate-partner violence transcended race, allowing for groups to come together with a common purpose—to help the abused woman and punish the wife beater. James Gillen’s supposed right to chastise his wife brought the wrath of the entire neighborhood. New Orleans has a history of more racial tolerance than much of Louisiana and the South, but during the 1880s, race became an increasingly divisive issue.²⁶¹ The enormous mixed race crowd testifies to southern society’s broad

²⁵⁹ *State v. James Gillen* (1882) CRDC# 2911.

²⁶⁰ *Ibid.*

disapproval of intimate-partner violence and its belief that spousal “rights” and family privacy did not protect abusers.

Cross-racial alliances among women did form as a result of intimate-partner violence since gender-based violence affected all regardless of race, ethnicity, or socioeconomic status. Just as southern society extended a limited definition of womanhood to African-American women who were victims of intimate-partner violence, white women and women of color collaborated and intervened to stop the violence. In a sense, a quasi-sisterhood emerged sometimes when dealing with an abusive partner. In 1886, a white woman named Mary Hines filed charges of assault and battery against her husband William. William had been yelling at the neighbors, and although sick, Mary told him to stop in fear they would be evicted for disturbing the peace. William then turned his anger on his family. Mary tried to leave, but when William began hitting their child Margaret, Mary stayed. He then began beating his wife. Mary Hines stated in her testimony, “He [William] beat me with a vase from the mantelpiece. He struck me, broke this rib with a rocking chair. He beat me everywhere, kicked me, thumped me, commenced to beat me with the chair... I was weltering in my blood.”²⁶² Fearful for her life, Mary screamed for help, knowing their African American domestic servant, Mary Cash, was in the next room. Cash quickly intervened and begged for William to release his wife. Cash struggled with him, but William began biting her hand. Mary Hines testified, “She [Mary Cash]

²⁶¹ Alecia Long’s The Great Southern Babylon, for example, examines the shift from slightly more tolerance for “sex across the color line” in New Orleans immediately postwar to a more rigid definition of white and black by 1910. C. Vann Woodward in The Strange Career of Jim Crow also explores the role of race and its increasing importance during the postbellum era. By 1882, race, although being redefined such as the loss of the category of octoroon, generally mattered in most aspect of life. The social view of intimate-partner violence, however, broke down racial barriers allowing for temporary cross-racial alliances.

²⁶² Ibid.

held his hand. He chewed on this finger all the time for fully fifteen minutes. He had it in his mouth. She begged him not to take the finger.”²⁶³ Despite trying to help, Cash could not stop the abuse, and when William quit biting her hand, she grabbed the child and sought outside help.

Key to the incident was Mary Cash. She served as an important witness in the court case and physically struggled against a white man in an attempt to stop him from beating his wife. As a woman of color, she risked her job, her well-being, and possible retaliation by white supremacists for raising a hand against her white employer William. Race mattered in the postwar South, but in this situation, these women prioritized gender over race. The quasi-sisterhood, of course, had limitations. In everything else, Mary and William Hines required Cash’s submission, but Cash still helped Mary, even jeopardizing her own economic and physical health. Mary Cash’s intervention speaks volumes about the types of bonds, albeit tenuous, that could emerge in response to intimate-partner violence.

Social awareness had unpredictable consequences. Once manhood no longer included the privilege of chastisement, people sought to stop the violence as they saw fit. Those who intervened did not always act according to the victim’s wishes in intimate-partner violence. Instead, neighbors, family, and the community tended to act according to the belief that the attacker should be legally punished even if the abused partner disagreed. This might seem to deprive women of their agency in prosecuting batterers, but in sixteen cases initiated from witnesses, two ended in *nolle prosequi* or dropped charges.²⁶⁴ Although the abused partner may

²⁶³ *State v. William Hines* (1886) CRDC# 8841.

²⁶⁴ Out of the sample, prosecution of intimate-partner violence by witnesses accounted for 16 of the 202 court cases (8%). 2 cases of the 16 cases dropped is only 12.5%. More generally, cases that ended *nolle prosequi* accounted for sixteen percent of all intimate-partner violence charges. Despite the small sample size for witnesses, the percentage for dropped cases are similar regardless of who filed, showing a high prosecution rate overall. Testimony from the court cases

not have wanted her husband prosecuted, victims generally permitted the state to continue its prosecution without dropping charges. The fact that policemen, the district attorney, and neighbors could successfully file criminal charges illustrates a public awareness of intimate-partner violence as a social problem, not simply an issue for the abused partners. For those trapped in the relentless cycle of abuse, southern society attempted to solve intimate-partner violence by mandatory arrest—a technique utilized in some states today.²⁶⁵ Although not as frequently used, witnesses and officials could intervene and prosecute on behalf of the victim, testifying to the dedication of society to eradicate intimate-partner violence.

Exceptions

While many recognized the importance of stopping the violence, some tended to cling to the past and notions of privacy and feared society's erasure of privacy. To them, intervention appeared more like interference. They insisted this unwarranted interference violated the veil of privacy that protected family and marriages from demands of the larger public. Men more often than women advocated such a mentality as they clung to male privilege and power. The push to end intimate-partner violence and women's demands for protection and reciprocity chipped away at a gender hierarchy that empowered men. Men who feared the loss of family privacy, in some situations, hesitated to intervene. The 1886 Traylor case illustrates some resistance to changes in

and newspapers show a high level of public intervention, but overwhelmingly, women were cited as the person filing suit for assault and battery.

²⁶⁵ Some feminists, legal scholars, and sociologists have examined the unintended negative consequences of mutual arrest or mandatory arrest laws. See Susan L. Miller, Victims As Offenders: The Paradox of Women's Violence in Relationships, (New Brunswick, N.J: Rutgers University Press, 2005) and Michelle L. Meloy and Susan L. Miller, The Victimization of Women: Law, Policies, and Politics. (Oxford: Oxford University Press, 2011).

gender and privacy. On a Wednesday summer night, John Traylor came home to his wife, Mary, and accused her of having a man by the name of Jonnie Miller in the house. She insisted no one was there and adamantly refused any hint of infidelity on her part, but John did not believe her. He began to hit his wife and threatened to kill her. At that point, Mary screamed, disturbing the neighbors. They rushed into the Traylor home and saw John choking and beating Mary. One of the neighbors, Willie Kelly testified, "I heard the woman screaming. He had her by the throat. The lady was down. He had her by the throat. She couldn't hardly hallar [sic]....My father said, 'Shoot him.' I said, 'No, it may be his wife.' She got loose and ran back. She ran in the street."²⁶⁶ Although his father thought differently, Willie Kelly limited the level of intervention in case the abusive man was in fact the woman's husband. Had there been evidence to suggest John was someone other than Mary's husband, Kelly intimates, he would have shot him. To Kelly, the scene warranted use of a gun but only if the man was not her husband, and so Kelly and his father stood in the doorway with the gun lowered. Their presence surprised John Traylor, and he briefly loosened his grip around Mary's throat. She took the opportunity to run into the street and find a patrolman for help. Willie Kelly may have feared legal consequences for entering into someone else's home and shooting the abuser. The legal ramifications of such actions could have landed Kelly in jail. Still, his refusal to do anything in the Traylor case suggests a certain amount of deference to husbands and their privilege of chastisement.

Some blatantly asserted a man's right to chastise his wife beyond the prying eyes of society. These men upheld not only family privacy but also male privilege. In 1888, Peter Carter witnessed intimate-partner violence but refused to do anything. He testified in *State v. Warren Powell*

²⁶⁶ *State v. John Traylor* (1886) CRDC# 8758.

They got into a fuss in their room. I heard them. I did not interfere with them. He called [and] told me to come in. He said if I would not come in he would take me in. I tried to talk to him. He had a knife in his hand. I said, "For God's sake don't you use a knife!" He gave me his knife [and] hit her with his fist. She asked me not to let him beat her. He struck her two powerful licks with his fist.²⁶⁷

Carter refused to assist Annie Powell even as she begged for him to intervene. To Carter, his intervention would have actually been interference. To interfere meant Carter would be acting *without any right*. From his viewpoint, stopping Warren Powell's attack would be destructive, particularly to the family and male power. He would be meddling in the private affairs of a family and violating a husband's entitlement. After all, Carter stated, another man had been in Annie Powell's room, and she cheated on her husband. To Carter, Annie's infidelity seemed to justify the husband's violence and so he looked on as Warren beat Annie and she cried for help. Only when he was almost dragged into it did Carter, unwillingly, limit the level of abuse. His conscience finally registered concern when he saw the knife. Fearing for her life, Carter felt that was beyond the right of chastisement husbands possessed. Despite changes in gender expectations, social intervention, and male-female relationships, Carter upheld older notions of marital privacy and male privilege. As in the Traylor case, some male witnesses refused to intervene and punish abusers.

Some men clung to conservative definitions of family privacy and gender, even if the family included those not legally married. Social attitudes viewed family and marriage less rigidly than did the courts. If a couple cohabitated and presented themselves as partners, then community members recognized them, in everything but legal terms, married and a family. Society recognized that men in those situations possessed the same rights as that of other husbands, but some believed those rights included antiquated views of the male privilege of

²⁶⁷ *State v. Warren Powell* (1888) CRDC# 10434.

chastisement. Louis Mayfield stopped by his house and grabbed a cup of tea before heading out to the local bars. On his way out the door, Annie Mayfield, his common law wife of five years, yelled, “You better come back instead of going out and drink all your money,” but Louis left anyway and did not come back until eight that night.²⁶⁸ He staggered into the house and passed out on the living room floor for a solid hour. When he awoke, Louis demanded to know where his tobacco was. Annie hesitated, and Louis screamed, “Do it when I command you!” He grabbed an oak whip and told Annie to get on her knees. As she did so, he began to beat her. He told her to call him “master,” which Annie did all the while she begged him to stop.²⁶⁹ Finally, Louis did and shoved her out of the house with nothing on but a nightgown. Eventually, Annie found a way back in the home. At this point, Officer Louis Deris came upon the scene after hearing a neighbor’s screams of “Murder!” He saw the man dragging Annie out by her leg from under the bed, and he intervened by arresting Louis Mayfield and sending Annie Mayfield to the hospital. Mrs. Washington Johnson, the neighbor who alerted the police, testified,

He was whipping the woman so long; he was whipping her until she could not speak. I told my husband that he was going to kill her; my husband told me I had nothing to do with that. Then he beat her so long that my husband had to speak to him. Then he cursed him and told him to mind his own business. He said it was his wife and he could do what he wanted. Then he dragged her in the yard to show my husband he could beat her good at that time. I got out and I halloared [sic] for the police.²⁷⁰

According to Mrs. Johnson’s statement, both her husband and Louis Mayfield believed men had the right to do as they wish without intervention. Only when the beating went on and on did Mr. Johnson decide to speak to the abuser, but still, he refused to go any further once he was

²⁶⁸ *State v. Louis Mayfield* (1887) CRDC# 9643.

²⁶⁹ *Ibid.*

²⁷⁰ *Ibid.*

told to “mind his own business.”²⁷¹ To Mr. Johnson, privacy stood as a pillar of the rights of manhood. He may not have believed in going so far as to whip his wife, but he respected a veil of privacy to ensure a man’s right to act without communal or legal interference. Louis Mayfield violently defended his power and his right to beat his wife. He asserted his dominance over Annie by beating her, forcing her on her knees, and making her call him “master.” He believed his power included treating his wife, not as a human but as property. Louis Mayfield’s actions here clearly illustrate intimate-partner violence as an issue of power in a gendered hierarchy. To Louis, this gendered power extended beyond the legal definition of family to any relationship between a man and woman, and this belief resonated with Mr. Johnson. Louis sought to publically assert his manhood and the right of chastisement by abusing Annie in the front yard—in full view of all the neighbors. Not all men believed in such definitions of male privilege and privacy, but some definitely did.

The real intervention in the Mayfield case came from Mrs. Johnson, the police, and the court. Mrs. Johnson defied her husband and Louis Mayfield by running for a patrolman. Whatever the prior notions of men’s power and dominance, the gender dynamic changed some after the Civil War. Men had to respect limitations to what was previously considered a male privilege, and like many women, the law agreed. To Mrs. Johnson, the abuse was wrong, and in the postbellum South, she took the responsibility to intervene in intimate-partner violence. The officer arrested Louis Mayfield and pressed charges, since Annie was incapacitated at the hospital. The Recorder’s Court charged Mayfield with assault with a dangerous weapon and intent to kill and placed him under a thousand-dollar bond. Finally, the judge who tried the case sentenced Mayfield to four months in jail after having already served two months. From multiple

²⁷¹ Ibid.

perspectives, Louis Mayfield violated gender expectations and Annie's right to be free from abuse. He assaulted her with a dangerous weapon, acted uncivilized, and was subject to punishment by the court. Regardless of Louis Mayfield's or Washington Johnson's antiquated views of masculinity, male privilege, and right to privacy, Mrs. Johnson and those who enforced and interpreted the law disagreed and worked to enforce this new view upon those who clung to the past.

As the country grew, rural areas gave way to larger, more populated towns and cities. Communal intervention, while still important, became less effective as neighbors more often than not were strangers and cohesive social groups stretched thin in a larger urban sprawl. People needed a more effective means of regulation and enforcement. In the last few decades of the nineteenth century, the South underwent a "search for order" like the rest of the nation.²⁷² The unregulated growth of corporations, labor issues, and Radical Republicans in politics pushed many Americans towards reform, even southerners who clung to tradition and the past. Increasing the power of the state offered an opportunity "to apply more effective social controls in the interest of an orderly and cohesive community."²⁷³ In urban areas (or increasingly more urban areas), vigilante justice became less necessary as law enforcement regulated violations, particularly crimes of assault and battery.

On each level, people sought to intervene when men abused their female partners. They beat, shot, and embarrassed abusers. They sought to provide escapes and protective measures for victims. From the family to the community, the public took a stance against intimate-partner violence, and through their actions, they pressured the state to act on the problem. After all,

²⁷² Robert Wiebe, The Search for Order, 1877-1920, (New York: Hill and Wang, 1967).

²⁷³ Dewey W. Grantham, Southern Progressivism: The Reconciliation of Progress and Tradition, (Knoxville: The University of Tennessee Press, 1983): 111.

bureaucratic, centralized measures were, historian Robert Wiebe argues, thought necessary to combat a host of societal issues efficiently and effectively. People looked to the government to intervene, and under such stress, individual states reformed the legal response to intimate-partner violence.

CHAPTER 4 INSTITUTIONS AND INTIMATE-PARTNER VIOLENCE

“Organize, agitate, educate, must be our war cry...”— Susan B. Anthony, 1893²⁷⁴

Writing for *The Woman's Tribune* in 1893, Susan B. Anthony spoke of the need for women to unify and work for rights, specifically the right to vote. Anthony's words, however, reflected in part the impact organizations, such as the American Equal Rights Association, the National Woman Suffrage Association, and the American Woman Suffrage Association, had. Many reform groups of the late 1800s sought legal recognition of rights and betterment of society. Organizations created a powerful body in which to lobby for change. Despite having primary goals in acquiring women the franchise or banning the sale of alcohol, these organizations often upheld another right—the right of women to be free from abuse, and the collective pressure of these as well as other groups to end intimate-partner violence led to changes in the civil code.

National organizations, such as the National Woman's Suffrage Association (NWSA), Societies for the Prevention of Cruelty to Children (SPCC), and the Women's Christian Temperance Union (WCTU), pressured state governments to address the problems of intimate-partner violence. NWSA advocated for divorce reform. The WCTU linked alcohol to abuse. Alcohol made men brutes, as the theory went, and women needed protection from the evils of drink.²⁷⁵ Local Societies for the Prevention of Cruelty to Children, although created for the protection of children, offered abused women aid if indirectly. Collectively, these organizations

²⁷⁴ Ida Husted Harper, *The Life and Work of Susan B. Anthony: Including Public Addresses, Her Own Letters and Many From Her Contemporaries During Fifty Years*, vol. 2, (Indianapolis and Kansas City, The Bowen-Merrill company, 1908): 742.
<http://www.gutenberg.org/files/31125/31125-h/31125-h.htm> (Accessed December 27, 2013).

²⁷⁵ Elizabeth Pleck, *Domestic Tyranny: The Making of Social Policy Against Family Violence from Colonial Times to the Present*, (New York: Oxford University Press, 1987): 54.

took social concerns about intimate-partner violence and wielded political influence to protect women's right to be free from violence.

Suffrage Organizations

During Reconstruction, women's rights advocates presented some of the first challenges to manhood and womanhood after the Civil War. Former abolitionists, such as those in the American Equal Rights Association, pushed for African-American rights, including citizenship and the franchise. Women joined the AERA and other organizations like the Women's Loyal National League to gather support for petitions on the Thirteenth and Fourteenth Amendments. Abolitionist women felt this push for equality should include the right of women to vote, particularly in the proposal of the Fifteenth Amendment. In the campaign, however, "with arms folded, Greeley, Curtis, Tilton, Beecher, Higginson, Phillips, Garrison, Frederick Douglass, all calmly watched the struggle from afar, and when defeat came to both propositions, no consoling words were offered for woman's loss [of support for the right to vote]." ²⁷⁶ Many women felt betrayed as abolitionist men they had worked with for years refused to advance legislation on the vote for women. In *History of Woman Suffrage*, Elizabeth Cady Stanton, Susan B. Anthony, and Matilda Joslyn Gage described the moment as a time when "our best men stood silent." ²⁷⁷ This awoke in female abolitionists a need to create women-led organizations to gain rights for women. Stanton, Anthony, and Gage wrote,

The fact of their silence deeply grieved us, but the philosophy of their indifference we thoroughly comprehended for the first time and saw as never before, that *only from*

²⁷⁶ Elizabeth Cady Stanton, Susan B. Anthony, and Matilda Joslyn Gage, *History of Woman Suffrage, 1861-1876*, Vol. II, (Susan B. Anthony, 17 Madison St., Rochester, N. Y.: 1881): 265.

²⁷⁷ *Ibid.*, 265-267.

woman's standpoint could the battle be successfully fought, and victory secured. Woman must lead the way to her own enfranchisement, and work out her own salvation [italics added].²⁷⁸

This realization motivated women to become public actors and independent agents for their cause. Not only should women have a political voice but they would also have to do so by their own efforts.

In her role in the National American Woman Suffrage Association (NWSA), Stanton pushed a host of political reforms aimed at granting women more rights. From property ownership to the vote, Stanton utilized the NWSA's political connections to create legal changes, even if only in individual local areas. Like many women, Stanton recognized the drawbacks to being completely dependent upon men. In "The Solitude of Self," Stanton articulated the issue laid bare by the Civil War that prompted new gender expectations:

Whatever the theories may be of woman's dependence on man, in the supreme moments of her life, he cannot bear her burdens. Alone she goes to the gates of death to give life to every man that is born into the world; no one can share her fears, no one can mitigate her pangs; and if her sorrow is greater than she can bear, alone she passes beyond the gates into the vast unknown.²⁷⁹

Woman, she argued, had to act with some level of autonomy, which could not exist in a patriarchy.

Knowing that at the heart of the conflict was the issue of power, Stanton called attention to the relationship between husband and wife. The dynamics of power had to be altered, she insisted, in order to fulfill true equality and freedom.²⁸⁰ Since no educational system informed

²⁷⁸ Ibid.

²⁷⁹ Elizabeth Cady Stanton, "The Solitude of Self" *The Woman's Column*, January 1882, 2–3. Reprinted in Ellen Carol DuBois, ed., *Elizabeth Cady Stanton and Susan B. Anthony: Correspondence, Writings, and Speeches* (New York, 1981).

women how to choose wisely in potential husbands and fathers to their children, the state was “honor bound to open wide the door of escape.”²⁸¹ Not all women’s rights advocates agreed. Some, such as Lucy Burns in the American Woman Suffrage Association (AWSA), thought such claims too radical and divisive for the suffrage movement.²⁸² Burns argued marriage protected women, and liberal divorce laws would give husbands easier outs and make women vulnerable economically and socially. Although controversial, Stanton pointed to the contractual theory of marriage to prove divorce a legitimate option. She argued marriage was not a sacred institution but a civil contract in which the man was obliged to respect his partner, and violations of that respect, such as intimate-partner violence, placed him in breach of contract. In an 1871 speech, “On Divorce and Marriage,” Stanton argued that

The wife's condition is perpetual minority, life-long subjection to authority, with no appeal, no hope on the indissoluble tie theory. The practical effect of this is to make tyrants of men and fools of women. There never was a human being yet on this footstool godlike enough to be trusted with the absolute control of any living thing. Men abuse each other...and of course they will abuse their wives, taught by law and gospel that they own them as property...It is sheer folly at this age of the world to waste ink or words on marriage as an indissoluble tie and on the husband's divinely ordained authority.²⁸³

²⁸⁰ Many of the postbellum women’s rights advocates initially used the rhetoric abolitionists employed, not surprisingly considering the close association with the Abolitionist Movement until the divide over the Reconstruction Amendments. Women’s position was compared to slavery. The concept of freedom as promised in the Constitution filled writings and speeches of women like Elizabeth Cady Stanton in the 1860s and 1870s.

²⁸¹ *Ibid.*, 64.

²⁸² Andrea Moore Kerr, *Lucy Stone: Speaking Out for Equality*, (New Jersey: Rutgers University Press, 1992): 156. Stone definitively wrote in opposition to Stanton, “We [AWSA] believe in marriage for life.”

²⁸³ Elizabeth Cady Stanton, “On Divorce and Marriage,” (1871) <http://www.womenspeecharchive.org/women/profile/speech/index.cfm?ProfileID=94&SpeechID=670> (accessed January 12, 2013).

Women possessed the right, Stanton argued, to end a marriage, particularly one based on cruelty. To uphold the sanctity of marriage as permanent gave men total control over their wives.

By the mid-1870s, Stanton stopped campaigning for more liberal divorce laws, and Lucy Stone began. Stone published *The Woman's Journal* starting in 1879, which contained stories of abusive and tyrannical husbands to shock readers.²⁸⁴ Horrific murders, neglect, and abuse ideally motivated Americans to push for change. While divorce laws became slightly less strict, her proposal to allow battered women of Massachusetts to obtain legal separation, child support, and custody failed three times.²⁸⁵ Through their activism and by social pressure, northern and western state codes began reflecting these new ideas on divorce—Nebraska and Indiana being the most lenient of states.²⁸⁶ By the 1870s, most states recognized physical cruelty as a legitimate reason for divorce, but at least two—Illinois and Michigan—included mental cruelty (verbal abuse).²⁸⁷ The number of divorces between 1870 and 1920 increased fifteen times.²⁸⁸

Initially, the Suffrage Movement entailed far more than the vote. It included reform in the area thought to define women the most—marriage. Going “deep down to the very foundations of society,” the push was nothing less than “a social revolution.”²⁸⁹ The push for the franchise for women in the mid to late nineteenth century illustrates the redefinition of womanhood, but it also shows how women’s rights advocates recognized the need for the state to intervene and fix social

²⁸⁴ Pleck, *Domestic Tyranny*, 101-102.

²⁸⁵ *Ibid.*, 109.

²⁸⁶ Hendrick Hartzog, *Man and Wife: A History*, (Cambridge, Mass: Harvard University Press, 2000): 12.

²⁸⁷ *Ibid.*, 67.

²⁸⁸ Mintz and Kellogg, *Domestic Relations*, 109.

²⁸⁹ *Ibid.*, 60.

problems. Awareness regarding social issues, such as intimate-partner violence, facilitated the formation of many reform organizations, and they in turn served as an impetus for legal reform.

Temperance Organizations

Other organizations also helped place pressure on the state to address the problem of intimate-partner violence. Although established in 1873 to deal with the problems associated with alcohol, the Women's Christian Temperance Union took a stance against intimate-partner violence. Previously, antebellum temperance societies employed moral suasion to convince people about the evils of alcohol, and their effect could be seen as well in education. In 1863, a North Carolina publisher released a book titled *The First Dixie Reader*. In it, the textbook included a maxim, "Don't Drink a Dram." The students would learn to read by reciting:

1. Do you see old Mr. Smith? How sad he looks! His hat is torn and his clothes in rags.
2. When he was a boy his pa gave him drams to drink, and he soon got to love it.
3. When he came to be a man, he was a sot and got drunk, and beat his nice wife.
4. Poor wo-man! She soon got sick and died, and left two small babes.
5. Now the poor old man and his boys stay there, and drink and fight. Is it not sad?²⁹⁰

Most early readers included sayings for moral instruction as well as teaching literacy. "Don't Drink a Dram" sought to show the negative impact of alcohol including poverty, violence and the destruction of the family. As a text specifically intended for distribution in the South, *The First Dixie Reader* shows that temperance advocates left a mark.²⁹¹ Interestingly, the excerpt

²⁹⁰ Marinda Branson Moore, *The First Dixie Reader: Designed to Follow the Dixie Primer*, (Raleigh: Branson, Farrar & Co., 1863).

²⁹¹ Currently, most scholars on intimate-partner violence do not recognize this argument. They believe alcohol does not *make* a person become violent. It might exacerbate problems or provide justification or an excuse for abusing a partner, but it is not the cause. See Richard L. Davis, *Domestic Violence: Facts and Fallacies*, (Westport, CT: Praeger Publishers, 1998): 111; Lenore Walker, *The Battered Woman*, (New York: Harper's and Row, 1979): 67-71; and Ron Thorne-

seems to suggest alcohol abuse as a disease rather than simply a vice.²⁹² When founded in 1873, the WCTU followed antebellum temperance societies by stressing the ill effects of alcohol.

By the late 1870s, however, the president of the WCTU broadened the organization's scope to a "Do Everything" policy.²⁹³ The WCTU joined with other organizations on a host of other issues to gain support and affect change. They quickly became politically active with lobbyists, pressuring politicians. Until the late 1890s, the WCTU believed drinking caused abuse in the home and worked to establish a strong connection between alcohol and intimate-partner violence.²⁹⁴ Unlike Stanton, the WCTU did not view marriage as a union of equals, but instead, the man was the head of the household who possessed the responsibility to maintain respectability and treat his family kindly.²⁹⁵ Woman was, the WCTU explained, defined by the home and not outside of it. The WCTU, however, agreed that divorce should be a legal recourse for wives of intemperate husbands. The WCTU also stepped into the "public sphere" with women demanding change as Carrie Nation's hatchet-wielding activities at saloons resulting in

Finch, *Ending the Silence: The Origins and Treatment of Male Violence against Women*, (Toronto: University of Toronto Press, 1992): 9.

²⁹² Ruth Bordin, *Woman and Temperance: The Quest for Power and Liberty, 1873-1900*, (Philadelphia: Temple University Press, 1981): 99.

²⁹³ Frances Willard, *Address Before The Second Biennial Convention Of The World's Woman's Christian Temperance Union*, (Chicago: Women's Temperance Publishing Association, 1893).

²⁹⁴ Temperance societies in the antebellum period first helped establish a link between alcohol and intimate-partner violence, but like many reforms, its largest success and influence came after the war. For more information on temperance prior to the Civil War, see Ian R. Tyrrell, *Sobering Up: From Temperance to Prohibition in Antebellum America, 1800-1860*, (Westport, Conn: Greenwood Press, 1979.) and Stephen Mintz, *Moralists and Modernizers: America's Pre-Civil War Reformers*, (Baltimore: Johns Hopkins University Press, 1995).

²⁹⁵ Pleck, *Domestic Tyranny*, 100.

sizeable media attention to their cause.²⁹⁶ Women led the movement in family violence and temperance through appealing to the public that women's role in the home was threatened by alcohol and intimate-partner violence. Despite the conservative tone, the WCTU drew attention to the problem of wife abuse and looked, in part, to the courts for help curbing the social evil.

Women renegotiated gender expectations, causing the legal system's views of marriage to evolve with the changes. Pressure from the WCTU and other groups led to reforms in the civil code. In 1873, states began passing legislation permitting a wife to sue a bartender for serving her husband drinks if he later beat her. By 1900, twenty states had similar legislation.²⁹⁷ This, of course, only applied to legally married wives who had warned the bartender in advance. Still, while liquor could be linked to abuse, many doubted it *caused* the violence. In 1878, W.H. Daniels wrote *The Temperance Reform and its Great Reformers*. In it, he argued,

the countries that manufacture and drink most wine use most distilled liquors, and have the largest percent of beastly, wife-beating, child-beating drunkenness. Husbands may tell their ragged and pleading wives that they can stop. They guess they know who drives. They can stop if they will.²⁹⁸

“They can stop if they will.”²⁹⁹ The choice is theirs, Daniels stated, and abusive men could avoid such behavior. If they did not, then they could be held legally accountable.

²⁹⁶ For more information on Nation, see Carry A. Nation, *The Use and Need of the Life of Carry A. Nation*, (1905). Available through Project Gutenberg at <http://www.gutenberg.org/dirs/etext98/crntn10.txt>.

²⁹⁷ Elizabeth Pleck, *Domestic Tyranny: The Making of American Social Policy against Family Violence from Colonial Times to the Present*, (Urbana: University of Illinois Press, 2004): 101.

²⁹⁸ W.H. Daniels, *The Temperance Reform and its Great Reformers: An Illustrated History*, (New York: Nelson & Philips, 1878): 561-576.

²⁹⁹ Ibid.

Societies for the Prevention of Cruelty to Children

The Societies for the Prevention of Cruelty to Children provided additional pressure on the state to address intimate-partner violence. Attention towards child cruelty and neglect gained ground in the 1870s. Concern for these innocents had national backing, and by 1874, the New York court case of Mary Ellen set a precedent and opened wide the gates for state intervention. Mary Ellen was born in 1864, and she lived with a caretaker since her parents felt they could not handle the day-to-day issues of raising their child. The arrangement lasted until Mary Ellen's biological mother died and the father moved. The caretaker then took Mary Ellen to a charitable organization that found another home for her. The new family, however, consisted of Mary Ellen's biological father, Thomas McCormack, and his second wife, also named Mary. When the biological father died, Mary McCormack married again, changing her name to Connolly. Neighbors later testified they regularly heard a child's cries coming from the Connolly apartment but did not know what to do. One neighbor, Etta Wheeler, in an unprecedented maneuver, sought help from the American Society for the Prevention of Cruelty to Animals (ASPCA), which then removed Mary Ellen from the home. In the court case, the prosecution placed Mary Ellen on the stand, and she tearfully testified about the abuses she faced from her "Mamma," Mrs. Connolly.³⁰⁰ She had been beaten with a leather strap, malnourished, poorly clothed, forced to sleep on the floor, and cut with scissors. She was not permitted in the house except at night nor permitted play with any other children. The official at the ASPCA who rescued Mary Ellen acknowledged he had no legal right to intervene and remove the child, but he claimed to have done so "in the name of humanity."³⁰¹ Impacted by the heart-wrenching testimony, the court

³⁰⁰ Ibid.

³⁰¹ Ibid.

quickly found Mary Connolly guilty of “felonious assault and sentenced her to the maximum penalty, one year of hard labor in the penitentiary.”³⁰² The same year, the New York Society for the Prevention of Cruelty to Children formed. Throughout the country, other local governments created similar agencies that could seize a child from a home of abuse and neglect. The Mary Ellen case, then, galvanized support for state interference in families “in the name of humanity.”³⁰³

In the late 1800s and the first decade of the 1900s, reports varied from illegitimacy, abuse, neglect, non-support, and intemperance, but physical cruelty gathered the most public attention in newspapers. Some cases told of fathers who beat their children so badly that their “eyes wobbled [sic].”³⁰⁴ Others told of how the men of the household abused both the wife and children. Initially, SPCCs attempted to stay out of marital conflict, focusing instead on the children. In one Massachusetts case, the social worker told of two young boys, aged six and ten, who had been reported to the organization for being sent to the store to buy alcohol for their parents. Upon investigation, the father was found to be an alcoholic, who beat and did not financially support his family. The SPCC described the home as having “no furniture. No food. House filthy.”³⁰⁵ The children were sent to an orphanage, and no help was provided to the wife.

SPCCs, however, soon rationalized assistance to abused women by claiming men lost their privileged status through the excessive use of alcohol the and beating of women and

³⁰² Ibid.

³⁰³ Barbara Melosh, Gender and American History Since 1890, (London: Routledge, 1993). The majority of complaints came from immediate family members, such as the women and children of the household in question, not neighbors or strangers.

³⁰⁴ Ibid.

³⁰⁵ Massachusetts Society for the Prevention of Cruelty to Children, Annual Report, vol. 1-18, (Boston: Wright and Potter Printing Co., 1900): 30.

children.³⁰⁶ In this sense, conservative domestic ideology and views of alcoholism enabled the odd situation where women were given some agency and recourse despite living in a male-dominated society. Since women were seen as the “natural” caretakers of children and in charge of the home, women frequently used the SPCCs for some measure of help in combating wife beating. While child abuse and neglect overwhelmingly constituted the majority of SPCC investigations, historian Linda Gordon found thirty-four percent of SPCC cases involved intimate-partner violence.³⁰⁷

In a Massachusetts report, a social worker responded to complaints about an abusive father and husband. The couple had six children, ranging from four months to ten years old, and the man squandered their money on drink and beat every member of the household. The worker described the husband as “drunken and ugly” and advised for the SPCC to take action. Arrangements were made to have the wife and children placed with a relative in another state. Before the move, however, the father promised he would change, and the mother agreed to stay. The last line of the case states, “At last accounts doing well.”³⁰⁸ In this case, the SPCC intervened to stop an abusive man. The best course of action they decided was to remove the mother and children. In doing so, they took away a man’s dependents, acknowledging each child and the mother as individuals with the right to be free from violence. The decision to stay was the mother/wife’s alone rather than something pushed by the SPCC. Breaking up a family in the

³⁰⁶ Linda Gordon, Heroes of Their Own Lives: The Politics and History of Family Violence: Boston, 1880-1960, (New York, N.Y., U.S.A: Viking, 1988): 253.

³⁰⁷ *Ibid.*, 252.

³⁰⁸ Massachusetts Society for the Prevention of Cruelty to Children, Annual Report, vol. 1-18, (Boston: Wright and Potter Printing Co., 1900): 33.

1870s and 1880s was utilized as a method to protect women and children from abuse, which testifies to the lengths SPCCs eventually went to in order to address intimate-partner violence.

With SPCCs, however, women needed to demonstrate not only need but also good character. Women who proved themselves unfit by committing an immoral act were not given any form of assistance. In Massachusetts, a man attempted to beat his twelve-year-old stepdaughter. The mother intervened and was attacked for trying to stop her husband. The twelve-year old reported the incident to the SPCC, who came to investigate. The investigators found the stepfather to be a drunk, negligent, and a wife beater. In addition to the abuse, the house appeared in shambles, and their children slept in a communal bed that was soaked because of a broken water pipe. The SPCC resolved the case by removing the children and placing them in a home, not by offering assistance to the abuse to his spouse. When the organization talked to the mother, they judged her as not worthy of help. The mother, a white woman, claimed to be married to three husbands—all of them African American. The one comment about the marriages stood as the only description of the woman. While other factors, such as the children on a wet mattress, could explain the lack of help for the abused woman, the statement on bigamy and the racial distinction of the husbands likely factored into the decision as well. Whites throughout the country feared that “racial impurities” would result from the “unfit mating,” including so-called “mixing” of the races.³⁰⁹ In Massachusetts, the state legislature passed a law

³⁰⁹ Charles Benedict Davenport, Eugenics: The Science of Human Improvement Through Better Breeding, (New York: Henry Holt & Co., 1910). Caseworkers frequently commented on “feeble minded” parents, who they claimed should not have had children. For more information on eugenics, see Wendy Kline, Building a Better Race: Gender, Sexuality, and Eugenics from the Turn of the Century to the Baby Boom, (Berkeley: University of California Press, 2001); Daniel Kevles, In the Name of Eugenics: Genetics and the Uses of Human Heredity, (New York: Knopf, 1985); and Alexandra Stern, Eugenic Nation: Faults and Frontiers of Better Breeding in Modern America, (Berkeley: University of California Press, 2005).

in 1913 banning interracial marriage.³¹⁰ By not upholding the white, middle-class ideal, the abused woman lost the SPCC's support. Some women learned to pretend to live the life of a "good woman," by hiding outside jobs or certain traits. Others did not. Not all women received assistance from the SPCC when their male partner beat them. Consequently, the SPCC's help for abused women was limited and depended on how much the woman upheld white, middle-class values.

Abused women throughout the country sought help from these organizations despite their limitations, but they often did so at the risk of losing their children. In one 1911 SPCC case, Robert L. frequently abused his common law wife and his children. He eventually tired of his partner and kicked her out of the house. Not being married in the eyes of the law, the abused woman had no rights to the property or alimony. She could not argue for custody of her children. With his common law wife gone, Robert continued his abusive ways and beat his children. After the mother complained to the SPCC, a worker came to visit the home. The children were placed in an orphanage and the father in jail, while the mother, "a sober woman and devoted to her children, calls to see them regularly."³¹¹ Despite being abused by Robert, the mother received no assistance. She could only watch as first her common law husband and then the agency took her children away. With their focus on child cruelty and neglect, the SPCC's assistance in the early 1900s often included removal of the children, and women not living "morally" risked losing their children. Sometimes, these women made the tough decision to save their children from abusive homes, even if they would not benefit from the SPCC's intervention.

³¹⁰ Massachusetts General Laws Chapter 207, Section 11.

³¹¹ Louisiana Society for the Prevention of Cruelty to Children, 19th Annual Report, (New Orleans, Hopkins' Printing Office, 22 Commercial Place, 1911): 27.

Despite these limitations, the SPCC often landed the abuser in a court. In one case, the father abused the mother and child; he also drank and provided little financial support. When asked about the allegations, the mother, “a good woman,” refused to talk, “knowing that it would mean a beating from her husband if he found she said a word against him.”³¹² Instead of dealing with “the weak wife,” the SPCC went to the courts to confront the problem of intimate-partner violence as well as child abuse.³¹³ The judge decided to place the abusive husband and father on probation. The SPCC intervened when a neighbor reported the violent man, even without the wife’s consent or assistance. Acting as an organization that promoted the public’s welfare, the SPCC took the abusive husband and father to court to face legal consequences for his actions, and although the judge’s sentence was rather lenient in this case, the SPCC acted as advocates to end violence in the home and demanded the legal system respond to the problem.

The SPCC relentlessly pressed charges and became more successful in influencing the courts. In one case, SPCC workers investigated claims that a man was beating his wife and three-year-old child. The mother told caseworkers that the father abused the child, covering him in bruises, and then used salt water and turpentine on the wounds. When she tried to stop him, he attacked her as well. Sometimes, to keep her from interfering, the husband locked his wife in a room for hours as he beat their child. The wife and child ended up needing medical care in the local hospital but upon release were placed with other family members.³¹⁴ The court heard the case and sentenced the man to three years in prison. The level of violence was extreme enough to

³¹² Louisiana Society for the Prevention of Cruelty to Children, 19th Annual Report, (New Orleans, Hopkins’ Printing Office, 22 Commercial Place, 1911): 20.

³¹³ Ibid.

³¹⁴ Massachusetts Society for the Prevention of Cruelty to Children, Annual Report, vol. 1-18, (Boston: Wright and Potter Printing Co., 1900): 28.

warrant medical care, which undoubtedly led to the more serious punishment. Still, with the SPCC's insistence, the legal system responded.

While agencies enabled the state or community to intervene and rescue abused dependents, southern states during the 1870s and 1880s focused more on the wife than the child when the accused was brought to trial. Often, child abuse and intimate-partner violence went hand and hand, and violence towards both came up in the testimony. The courts, however, typically did not file any charges for child cruelty or abuse in the postbellum South, at least not until the 1890s with the formation of local southern SPCCs.³¹⁵ This is demonstrated in the case against Sylvester Conlon. In 1884, Sylvester was laid off from the steamship *The Hutchinson*, and in his despair, he stopped by a tavern and drank for most the day. When he finally returned home, his wife, Sarah, questioned why he stayed out drinking their money rather than coming home for meals. Sylvester demanded his dinner to which, he claimed, Sarah replied, "Go to hell."³¹⁶ He then grabbed an oil can and struck her with it. As the argument heated up, Sylvester found and threw a chair, which hit their three-year-old daughter. Sarah grabbed the children and tried to leave. He pursued her eventually overtaking her and punching her as Sarah held the youngest in her arms. Mrs. Quinn, a neighbor, ran to them trying to stop the violence. When he told Mrs. Quinn to get out of his business, she turned to Sarah saying, "Why don't you leave that

³¹⁵ Like many southern states, Louisiana organized several groups called the Society for the Prevention of Cruelty to Children (SPCC), but they did not emerge until later in the 1890s. New Orleans, for instance, did not have an SPCC until 1892, and initially, its funds came almost solely from member dues and donations. Only later did governmental funding contribute to the Louisiana SPCC. See Louisiana Society for the Prevention of Cruelty to Children, Third Annual Report, (New Orleans: Hopkins' Printing Office, 22 Commercial Place, 1895). Many of the members and leaders of the organization were women. Children, as Robyn Muncy argues, were seen as the "natural" extension of female duties, and women tended to become involved in reform activities under that maternalist argument. See Robyn Muncy, Creating a Female Dominion in American Reform, 1890-1935, (New York: Oxford University Press, 1991).

³¹⁶ *State v. Sylvester Conlon* (1884) CRDC# 5573.

damned rat? Why do you live with him?”³¹⁷ Sylvester ignored her and ordered Sarah and their kids into the house. Mrs. Quinn screamed, “No! Don’t go in. He will murder you the damned rat.”³¹⁸ Eventually, Sarah escaped with the children and arrived bleeding at her sister’s house. The neighbor in this case tried to intervene on behalf of Sarah and her daughter, but the court was concerned with the problem of wife abuse. The district attorney refused to file any charges for child cruelty, and Sylvester Conlon only stood trial for assault and battery of Sarah Conlon.

The Conlon case and others in the Orleans Parish criminal court during the 1870s and 1880s demonstrate Louisiana’s focus on eradicating intimate-partner violence. In the North, the opposite trend emerged. The South typically lagged behind the North in changes largely given to its tendency to cling to tradition and the past. The prioritization of intimate-partner violence over child abuse, however, was not southern resistance to modernity. Being civilized and recognizing rights of individuals of the family—that mentality infiltrated most of the nation. But the country clearly sought to prosecute abusive partners, particularly male partners. It did not seek to hold child abusers to the same standards until the last decade of the nineteenth century. Why? Gender expectations were again being redefined during the postbellum period. Women recognized the need for more autonomy and renegotiated relationships with men that curtailed the male privilege of chastisement. Newly defined gender expectations dictated this new approach by the court system and would last until the 1890s in the South and early 1910s in the North.

Overall, however, the greatest impact of the SPCC on intimate-partner violence could arguably be seen in the civil code. Sometimes civil courts tried cases brought up by the SPCCs and successfully provided sentences for abusive men, permitted legal separations for abused

³¹⁷ Ibid.

³¹⁸ Ibid.

women, and awarded custody to the mother. The Massachusetts SPCC, for instance, enabled a woman, who suffered abuse from her alcoholic husband, to obtain a legal separation. The mother took her children, and in an agreement with the courts, the father made weekly payments through the Society for his wife and children.³¹⁹ The SPCC, in this case, facilitated the dissolution of a marriage through petitioning the civil court system in Massachusetts. Pressured by a notable organization like the SPCC, the court recognized the right of a woman to be free from abuse.

Recognizing Women's Personhood in the Civil Code

Prior to the Civil War, courts upheld patriarchal privilege. The separate spheres ideology that dominated in the antebellum period created a zone of privacy for the family, and judges emphatically defended the man's prerogative to control his family away from the prying eyes of the state.³²⁰ In 1852, a collection of Louisiana Supreme Court decisions was published citing one judge's ruling:

Domestic broils are not to be settled in a court of justice. If the conduct of the part complaining have been outrageous, the remedy must first be sought in a reformation of that conduct....if they do not [cease] the interference of the law may justly be invoked. But if the wife exasperate the husband and by ebullitions of temper provoke him to quarrel, she cannot complain. *Husbands are men, not angels.*³²¹ (emphasis added)

³¹⁹ Ibid., 20.

³²⁰ For more information on marriage, particularly before the Civil War, see Steven Mintz and Susan Kellogg, *Domestic Revolutions: A Social History of American Family Life*, (New York: The Free Press, 1988) and Michael Grossberg, *Governing the Hearth: Law and the Family in Nineteenth-Century America*, (Chapel Hill: The University of North Carolina Press, 1985).

³²¹ William D. Hennen, J.D., *A Digest of the Reported Decisions of the Superior Court of the Late Territory of Orleans; the Late Court of Errors and Appeals; and the Supreme Court of the State of Louisiana*, vol. II, (Boston: Charles C. Little and James Brown, 1852): 908.

Women, the ruling stated, could only seek separate room and board from their abusive husbands (a legal separation) *if* the abuse constituted extremely violent, *if* she did not provoke him, and *if* the husband habitually beat her. The definition of “extreme” and “habitual,” of course, rested on the court’s interpretation, and courts typically ruled with decisions that reinforced male privilege. Moreover, a wife could not press criminal charges or seek a full divorce, only legal separation in the civil court system. After all, “husbands are men, not angels,” the Louisiana courts declared, and as such, men’s abusive acts were justifiable, at least to a certain degree. Overall, the conditions placed meant few women could seek help from the court.

As women became more active in the public sphere, people viewed the institution of marriage as more public. The effects of the Civil War weakened people’s willingness to uphold the veil of privacy from the antebellum era’s view of family. Predating the Progressive Movement by a decade or two, the courts started to view marriage as something within which the state’s had the right to intervene. The change in marriage overlaps with the shift in courts intervening in families and the rise in child abuse charges and child protection agencies, such as the Society for the Prevention of Cruelty to Children (SPCC).³²² This did not mean the family or the institution of marriage held less value as an enforcer of social expectations. Instead, it shows

³²² For more information on governmental intervention in the family see Elizabeth Pleck, Domestic Tyranny: The Making of American Social Policy against Family Violence from Colonial Times to the Present, (Urbana: University of Illinois Press, 2004. Courts began reforming criminal law in marriage before changes involving the larger family. *Fulgham v. State* (1871) predates the 1874 landmark court case on child abuse. Since the two overlap some and are close in date, historians have often discussed intimate-partner violence through the lens of family, and while this approach has merit, viewing intimate-partner violence through the lens of gender, especially for the postbellum South, captures another necessary perspective.

a shift to viewing each union as a bond with public interest and women as people who retain individual rights, even in marriage.³²³

Civil courts began to chip away at coverture, where a woman's legal identity became subsumed under her husband's, and recognize some aspects of personhood in married women. Arguably, the most well-known indicator of women's legal personhood could be seen in the married women's property acts. Historians and legal scholars have long debated these acts in the 1870s and 1880s that granted married women the right to own property. Different from the married women's property acts of the 1820s and 1830s, these postbellum legislative acts did more than provide husbands with the means to hide assets through gifting them to their wives. The married women's property acts of the 1870s and 1880s, as historian Carole Shammas argues, brought tangible change in which women benefitted from the ability to own property independently, even within marriage.³²⁴ But, perhaps less discussed than the property acts, divorce on grounds of abuse set another precedent of recognizing married women's personhood. Organizations, such as NWSA, argued husbands broke the civil contract of marriage when they abused a woman. Other institutions, like the WCTU, connected alcohol to abuse and spread the message that no woman should suffer unnecessarily from such brutal acts of a husband. By lifting divorce restrictions, especially for cruelty, women gained constitutional recognition as individuals with rights, even if married.

³²³ For more on marriage as a public institution and society's interest in the marital union see Nancy Cott, *Public Vows: A History of Marriage and the Nation*, (Cambridge: Harvard University Press, 2000).

³²⁴ Carole Shammas, "Re-assessing the Married Women's Property Acts," *The Journal of Women's History*, vol. 6, no. 1 (Spring 1994): 9-30.

By the 1870s, legal writers on marriage and the civil code began to change their views on divorce and intimate-partner violence. Contemporary legal and historical scholar James Schouler wrote *A Treatise on the Law of Domestic Relations* in 1870 suggesting a new dynamic between husband and wife, which had implications for the “chastisement privilege.”³²⁵

In a ruder state of society, the husband frequently maintained his authority by force...But [in recent times] the wife has been regarded more as the companion of her husband; and the right of chastisement may be regarded as exceedingly questionable at the present day. *The rule of love has superseded the rule of force.*³²⁶ (emphasis added)

Women renegotiated new gender expectations after the Civil War, creating a reciprocal marriage based on emotion rather than female submission. Legal scholars, such as James Schouler, recognized this change and remarked that the antebellum male right to chastise his wife was, in the least, “exceedingly questionable.”³²⁷ Women’s demands for protection and the pressure from reform organizations resulted in tangible, legal results.

³²⁵ Reva B. Siegel, “The Rule of Love”: Wife Beating as Prerogative and Privacy, *Faculty Scholarship Series*, Paper 1092, 1996, http://digitalcommons.law.yale.edu/fss_paper/1092. Siegel is the foremost legal scholar on intimate-partner violence and the law, and she discusses the legal shifts in dealing with the problem. Also, historians generally recognize the companionate marriage as a change in the marital union after 1900, but a rise in emotional expectation (marrying for love) gained ground in the late 1800s, as evidenced with Schouler’s work. Peter Bardaglio also notices this “growing emphasis on affectionate love between husband and wife” in the late 1800s; see Peter W. Bardaglio, *Reconstructing the Household: Families, Sex, and the Law in Nineteenth-Century South*, (Chapel Hill: The University of North Carolina Press, 1995): xiii. For more information on the emergence of companionate marriage see Stephanie Coontz, *Marriage, a History: How Love Conquered Marriage*, (New York: Penguin Books, 2006) and Rebecca L. Davis, “Not Marriage at All, but Simple Harlotry”: The Companionate Marriage Controversy, *The Journal of American History*, (March 2008): 1137-1163.

³²⁶ James Schouler, *A Treatise on the Law of the Domestic Relations* 59 (Boston: Little, Brown, & Co., 1870). Aside from Blackstone’s *Commentaries*, James Schouler’s various works were among the most cited legal tracts of the time. *A Treatise on the Law of the Domestic Relations* was Schouler’s first publication on anything, and it was reprinted and circulated more widely in 1874, 1882, 1889, and 1895.

³²⁷ *Ibid.*

In civil courts, women increasingly sought and successfully gained divorces from abusive husbands. These courts offered a solution available to married women. With a total divorce, an abused woman could claim her freedom without being economically devastated. Courts generally awarded alimony and child support in divorce decrees. In the 1870s, the country began drastically revising divorce laws. By 1871, out of thirty-seven states, “thirty-four permitted divorce on grounds of habitual drunkenness.”³²⁸ Temperance arguably had a significant impact on legislation since the majority of states permitted divorce for alcohol and physical abuse. Still, cruelty alone accounted for thirteen percent of all divorces throughout the states from 1867-1871.³²⁹ While not a majority, a sizeable number of judges throughout the country recognized abuse alone as reason enough to permit women a divorce. The change illustrates a shift in the civil courts— a change that recognized wives as autonomous individuals, who had a right to be free from intimate-partner violence.

Louisiana passed an act in 1877, strengthening a similar piece of legislation from 1870, that declared “married persons may reciprocally claim a divorce on account of excesses, habitual intemperance, cruel treatment.”³³⁰ No longer did wives need to have an additional reason besides cruelty to receive a divorce. They could file because of abuse alone. In 1884, the Supreme Court of Louisiana put the new law to use by granting an abused wife separation of room and board. In the case of *Margaret Moclair v. James Leahy*, Moclair sued her husband for separate room and board under the charges of cruelty. She claimed that on two separate occasions after their

³²⁸ Pleck, 56.

³²⁹ Ibid.

³³⁰ Harriet S. Daggett, Louisiana Statutes Related to the Civil Code, (New Orleans: Louisiana Law Institute, 1943).

marriage in 1881 Leahy broke furniture, “used foul language, and struck her.”³³¹ He also failed to provide for her, depriving her of food and medicine when sick. Despite prior decisions in favor of the husband, the Supreme Court of Louisiana overturned the lower courts, and Moclair’s separation was granted with a provision that she could seek alimony and division of community assets in a separate case. The presiding judge, J. Poche, declared in the court’s opinion, “A woman subjected to such treatment is justifiable in taking refuge with her parents and is entitled to the intervention of the laws enacted for the protection of ill-treated and abused wives.”³³² Leahy failed to live up to his obligations under the new masculinity as a husband and man. He did not provide or protect his wife, and he acted brutally by verbally and physically abusing her. Consequently, the courts felt the woman had the right to be legally separated from her husband.

Within three years, Louisiana courts moved from granting separations to full divorces in cases of abuse. In the 1887 case *Macado v. Bonet*, the Supreme Court of Louisiana granted the wife a full divorce from her abusive husband.³³³ For years, Bonet verbally and physically abused Macado in the presence of their children, servants, and guests, and once he attempted to kill her by shooting at her with a pistol. Bonet claimed Macado had been abusive as well—yelling, cursing, and breaking furniture. Typically, courts would not grant divorces when fault could be found with both spouses, and so the lower courts of Louisiana ruled in the husband’s favor.³³⁴ In the Supreme Court’s opinion, J. Poche overturned the lower courts saying,

³³¹ 36 La. Ann. 583, 1884 WL 8065 (La.).

³³² *Ibid.*

³³³ 39 La. Ann. 475, 2 So. 49.

³³⁴ For more information on the issues victims face when they fight back, see Susan L. Miller, *Victims as Offenders: The Paradox of Women’s Violence in Relationships*, (New Brunswick:

To condemn a woman to live under the authority of a brutal husband whose excesses and cruelty render her life with him absolutely unbearable, simply because such conduct has driven her to desperation, culminating in endless quarrels with him, and in violent explosions, would be a denial of justice.³³⁵

The wife, then, did not have to play the passive role to be treated as a lady and receive rights in the courts. Her husband's brutality alone constituted grounds for divorce. Given the emerging views of manhood and womanhood, the shift in the civil court system appears less surprising. The husband's failure to be "civilized" meant he had violated his obligation as a man and, given his public marital vows, as a husband. Moreover, the new womanhood meant women possessed a certain degree of agency when found to be a victim of intimate-partner violence.

The Suffrage Movement, the Temperance Movement, and the Child Cruelty Movement created organizations that pressured the legal system to recognize women's right to be free from violence. Whether through legal separation, child support, or divorce, state civil codes began to change in response to social and institutional demands to do something about intimate-partner violence. The impact was far from negligible as some states revisited divorce laws. But ultimately, these movements and these laws affected only legally married women. To really end intimate-partner violence, states would have to take the next step and alter criminal statutes and punish offenders.

Rutgers University Press, 2005) and Michelle L. Meloy and Susan L. Miller, The Victimization of Women: Law, Policies, and Politics, (Oxford: Oxford Universtiy Press, 2011).

³³⁵ 39 La. Ann. 475, 2 So. 49.

CHAPTER 5
THE CRIMINALIZATION OF INTIMATE-PARTNER VIOLENCE

The wife is not to be considered as the husband's slave. And the privilege, ancient though it be, to beat her with a stick, to pull her hair, choke her, spit in her face, or kick her about the floor, or to inflict upon her like indignities, is not now acknowledged by our law...[I]n person, the wife is entitled to the same protection of the law that the husband can invoke for himself...Her sex does not degrade her below the rank of the highest in the commonwealth. — Judge J. Peters, 1871³³⁶

The legal precedent for prosecuting cases of wife abuse started in 1871 when the Alabama State Supreme Court ruled against a man charged with assault and battery. George Fulgham had been “disciplining” one of his children when his wife, Matilda, tried to stop the abuse. George then turned on his wife and beat her with a board. She, in turn, defended herself with a switch. The defense claimed a husband had the right to chastise his wife and could not be convicted on assault and battery charges “unless he inflicts a permanent injury or uses excessive violence or cruelty.”³³⁷ The Alabama State Supreme Court denied this right declaring the defense’s argument as a “relic of barbarism.”³³⁸ Women were not, Judge Peters argued, “the husband’s slave” but rather an individual recognized by the law, even within marriage. Just as

³³⁶ *Fulgham v. the State* 46 Ala. 143 (1871).

³³⁷ *Ibid.*

³³⁸ *Ibid.* Since George and Matilda Fulgham were African American, some scholars contend the courts sought to regulate the “lower classes” and people of color; however, in the trial court, Judge Peters cut across class and race lines in his ruling denying any “special privilege” before the eyes of the law.³³⁸ He argued, “The law for one rank is the law for all ranks of the people, without regard to station.”³³⁸ The Supreme Court of Alabama upheld the lower court judge’s opinion.³³⁸ Southern courts, while concerned with class and race, did extend protection, rights, and the status of womanhood to abused wives. For arguments about *Fulgham* as a means of social control over lower socioeconomic classes and people of color, see Reva Siegel in “Wife Beating Prerogative and Privilege,” Peter Bardaglio in *Reconstructing the Household*, and Laura Edwards in “Women and Domestic Violence in Nineteenth-Century North Carolina,” in *Lethal Imagination: Violence and Brutality in American History*, (New York: New York University Press, 1999): 115-138.

slaves once had no legal protection but gained political rights in the postbellum decades, women too gained legal personhood after the war. Moreover, the ancient privilege of chastisement was no longer accepted justification for a husband assaulting his wife. In using the term “slave,” Judge Peters recognized slavery as no longer acceptable and used this analogy to show how wrong and antiquated the male privilege of chastisement was by 1871. Instead of being protecting men who were violent against their female partners, the criminal courts in the postbellum decades ruled against men charged with assault and battery for being guilty of intimate-partner violence.

Criminal Law and Legal Marriage

Before the Civil War, only two states passed legislation specifically on intimate-partner violence—Georgia and Tennessee.³³⁹ In Georgia’s 1857 “Whipping Wife” law, the criminal code simply stated: “If a man shall whip, beat, or otherwise cruelly maltreat his wife, he shall be deemed guilty of misdemeanor and upon conviction shall be punished.”³⁴⁰ Tennessee’s law was similar, but neither law contained specific penalties for violations. Even after the Civil War, criminal statutes in the majority of the United States did not specifically mention intimate partner violence. Since most states did not pass legislation specific to intimate-partner violence during

³³⁹ Elizabeth Pleck, "Wife Beating in Nineteenth-Century America," *Victimology: An International Journal* 4 (1979): 60-74.

³⁴⁰ R.H. Clark, The Code of the State of Georgia, Second Edition (Macon, Georgia, 1873): 825.

the nineteenth century, criminalization and prosecution of intimate-partner violence took place within the court system and was fleshed out by case law.³⁴¹

By the mid-1870s, judges reinterpreted criminal statutes already on the books to apply to wife beaters. Many state statutes on assault contained a vague definition focusing on the intent to cause harm, regardless of the sex of the assailant or victim. This enabled a district attorney to press criminal charges against an abusive husband, and given the demands from abused women, local communities, and organizations, that the legal system address intimate-partner violence, courts followed by successfully prosecuting and punishing wife beaters. In Louisiana, dockets for criminal court cases against abusive husbands cited Section 796 of the Revised Statutes of Louisiana, which contained a genderless, open-ended definition of assault and of punishment, which left both to “the discretion of the court.”³⁴²

Judges used personal discretion, influenced by new social attitudes on gender and marriage. Recorder court judges in Louisiana questioned both the plaintiff and the defendant in assault and battery cases. Occasionally, the questions asked convey some bias. In 1884, Adelina

³⁴¹ While some states did pass legislation around the turn of the twentieth century criminalizing what they termed “wife beating,” most did not. The general belief in the United States held spousal abuse to be illegal after 1871 (see Pleck’s *Domestic Tyranny*), but courts were left to interpret the law as it stood to include intimate-partner violence. Louisiana, for instance, had a legislator W.S. Posey (D) propose a law to define and punish wife beating in 1886, but it never made it to the House floor. However, not all states uniformly ruled on the issue. Louisiana had no law on wife beating, but criminal court dockets on assault and battery indicated husbands were routinely arrested and tried for beating their wives. See also Elizabeth Pleck, “Wife Beating in Nineteenth-Century America,” *Victimology: An International Journal* 4 (1979): 60-74. As I seek to show in this dissertation, the country generally tried to prosecute abusive men under assault and battery charges during the postbellum period. The current legal system does define a separate criminal statute for “domestic violence,” but those changes stem from more the mass conscious raising efforts of the Women’s Movement in the 1960s and 1970s. Louisiana’s most current statute is based on legislative changes made in 2000.

³⁴² Most cases in the Orleans Parish criminal court for assault and battery used Section 796, for example: *State v. Thomas Coffey* (1884) CRDC# 5211 and *State v. George Blancque* (1884) CRDC# 5251.

Lee gave testimony to the local judge after her husband Ben beat and choked her till she passed out. Adelina stated, “He beat me all up and down my side.... I had been away from home all day to keep him from fighting me.”³⁴³ Her neighbor, Sarah Colbert, also gave testimony, stating, “I heard him ask her for something to eat and she said she had nothing. He threw the plate of victuals at her. He beat her and choked her until she was unconscious. She couldn’t speak. I called watch and when the whistle blew on Clio Street he stopped.”³⁴⁴ Despite the plaintiff’s account of the events, which were verified by a witness, the judge still asked, “Had he any right to beat you?”³⁴⁵ The question suggests the judge might have let the abusive husband go if the wife gave any reason that she somehow provoked Ben. Adelina responded with one word, “no.”³⁴⁶ Adelina clearly articulated her husband had no right to beat her, despite the judge’s question to the husband’s right. As a result, Ben Lee was sentenced to two months in prison and to pay court costs.³⁴⁷ The *Ben Lee* case suggests judges did sometimes have lingering views on the male privilege of chastisement but could be influenced by the victims seeking legal help.

As judges witnessed shifts in gender expectations, they began to employ different tactics in the courtroom instead of waiting for the legislature to change existing laws. The majority of the states during the 1870s and 1880s did not specifically criminalize spousal abuse, but the courts increasingly protected women’s rights to be free from violence extending beyond simple paternalism. Paternalism would imply courts wanted to show male strength by protecting those

³⁴³ *State v. Ben Lee* CRDC 5421 (1884).

³⁴⁴ *Ibid.*

³⁴⁵ *Ibid.*

³⁴⁶ *Ibid.*

³⁴⁷ *Ibid.*

considered weak, but the courts expressed a right of women to be free of violent attacks.

Louisiana Recorder's Courts and trial courts relied on the abused wife's sworn description of the incident, even though Section 1712 of the Louisiana criminal code denied a wife's testimony against her husband.³⁴⁸ Consequently, examining case law as decided in the criminal court system contains vital information for understanding the state's intervention in the family and application of new gender expectations.

Among one of the most frequently pressed charges, assault and battery totaled approximately twenty-two percent of all criminal court cases in Orleans Parish between 1880 and 1932.³⁴⁹ Assault and battery cases resulted from barroom brawls, lack of manners, money issues, race-based attacks, boredom, jealousy, domestic conflict, and retaliation for verbal insults (to name a few). Sometimes the assailant only used his or her hand or fist, but oftentimes axes, cotton hooks, chairs, pots, knives, and guns were involved as well. The exact charge could be listed as "assault and battery," "assault and wounding," "assault with a dangerous weapon," or "assault with intent to murder," for example. While "assault with intent to murder" and those attacks resulting in life-threatening injuries might be better filed as attempted murder at present, the court system in postbellum Louisiana generally charged a person who sought to inflict any

³⁴⁸ *Revised Laws of Louisiana, Containing the Revised Statutes of the State as amended by acts of the legislature from the session of 1870 to that of 1896, inclusive and all other acts of general nature for the same period, all annotated with the decisions of the Supreme Court of Louisiana contained in Annuals 39 to 48 and a part of 49*, (New Orleans: The Republican Office, 1870): 337.

³⁴⁹ About 10,181 of 46,474 court cases from the 1880 to 1932 period in Orleans Criminal Courts involved charges of simple assault, assault and battery, assault by wounding and cutting, assault with a dangerous weapon, assault by willfully shooting at, assault with intent to commit murder, and assault with intent to rape. Assault cases, then, accounted for 22% of the total number of cases during the period.

sort of harm on another party with assault and battery.³⁵⁰ Of the assault and battery charges, cases that involved intimate-partner violence comprised approximately sixteen percent.³⁵¹ While not a majority, intimate-partner violence related assault and battery charges were far from negligible. Courts did not overlook violence in a home, even if the couple was legally married. Instead, the states actively pursued and prosecuted “uncivilized” men for abusing their partners.³⁵²

The number of cases in Orleans Parish from 1870 to 1900 illustrates the legal response to the public’s social awareness about the problem of intimate-partner violence. In the appendix, table A.1 breaks down the two hundred and two criminal cases tried between 1870 and 1900 by year. From 1870 to 1879, twenty-six cases of intimate-partner violence (or approximately thirteen percent of the sample size) were tried. During the 1880s, however, the courts witnessed a surge in cases with a total of one hundred sixty-five cases (eighty-one point five percent). In the

³⁵⁰ This is also why I refer to various assault cases as well as the assault and battery incidents under the collective phrase “assault and battery.” The courts seemed to view assault only cases as assault and battery in their sentencing. The punishments on assault cases and assault and battery cases were generally the same with only the intent to murder leading to a more severe fine or longer jail time. Moreover, often the assault only cases involved bodily damage, so differentiating between assault only and assault and battery cases is problematic and would confuse those who understand the current legal system’s definitions of criminal charges.

³⁵¹ From a random sampling of 1,228 assault and battery cases, 202 (16%) involved intimate-partner violence (courtship violence, abuse against a common law wife, and wife beating).

³⁵² For the majority of cases, I do not discuss the race of the defendants and plaintiffs. The main reason is because of the limitation of the records. The court had no mandatory reporting of race or ethnicity of the people involved in any of the documents. Sometimes I could tease out the race based on testimony, but there were no other clues. Only the address and name of the people involved were recorded. I tried to match these against Census records, but the limited information recorded prevented me from locating and definitively establishing race in the vast majority of people in question. From those cases I was able to establish race, I did not see a difference in prosecution during the 1870s and 1880s. Other historians, such as Bertram Wyatt-Brown, and legal scholars, such as Carolyn Ramsey, noted prosecution of wife beating during this period frequently included wealthy, white men.

South, the 1870s and 1880s were the height of legal concern for intimate-partner violence. Gender expectations remained heavily contested. The 1890s, however, mark a sharp decline in court cases for intimate-partner violence.

Often criminal courts relied on witnesses to prove the word of the plaintiff; otherwise, the case became a he said/she said situation. Many courts, however, sometimes waived the need for witnesses. Intimate-partner violence frequently took place in the home, particularly the kitchen and bedroom, so a third party could be difficult to find. Rather than throwing out the wife's testimony or believing the man over the woman, as would be expected in an intact patriarchy, courts, such as those in Louisiana, gave priority to the wife's testimony in intimate-partner violence cases. Most had no legal right to do so, but under criminal statutes of assault and battery, the judge could use his own discretion. Many interpreted this in the 1870s and 1880s to include recognition of the wife's testimony. In 1884, Adeline Lee pressed charges against her husband Ben for a second time. In her statement to the recorder's court, she relayed what happened:

I was in the yard washing and he went in the kitchen and we had some words about milk. He told me to hush and I told him I wouldn't and he hit me three times with his fist once in the nose once in the side of the face and once in the arm.³⁵³

No witnesses were present nor were they required in this case. Adeline blatantly challenged the concept of a patriarchy and female passivity. She refused to "hush" when told to do so by her husband, and she pressed charges for spousal abuse. For his crime, Ben served ten days in the parish prison and had to pay court costs. Adeline's testimony was accepted as legal, and despite her husband's denial of the incident, the judge believed Adeline and convicted Ben. Sometimes in the court documents, recorders wrote that the plaintiff showed her bruises or cuts from the

³⁵³ *State v. Ben Lee* (1884) CRDC# 5151.

abuse or the judge asked about the obvious physical markers. The Lee case had no record that visible evidence was presented. Perhaps the transcriber neglected to mention any marks, but since Adeline went to the court three weeks after the incident, the judge seemed to have relied exclusively on testimony. The court extended the rights of womanhood to Adeline even though she did not have a witness and even though she did not display complete submissiveness.

While women who were physically abused seemed to have better grounds for pressing charges, women frequently discussed emotional and verbal abuse in their testimony of the event. For the courts, verbal abuse helped depict the batterer as a brute, but for the wife, the verbal, emotional, and physical abuse inflicted all figured significantly into their testimonies. With the changes in gender expectations, emotional happiness mattered to these women, and men were expected to reflect that new expectation in their behavior. In one instance in 1886, Emma Seldner sat on the porch talking with her mother and a female friend until Emma's husband Nicholas started to yell at everyone. In her testimony, Emma stated, he "then came back and began abusing me and then he struck me a blow in my face."³⁵⁴ In the mother's testimony, Sophie Langs claimed Nicholas "had never treated her [Emma] as a wife" and called Emma "a whoar [whore] and a dam bitch."³⁵⁵ Emma spent more time discussing the name calling than her husband punching her in the face, indicating that she seemed to prioritize the verbal abuse as the most significant grievance. She went on to describe how he had already called her mother "an old bitch" and did not respect any of her female family members.³⁵⁶ While being hit mattered to Emma Seldner, so did the curse words. Some scholars may read this as Emma portraying herself

³⁵⁴ *State v. Nicholas Seldner* (1886) CRDC# 8916.

³⁵⁵ *Ibid.*

³⁵⁶ *Ibid.*

as a lady, who was offended by such language, but the court records show Emma tried to choke her husband and possibly hit him with a brick while Nicholas was restrained and being taken away by the police.³⁵⁷ To seek legal redress, women could have portrayed themselves as ladies and passive victims, but this was not always the situation, as evidenced by Emma.³⁵⁸ Her testimony and actions reveal she expected the right to be free from violence, both physical and emotional. The judge listened to everyone and found Nicholas acted as a fiendish husband by insulting and beating his wife, and Nicholas spent three months in the parish prison.³⁵⁹ Husbands, the court suggested in its ruling, could not resort to physical or verbal abuse without being subject to legal punishment.

Criminal Law and Extramarital Relationships

Women's emerging sense of self and sense of autonomy did appear slightly more marked in victims of intimate-partner violence outside of the legal institution of marriage. While intimate-partner violence cases in legally recognized marriages comprised sixty-one percent of

³⁵⁷ Ibid.

³⁵⁸ Ibid. Those that discuss women having to fulfill the role to get successful prosecution include Laura Edwards in "Women and Domestic Violence in Nineteenth-Century America," Elaine Tyler May in Great Expectations, Ann Lloyd, Doubly Deviant, Doubly Damned: Society's Treatment of Violent Women, (London: Penguin Books, 1995), and Reva B. Siegel, "'The Rule of Love': Wife Beating as Prerogative and Privacy." Moreover, Emma Seldner did not deny or justify her attempt to choke Nicholas Seldner, although she claimed not to have had a brick in her possession. Moreover, Sophie Langs pushed him off her porch during the incident. Neither Langs nor Emma sought to cover up, deny, or justify that either. Still, the court convicted the husband for assault and battery. While gender expectations as well as racial and socioeconomic class bias played into the courtroom decision, judges seemed more preoccupied with punishing abusive husbands than enforcing a rigid hierarchy of class, race, and gender. Also, the decision suggests that the courts seemed less influenced by paternalism but rather, as I argue, proving themselves by punishing "uncivilized" men.

³⁵⁹ Ibid.

the cases examined, they accounted for seventy-six percent of those where the charges were dropped.³⁶⁰ Non-marital intimate-partner violence cases, on the other hand made up thirty-nine percent of the sample size and only twenty-four percent of the *nolle prosequi* cases.³⁶¹ Although not an immense difference, the fact that non-married women more successfully prosecuted their abusers does hint at a different situation and mentality between those legally married and those not. Legal reform in the crusade against intimate-partner violence included addressing abuse in relationships outside of the institution of marriage, even if the law perceived unmarried women differently.

Girlfriends and common law wives quickly realized, aside from some benefits, such a relationship came with limitations. Either party of the relationship could not utilize the civil courts to seek divorce, alimony, or maintenance for separate room and board. Not regarded as a “real” marriage, the legal system in Louisiana did not consider there to be community property that needed to be divided.³⁶² Economically, then, women who were dependent upon their significant other’s income in informal marriages tended to be more economically vulnerable. Torts were sometimes, although rarely, a useful recourse, but generally, the criminal courts offered the only legal solution for abused women in common law marriages.³⁶³

³⁶⁰ Of the sample, 123 cases (61%) were of marital intimate-partner violence. Marital intimate-partner violence *nolle prosequi* cases totaled 25 out of a total of 33 or 76%.

³⁶¹ Of the sample, 79 (39%) of intimate-partner violence cases were non-marital (common law marriage, courting violence, etc). Non-marital intimate-partner violence cases comprised 8 of the 33 *nolle prosequi* and not guilty cases, which translates to 24%.

³⁶² Bastardy cases could hold fathers in relationships outside of legal marriage accountable, but often, men escaped these suits. See Edward J. Blum and W. Scott Poole, eds., Vale of Tears: New Essays on Religion and Reconstruction, (Macon, Georgia: Mercer University Press, 2005): 30.

³⁶³ Reva Siegel, “The Rule of Love”: 2163.

Courts actively prosecuted men who abused their female partners, whether the victims were in a common law marriage or simply courting. The right to be free from violence extended to all women, as shown in the *Green* case. In April of 1885, Lizzie Jones went out with a group of friends, but the night ended tragically with her admittance to Charity Hospital. A man she was seeing, William Green, followed Jones and her friends for a while. At one point in the evening, he tried to join the group and become affectionate with Jones, but when his advances were refused, Green responded violently. Lizzie Jones testified,

The accused attempted to put his arms around me. I objected and he struck me over the head with his coat that he was carrying in his arms. We had a few words there. When we left and walked up as far as Nashville Avenue where we had some more words. Then the accused broke a jailing off a box around a tree and struck me violently on my left side with it. He dropped the stick and struck me several blows with his hands. I told him I would have him arrested when he said they could only give him thirty days for it and when he came out he would kill me.³⁶⁴

Green's actions suggest he felt entitled to a certain amount of compliance and intimacy from his girlfriend, and his supposed "right" permitted him to force Jones into submission. The courts, Green believed, would only give him a slap on the wrist, recognizing a man's right to chastise his female partner. Contrary to his belief, the courts found William Green guilty of assault and battery and sentenced him to four months in the parish prison.³⁶⁵ Granted, Green's actions were extreme, beating Jones with an object to the point she was confined in the hospital for seven days and in bed at home for another ten days.³⁶⁶ Courts generally responded in accordance with the severity of the assault and were more likely to punish someone based on the damage inflicted. The Green case obviously qualified as serious given Jones required seventeen days of bed rest

³⁶⁴ *State v. William Green* (1885) CRDC# 7194.

³⁶⁵ *Ibid.*

³⁶⁶ *Ibid.*

after the assault, but this case also showed the courts drawing a distinction between what was acceptable and what was not.

Lizzie Jones's experience shows that single women could and did use the legal system to deal with intimate-partner violence, and the courts responded by prosecuting the abuser. Lizzie Jones knew she had the right and ability to press charges against William Green for beating her—even if she had been romantically involved with him, and she warned him as much. The new womanhood brokered a different dynamic between men and women, one in which women expected the right to be free from violence. If men violated the expectations, then women could seek justice through the courts.

Sometimes the courts continued prosecution when women attempted to have the charges dropped. In 1886, Henry Gibbons argued with his common law wife Emma Connors, accusing her of being out all night drinking. At one point, he threw a kettle at Emma, and somehow she landed on the furnace and burned her leg. A young African American child named Lizzie Missouri worked for the Gibbons' family washing their laundry. She witnessed the attack but did nothing at first. She knew Henry had a history of being abusive, and Emma tended to drop charges. Although Lizzie may have not directly intervened, she shamed them by saying, "Look at you two fighting" and then ran to get a watchman, even though Emma told her not to do so.³⁶⁷ Emma attempted to have the court drop charges as she had done in the past, but the state, in removing the choice from her, continued its prosecution. Emma's common law husband faced an arraignment, plead guilty, and served ten days in jail. Female agency in intimate-partner violence during the postbellum period was more complex than simply empowering the victim. Women could and did press charges of assault and battery against their abusers, and the majority of these

³⁶⁷ *State v. Henry Gibbons* (1886) CRDC# 8845.

women did not drop their suits. Sometimes, however, the victim's voice lost out to other men and women in the community. The fact that the court refused to drop the case suggests the local judge and district attorney felt the history of abuse necessitated the state intervening and mandating consequences. The legal system in the *Gibbons* case took it upon themselves to address the social problem of intimate-partner violence, even without the consent of the abused woman. Intimate-partner violence had become a public concern, and the high level of awareness about the problem required the law to act when evidence of abuse was presented to local authorities.

Courts became more active in the 1870s and 1880s, addressing the problem of intimate-partner violence, and they even extended legal protections to women engaged in interracial relationships. Despite the increasing stigma against interracial couples, the courts broadened protections to white and black women who were in relationships with men of another race. In 1886, Kate Siddell pressed charges against her African-American boyfriend Richard (Dick) Sheldon. He monitored her activities on the day of October 7 and waited outside the building where she rented a room. The owner, Josephine Bernard, told Siddell that Sheldon was outside, and Siddell tried to make him leave. Sheldon hit her, knocked her down, and then hit her again with a stick.³⁶⁸ After Sheldon was arrested, Siddell went to the station to give a statement, and he ran up to her yelling, "You damn white bitch." Despite his outburst, she still pressed charges. Bernard served as a witness and testified Sheldon often "made trouble."³⁶⁹ Sheldon indeed had a prior history of abuse. The previous year, his African-American girlfriend Ernestine Kent had

³⁶⁸ *State v. Richard Sheldon* (1886) CRDC# 8776.

³⁶⁹ *Ibid.*

pressed charges against him for assault and battery, and he had served a month of jail time.³⁷⁰

Given the overwhelming evidence and prior conviction, Sheldon pled guilty and was sentenced to a month in jail. Interestingly, the court's sentence for Sheldon was comparable to those in relationships of the same race.

In another interracial relationship, the court upheld a woman of color's right to be free from violence when the abuser was white. Ellen McClellan pressed charges against her estranged husband, Gehart Koester, in 1887. Before a trip to Texas, Koester "asked an improper question."³⁷¹ When McClellan declined, he demanded she sit on his lap, which she again refused. Koester then took out his pistol and shot five shots, with one hitting McClellan in the leg. He was arrested and sentenced to four years in prison. Three days after the criminal trial, the local civil court granted McClellan a legal separation. In the civil trial, McClellan used prior arrests of Koester for physical abuse in July of that year as well as verbal cruelty for him calling her a "damned nigger whore."³⁷² While Koester's actions could be viewed as attempted murder and therefore more extreme than the *Sheldon* case, Koester was guilty of intimate-partner violence, which led to the courts granting a legal separation and imprisoning him.

³⁷⁰ *State v. Richard Sheldon* (1885) CRDC# 7353. The formal punishment was 10 days in the Orleans Parish Prison, but he had not made bail and had remained in jail for a few weeks before the trial date and sentencing.

³⁷¹ *State v. Gehart Koester* (1887) CRDC# 10213. The closest census records to match the couple are from the 1880 census. A "G. Koester, Jr." lived in New Orleans, Louisiana and was married to an Ellen Koester in 1880. They inhabited a mixed neighborhood with immigrants from Italy and England as well as whites and African Americans. Koester name appears to be of German origin, but the "G. Koester, Jr." from the 1880 census listed his race as white and his birthplace as Louisiana, making him at the very least a second-generation immigrant if he was German at all.

³⁷² *Ibid.*

During the 1870s and 1880s, courts intervened in intimate-partner violence similarly across race, ethnicity, and socioeconomic class. Women, regardless of rank or color, possessed the rights of womanhood, at least as it applied to protection and intimate-partner violence. Officers called the victims “ladies” when they referred to them in the court transcripts, even if the woman was not white or from the middle to upper classes.³⁷³ The rhetoric of protection and changing gender expectations created a narrow but definite space for strengthening female identity without the divide of race, class, or marriage status.

The Whipping Post Debate

By the 1870s, the alternative of the whipping post emerged as a punishment for wife beaters. Only Maryland passed legislation permitting abusers to be whipped before the turn of the twentieth century, and the law was largely symbolic and infrequently used.³⁷⁴ Still, many states debated the merits of a whipping post for wife beaters, and newspapers throughout the country carried coverage denouncing or praising the whipping post.³⁷⁵ *The Wheeling Register* of West Virginia openly supported such legislation. Whipping an abuser was the “natural punishment,” especially since

³⁷³ For example, *State v. J.O.C. Wallis* (1888) CRDC# 11094, *State v. Richard Sheldon* (1886) CRDC# 8776, and *State v Martin Johnson* (1886) CRDC# 8562.

³⁷⁴ For more information on whipping post regulations, see Elizabeth Pleck, “Wife Beating in Nineteenth-Century America,” 4 *Victimology* (1979): 60-74; and Elizabeth Pleck, *Domestic Tyranny: The Making of Social Policy Against Family Violence from the Colonial Times to the Present* (New York: Oxford University Press, 1987). Delaware and Oregon also passed whipping post legislation during the first decade of the twentieth century, but it was, like Maryland’s law, rarely used.

³⁷⁵ As early as 1876, state legislatures in North Carolina and Indiana proposed whipping post legislation. In 1877, Nevada passed a bill that punished men who beat women (a wife or not) by tying him to a post for two to ten hours while he wore a sign saying, “Woman or wife beater.” The Nevada law, however, was not used. See Elizabeth Pleck, *Domestic Tyranny*, 110.

four times out of five the poor bruised woman will come to testify in his favor...She does this because she and her children will suffer hunger and cold if he loses his wages by imprisonment. He will go to a comfortable prison; she will suffer vastly more than he....There is something in nine and thirty well laid on that lingers in the memory, and helps to make drunken husbands well behaved.³⁷⁶

Interestingly, *The Wheeling Register* recognized the complexity of intimate-partner violence and the problems in holding the abuser accountable. Prison sentences compounded the victim's difficulties since she would be without a vital source of income. With the majority of women remaining at home until the 1980s, many women throughout American history depended upon their partner's wages.³⁷⁷ Even in working class families, men earned a larger income. The whipping post offered a potential solution to the social problem without compounding the victim's sufferings.

Other states took notice. In 1879, Missouri and Kentucky legislators introduced a whipping post bill, which led to heated discussions. The mid-1880s also witnessed a notable increase in legislative debates over the whipping post largely due to the highly publicized account of the second use of Maryland's whipping post law.³⁷⁸ In 1882, a lower Baltimore court sentenced a white man by the name of Frank Pyers to fifteen lashes and six months in jail.³⁷⁹

³⁷⁶ "Wife Beating," *The Wheeling Register*, March 21, 1877, (Wheeling, West Virginia).

³⁷⁷ Alice Kessler-Harris, *Out to Work: A History of Wage-Earning Women in the United States*, (New York: Oxford University Press, 1982): 301. For more on women in the workforce, see Alice Kessler-Harris, *In Pursuit of Equity: Women, Men, and the Quest for Economic Citizenship in 20th Century America*, (Oxford: Oxford University Press, 2001) and Jeanne Boydston, *Home and Work: Housework, Wages, and the Ideology of Labor in the Early Republic*, (New York: Oxford University Press, 1990).

³⁷⁸ By the mid-1880s, states such as Massachusetts, Pennsylvania, and New Hampshire debated whipping post legislation. See Elizabeth Pleck, *Domestic Tyranny*, 113. In Louisiana, a legislator (Cordill) announced he would propose whipping post legislation, but he never did. See "The Legislative Journal," *The Daily Capitolian-Advocate*, May 11, 1886, (Baton Rouge, Louisiana).

Described as “a thick-set, muscular man of about 30 years, who was formerly the brakeman on the Baltimore and Ohio Railroad,” Pyers had been convicted for beating his wife and causing her to miscarry.³⁸⁰ Even after the public whipping, Pyers protested his innocence and stated no white man deserved such treatment.³⁸¹ He tried to sneer or smile during his incarceration, but when Pyers returned to his cell and was treated for the lacerations, he told the doctor, “That’s a d---- hard punishment.”³⁸² Pyers spent the rest of the day in tears “from the realization of his degradation” and remained in a “dazed and half stupid condition.”³⁸³ Reportedly, Henry Myers, another white man recently convicted for assault and battery of his wife and sentenced by Maryland’s whipping post law, sat frightened in his cell as he heard Pyers receiving his lashings. As a result of having broken the spirit of the abusers, the local sheriff claimed the whipping post a success. This punishment attracted so much attention because the abuser was white while the first Maryland flogging had been of an African American man. Discussions on the merits of the whipping post filled newspapers. Some, such as *The Philadelphia Inquirer*, claimed it necessary “for the brutal and cowardly ruffians who beat their wives.”³⁸⁴ The whipping post would make the abuser “be reclaimed and society have restored to it a human being in place of the wife-

³⁷⁹ “The Whipping Post Fifteen Lashes in Sixteen Seconds for Wife Beating,” *The Sun*, June 16, 1885, (Baltimore, Maryland).

³⁸⁰ “A Wife Beater Flogged,” *The New Haven Evening Register*, June 16, 1885 (New Haven, Connecticut).

³⁸¹ *Ibid.*

³⁸² “The Whipping Post Fifteen Lashes in Sixteen Seconds for Wife Beating,” *The Sun*, June 16, 1885, (Baltimore, Maryland).

³⁸³ *Ibid.*

³⁸⁴ “Mr. Adams: Senate,” *The Philadelphia Inquirer*, January 24, 1885 (Philadelphia, Pennsylvania).

beating brute.”³⁸⁵ Still, while several legislatures debated whipping post bills and newspapers bandied about its usefulness, advocates for abolishing corporal punishment won in the majority of states. Legal remedies, then, rested primarily in whether the courts would try and punish the assailant for assault and battery in incidents of intimate-partner violence.

Nolle Prosequi

Overwhelmingly women exhibited agency in using the legal system to uphold the right to be free from violence, but intimate-partner violence involved complex issues. Consequently, not all married women could be completely defiant. Approximately sixteen percent of the intimate-partner related assault and battery cases were marked as “nolle prosequi,” a term that meant the plaintiff dropped charges.³⁸⁶ Women stopped the cases for a number of reasons varying from fear to economic need. Sometimes the ideal that a woman had the right to be free from violence lost to the reality of everyday life. Annie Hannewinckle testified when her case went to trial that she did not wish to prosecute anymore by stating, “I want peace that is all.”³⁸⁷ Since her husband had not made bail and had been sitting in jail for over a week, she felt he had served enough time. Any more time in jail would not be needed to learn his lesson, Annie concluded. Moreover, she needed him out of jail so he could contribute to the family income. Immediately after her wish for peace, Annie said, “For every dollar he made, I made half.”³⁸⁸ Annie argued she contributed to the family, but her income paled in comparison to his. As a family dependent on two incomes,

³⁸⁵ Ibid.

³⁸⁶ From the sample, the total number of charges dropped were 33 of the 202.

³⁸⁷ *State v. Gust Hannewinckle* (1887) CRDC# 10128.

³⁸⁸ Ibid.

she needed his help to provide for the children and these needs made her enter a *nolle prosequi* plea.

Similar to the Hannewinkle case, Mrs. Blondeau had her husband Gaston arrested for slapping her after a dispute over money, but five months later she dictated a letter to the District Attorney asking for the case to be dismissed.³⁸⁹ She wrote,

I am unable to appear in court tomorrow at 9 AM as I am expecting to be confined every day at any moment. I do not want to prosecute my husband, and I beg you to have mercy on me and my two children and excuse him as this is the first time that it happened, and he is my only support. If you punish him myself and children will be the sufferers. He is good to us and it will not happen again. I made the affidavit in passion, and I am sorry for it now hoping you will grant me this favor.³⁹⁰

Gaston had served nineteen days in jail before he made bail and had been back at home for the last few months of her current pregnancy. Mrs. Blondeau articulated a common problem with breaking the cycle of violence when the husband is the breadwinner because her family depended on her husband's income. As Gaston sat in jail, he did not bring in money, and the wife and children suffered. With a third child due "at any moment," Mrs. Blondeau relied on her husband. When faced with the choice of getting by financially or starvation by making her husband stand trial for beating her, she chose the economically prudent route. Solving the problem of intimate-partner violence was and is a complicated issue. Unless other social issues are remedied, unintended consequences often result from legal attempts to address intimate-partner violence. Mrs. Blondeau begged for mercy for herself and her children when faced with

³⁸⁹ Mrs. Blondeau was illiterate and had to make "her mark" with an "x" instead of a signature. The letterhead was that of the city court indicating she had dictated the letter to a clerk who handwrote it and then submitted the letter to the DA.

³⁹⁰ *State v. Gaston Blondeau* (1886) CRDC# 8757. She was fourth months pregnant at the time of the abuse. Her first name was never used in any of the documents. She was constantly referred to as Mrs. Blondeau.

losing Gaston's income. She considered it a favor for the district attorney to no longer press charges. Clearly, wives understood charging their husbands with criminal assault and battery could impact them and their children negatively, so they dropped charges, not because they believed their husbands had the right to hit them, but because other social inequities forced them to make tough decisions.

Women also dropped charges because they feared the response of their husbands when they were released. In 1888, Cecila Carter's husband Ike asked her for money. She gave him a dollar, but when he asked for more, she refused. He responded by hitting her "hard enough to make a gash."³⁹¹ Initially, she had him arrested for assault and battery, but when he made bail later the same day, she rushed into the court and begged for them to stop prosecution. The court recorder asked her why, and she plainly stated, "Because I had made a charge against him and I thought he might do something to me for it." Fear of retaliation caused women to stop the legal process. A wife could have her husband arrested for abuse, but the maximum sentence was three months imprisonment. Eventually, he would be released. If the abuser harbored a grudge, he would repeat the beating again to "teach" her not to press charges again. The fear of retaliation caused some women to revise their testimony after having their husbands arrested. In 1888, J.O.C. Wallis came home and beat his wife. She went to the local police station and asked Corporal Lethegue to press charges. After her husband made bail, she testified in court, "I attach no blame to him whatever it says in my testimony."³⁹² Despite being beaten and sustaining two major cuts on her forehead, Mrs. Wallis told the court she did not want to prosecute any more.

³⁹¹ *State v. Ike Carter* (1888) CRDC# 10995.

³⁹² *State v. J.O.C. Wallis* (1888) CRDC# 11094.

Likely, his presence influenced the change in her decision. Intimidation and threats of repeated abuse caused women to stop proceedings.

Some women feared what criminal proceedings would do to their public images. Women, regardless of socioeconomic class, pressed assault and battery charges on their husbands. While wealthier wives possessed other means to remedy intimate-partner violence, they still utilized the criminal courts, but such a resource came with drawbacks for even the well-to-do. On Tuesday, March 25, 1884, Augustus Richards attempted to throw away the dinner his wife Martha had cooked. When she tried to prevent him from doing so, Augustus choked Martha and then attacked her with a gimlet knife saying, “I will make a Kate Townsend out of you.”³⁹³ Augustus Richards’s use of Kate Townshend was a reference to a New Orleans madam who ran an upscale brothel, perhaps the most expensive in New Orleans at the time. In 1883, Kate Townshend was stabbed to death by her lover. The comment, then, was not only a threat but also an insult by likening Martha to a madam. Martha was able to ward off the blow by raising her hand, but the knife cut her thumb some in the process. Augustus threatened Martha’s life, hit her, and compared her to an infamous New Orleans prostitute who met a bloody end. She pressed charges. Augustus, however, quickly made the five hundred dollar bail, which suggests the Richards family was well-situated financially.³⁹⁴ Although many cases involved poorer couples,

³⁹³ *State v. Augustus Richards* (1884) CRDC# 4703. For more information on Kate Townshend, see James Gill, Lords of Misrule: Mardi Gras and the Politics of Race in New Orleans, (Jackson: University Press of Mississippi, 1997): 138.

³⁹⁴ *State v. Augustus Richards* (1884) CRDC# 4703. Typically, bail for assault and battery fell at \$250. \$500 usually meant the assailant attacked with a dangerous weapon or had the intent to murder. Richards did not make bail from a lending agency but rather from a friend, Charles Fox. Given Richards connection to someone with the means to raise \$500, Martha’s ability to read and write, and their household at 1922 Tchoupitoulas near Henry Clay Avenue (a nicer neighborhood in New Orleans during the 1880s), the Richards’ household were arguably at least a middling sorts and not within the poorer socioeconomic class.

Martha was not atypical for the period. Legal professor Carolyn B. Ramsey recognizes, “wealthy and middle-class husbands were compelled to appear in court on domestic assault and battery charges more often than scholars have realized,” and their charges “were deeply distressing to the men involved” to the point the “prominent male defendants sometimes filed libel suits.”³⁹⁵ The public character and name of people mattered, even at the turn of the twentieth century, but that public status could influence women to drop charges. On May 2, Martha personally wrote to the District Attorney asking for him to cease prosecution arguing “By doing this a family scandal will be avoided and a favor will be conferred on.”³⁹⁶ Martha may have dropped charges for other reasons, such as pressure from her husband, but her letter claimed the primary reason as avoiding “a family scandal.”³⁹⁷ She feared for the reputation of her family if Augustus stood trial even though he threatened to stab her to death. Complicating the desire to end the violence, women from wealthier socioeconomic classes had to choose sometimes between the family name and seeking help from the criminal courts.

Divorce laws and economic inequality in the nineteenth century tended to fuel a woman’s dependence on her spouse, and given the psychological and emotional component in intimate-partner violence, battered women sometimes took abusive husbands back.³⁹⁸ Occasionally the case failed because the husband became apologetic, swearing he was a changed man and

³⁹⁵ Carolyn B. Ramsey, “A Diva Defends Herself: Gender and Domestic Violence in an Early Twentieth-Century Headline Trial,” 55 *St. Louis University Law Journal* 1347 (2011) 1; University of Colorado Law Legal Studies Research Paper No. 12-12. Available at Social Science Research Network: <http://ssrn.com/abstract=2096360>.

³⁹⁶ *Ibid.*

³⁹⁷ *Ibid.*

³⁹⁸ See Lenore E. Walker, *The Battered Woman*, (New York: Harper & Row, 1979) and *The Battered Woman Syndrome*, (New York: Springer Pub. Co, 1984).

pleading for another chance.³⁹⁹ Odelia Nelson experienced the difficulties involved in extricating oneself from a violent marriage. She lived in fear of her husband Henry and testified to the court, “He is always threatening my life; he is always beating me... He choked me himself.”⁴⁰⁰ Odelia pressed charges against him after one incident in February of 1887. While in jail, Henry promised his undying love and never to harm her again as he wrote, “I am sick and if you love me like I love you, you would come and get me out of this place....You is my wife and you is the only one that will do for me and I will never ill treat you like I have been doing. I will respect you as long as I like.”⁴⁰¹ But, when Odelia was not moved enough to drop charges, he wrote a longer and more emotional letter.

My dear wife Odel,
I love you and I will stick to you as long as I live but I will never be means to you as I was before... You is my wife and I will die for you because you is good and kings for me. I was fighting for you Monday when I seen that you did not come I says I am shore [sure] that my wife is sick. My dear wife I am grieving myself to death about you. I am in all that rain and on them wet stones suffering. I hope that when I will come out that I will treat you better than before and I will worke and give you money and help you along and try to like what you like. Wife and husband I love you and I will stick to you tell I die. If you please my dear wife come Friday and bring something to eat and do not bring my close [clothes]..All the people in here treat me like a dog. My knees is sore from scrubbing. Please kiss little Charlie.⁴⁰²

³⁹⁹ This is commonly recognized as a part of the cycle of violence in intimate-partner violence and partially explains why the victim has a difficult time leaving a violent relationship. For more information see Lenore Walker, *The Battered Woman*, (New York: Harper and Row, 1979). Nineteenth century Americans held a basic grasp of the pattern of violence as show in “Legislative Acts and Legal Proceedings,” *The Daily Picayune* (April 3, 1872), New Orleans, Louisiana.

⁴⁰⁰ *State v. Henry Gasper* (1887) CRDC# 9114.

⁴⁰¹ Henry to Odelia Nelson (February 17, 1887), *State v. Henry Gasper* (1887) CRDC# 9114.

⁴⁰² Henry to Odelia Nelson, (February 22, 1887), *State v. Henry Gasper* (1887) CRDC# 9114.

Henry sought to manipulate his wife's emotions. He tried to elicit sympathy by describing his hard conditions in jail and his sickness. He also tried charming her by resurrecting any lingering emotional attachment Odelia had, a tactic commonly used by batterers. Henry appears to have believed if only Odelia would remember how much she loved him, she would feel sorry for him and release him from jail. And so he praised her for being "kings" to him. Henry claimed he would go so far as to die for his wife because she was so good to him. He promised profusely that he would change everything—the abuse, stinginess with money, and dislike of her personal interests. If all else did not work, perhaps his last line would. Henry ended by asking Odelia to kiss their son for him, showing he indeed was repentant and would uphold the southern masculine role of being a kind and protective father and husband. The case subsequently ended as *nolle prosequi*. Manipulating several different emotions, batterers could influence wives to drop charges, complicating the ability to stop intimate-partner violence.

Of all the assault and battery cases, only three women expressed the belief in the privacy of the family or the husband's right to chastisement. This accounts for approximately one and a half percent of all assault and battery cases and only six percent of those that ended in *nolle prosequi*.⁴⁰³ In 1882, police dragged James Gillen to a Recorder's Court to answer for abusing his wife. Mrs. Gillen never sought to press charges, but the watchman in the neighborhood arrested James anyway. When asked to testify on the incident, Mrs. Gillen stated, "I didn't wish

⁴⁰³ The cases in which women expressed a belief that the husband had some sort of right totaled 3, which is 1.5% of intimate-partner violence cases from the sample. In 33 *nolle prosequi* cases, 2 cases or 6% had women who believed they had done something wrong (one of the cases still resulted in conviction). I think both statistics are helpful. The first (1.5%) helps to show how few women viewed intimate-partner violence as beyond the reach of the courts. The second (6%) shows even among the cases dropped, the majority of women did not hold a belief the husband had the right of chastisement. *Nolle prosequi* cases, therefore, do not undermine the argument of women's overall agency due to new views of womanhood.

to prosecute him...He wanted his way, and I wanted mine. It was my fault as much as his.”⁴⁰⁴

When the judge asked where she received her black eye, Mrs. Gillen responded, “It was done in the family. I didn’t wish to go against my husband.”⁴⁰⁵ Despite the police having witnessed the abuse and pressing charges, Mrs. Gillen insisted she was accountable. She kept avoiding a detailed description of the events and gave vague responses, upholding the concept of the privacy of the family. She insisted she did not want charges pressed since it was a family affair, and eventually, the court consented. The case ended without finding the abusive husband guilty.

Similarly, in 1887, Celestine Clark charged her husband George with “assaulting and wounding.”⁴⁰⁶ When required to testify, Celestine hesitated. The court pushed her by asking if she had given him cause for the beating, and she replied, “Yes, sir, I was in the fault.”⁴⁰⁷ When asked what caused George to become violent, she stated, “Little family fracas.” Celestine appears to have internalized the message that her disobedience necessitated George’s physical behavior. Moreover, she seemed to think family disagreement served as enough of an explanation to the court for what happened. To her, the court did not need to know the details of the incident but rather it should uphold the ideal of family privacy and allow her to drop the charges. The case ended in a *nolle prosequi*.

⁴⁰⁴ *State v. James Gillen* (1882) CRDC# 2911. Mrs. Gillen’s first name never appears in the testimony.

⁴⁰⁵ *Ibid.*

⁴⁰⁶ *State v. George Clark* (1887) CRDC# 9946.

⁴⁰⁷ *Ibid.*

Similarly in 1888, the police arrested Warren Powell for assault and battery. Warren broke into his wife, Annie's bedroom and caught her being intimate with another man.⁴⁰⁸ A witness convinced Warren to put down the knife in his hand, and instead, Warren used his fist to punch his wife twice. When asked to testify, Annie refused to blame Warren. She said, "I was in fault. He came in and caught me in bed with a man. I am the only one in fault. I did not ask my step-father to have him arrested. I gave him some back talk."⁴⁰⁹ She held herself deserving of the violence since she "back talk[ed]" and committed adultery. Despite her pleas and her position as an adulteress, the court convicted Warren and sentenced him to twenty-four hours in jail. The state found his behavior unacceptable and acted without the wife's consent for the betterment of society. Although women such as Mrs. Gillen, Celestine Clark, and Annie Powell internalized some sense of guilt or privacy of family, clearly most women did not buy into that a patriarchy included total female submissiveness. Gender ideals had changed too much to resurrect such antiquated views, and the courts recognized the shift.

Intimate-partner violence was and is overwhelmingly a gender-based problem, but husbands can be victims of spousal abuse too. They faced a far less sympathetic community and court. These men struggled with their own masculinity in having their wives hauled before court for assault and battery, and the courts seemed to question a man's prosecution of his wife. Men could not resurrect a complete patriarchy, but their position at the top of the social hierarchy meant they had to hold onto their position and not be physically dominated by anyone, particularly their wives. In 1884, a police officer dragged Sarah Hodges to the station for assault and battery. Her husband Elijah had asked for dinner when his wife took an ax and hit him in the

⁴⁰⁸ *State v. Warren Powell* (1888) CRDC# 10434.

⁴⁰⁹ *Ibid.*

face. Elijah sustained injuries including a cut lip and two loosened teeth, but insisted he did not want to press charges.⁴¹⁰ Sarah pled not guilty and was found not guilty despite the serious physical damage her actions caused. In 1888, Jennie Robinson struck her husband Henry in the stomach with a stone knocking the wind out of him. He pressed charges but admitted his reluctance to do so. The judge asked, “You are not very anxious to prosecute this woman?” to which Henry replied, “No, sir.”⁴¹¹ These men reluctantly found themselves testifying about their wife’s abuse. The judges, in turn, reluctantly heard the cases and did not prosecute husband beating like wife beating. The testimony is brief. The wives did not even seek to cross-examine the plaintiffs, and the courts decided exclusively on what the husband said. These should have resulted in easy convictions, but judges acted in accordance with social views in the situation of an abused husband. How could a husband be a “real” man if he could be beaten by a woman? The question seemed to boggle newspaper reporters and judges. As a result, men did not commonly achieve success prosecuting their wives for assault and battery, particularly in the South. The Hodges and Robinson cases show the difficulty of pressing charges for male victims of intimate-partner violence given the prevailing gender expectations in society and the court system.

In both the criminal and civil courts, judges rejected the husband’s right of chastisement. By the 1870s, “The rule of love has superseded the rule of force.”⁴¹² Abusive men flagrantly disregarded new gender expectations, and they invoked public outcry for violating their role as

⁴¹⁰ *State v. Sarah Hodges* (1884) CRDC# 5051.

⁴¹¹ *State v. Jennie Robinson* (1888) CRDC# 11236.

⁴¹² James Schouler, *A Treatise on the Law of the Domestic Relations* 59 (Boston: Little, Brown, & Co., 1870).

husband. Instability between married partners threatened the foundation of civilization. Society tore down the veil of privacy for the betterment of the whole, and they demanded something be done to bring abusive husbands in line with modern views of gender and marriage. Following case law clearly shows the shift in mentality and reform in the legal system. More commonly, women pressed charges against abusive spouses for assault and battery and sued for legal separation or divorce. Still, intimate-partner violence related criminal court cases had a ninety-two percent conviction rate.⁴¹³ Clearly, the courts viewed spousal abuse as wrong and within the state's right to regulate. The new gender expectations presented women with an opportunity to seek legal redress for abuse and succeed.

⁴¹³ From the sample, the number of cases that resulted in successful prosecution is 169. Only 14 of the defendants in assault and battery cases tried were found to be not guilty, leaving 155 cases (92%) resulting in a guilty verdict.

CHAPTER 6
RACIALIZATION AND DECLINE OF SOUTHERN INTERVENTION IN INTIMATE-
PARTNER VIOLENCE

[T]he good [Negroes] are few, the bad are many, and it is impossible to tell what ones are ... dangerous to the honor of the dominant race until the damage is done.....If it is necessary every Negro in the state will be lynched; it will be done to maintain white supremacy. — James K. Vardaman (1897)⁴¹⁴

At the turn of the twentieth century, James K. Vardaman served as state senator and governor of Mississippi. In the senatorial and gubernatorial elections, Vardaman campaigned on white supremacy. He touched on issues important to many southerners in the 1890s, particularly the supposed threat blacks posed to whites morally, politically, and economically. Vardaman was not alone in his desire to “fix” southern society through strengthening white control over African Americans. White southern Democrats in general utilized race and the failure of Populism to rise to power in the last decade of the nineteenth century, and through their fear mongering, race became the dominant issue in the South, surpassing every other problem the region faced, including intimate-partner violence.⁴¹⁵

The Tenuous Cross-Racial Alliance in the 1870s and 1880s

Under Radical Reconstruction, the federal government supported local Republican governments and tried to punish white supremacists who violated Republican rule or African Americans’ rights. The 1870 Enforcement Act enabled the federal government to arrest and charge individuals for depriving African Americans of political or civil rights. Consequently, it

⁴¹⁴ *Greenwood Commonwealth* July 15, 27, 1897 (Mississippi); as quoted in Michael Newton, *The Ku Klux Klan in Mississippi: A History*, (Jefferson, N.C: McFarland & Co, 2010): 62.

⁴¹⁵ The argument about the role of Populism in the rise of the Jim Crow Era can be found, for example, in Edward L. Ayers, *The Promise of the New South: Life After Reconstruction*, Oxford, Oxford University Press, 2002).

led to crackdowns on the Ku Klux Klan and charges of approximately two thousand people each year during 1872 and 1873 for violating African Americans' newly gained rights.⁴¹⁶ One of the men arrested from the Colfax Massacre took his case to the U.S. Supreme Court. In *United States v. Cruikshank* (1875), the Supreme Court, however, backed away from Radical Reconstruction and overturned the conviction of two white men who participated in murdering black men in the Colfax, Louisiana. The ruling stated the 1870 Enforcement Act, which based its legal standing on the Equal Protection clause of the Fourteenth Amendment, did not apply to "one citizen against another."⁴¹⁷ Prosecution of violent white supremacists in other states practically ceased after *Cruikshank*, and the level of violence against African Americans increased with few victims finding justice. Even before the infamous Compromise of 1877 that ended Reconstruction, the federal government had tired of Reconstruction and became amenable to reconciliation.

When whites were questioned about racial relations in the South, such as in the 1880 *Report and Testimony of the Select Committee of the United States Senate to Investigate the Causes of the Removal of the Negroes from the Southern States to the Northern States*, they often played down the violence. When Andrew Currie of Shreveport, Louisiana, spoke of elections in the 1870s, he denied having seen any violation of African American rights at the voting poll or elsewhere. He discussed many points, including how often Republican speeches were publicly

⁴¹⁶ Leanna Keith, *The Colfax Massacre: The Untold Story of Black Power, White Terror, and the Death of Reconstruction*, (Oxford: Oxford University Press, 2008): 76.

⁴¹⁷ *United States v. Cruikshank* 92 U.S. 542 (1875).

given and how “marvelous” he believed them to be.⁴¹⁸ When asked about his participation in the state militia during the Bossier riots in 1868, Currie argued with Senator William Windom about the number of deaths.⁴¹⁹ Windom claimed *Executive Document Number 30, House of Representatives, Forty-fourth Congress, Second Session* in its eight hundred sixty-eight lines on Bossier Parish proved at least two hundred and thirty African Americans had been killed while Currie fervently insisted on only five. When pressed, Currie flippantly replied, “You do not seem to appreciate the truth.” Windom retaliated in kind by stating, “I do not, from some quarters, because I hear it so rarely.”⁴²⁰ Despite inquiries into race relations and violations of African American rights, southern whites had, for all intents and purposes, regained control of the South with the withdrawal of federal troops after 1877.

By the late 1870s, power shifted from Republicans to Democrats in the South, and the Reconstruction Amendments and Enforcement Act were deliberately being misconstrued by southern whites. The case of a black woman, Mrs. John Simms, illustrates just how much. A local election in Wilson, North Carolina, took place in 1878. Mrs. Simms told her husband, John, to vote for James Edward O’Hara, but on his way to the polls, John was attacked by a group of white men on horseback, beaten, and forced to drink until intoxicated. The men then made sure John voted for the white Democrat on the ticket. Fearing what he had done, John hid in the

⁴¹⁸ *Report and Testimony of the Select Committee of the United States Senate to Investigate the Causes of the Removal of the Negroes from the Southern States to the Northern States, Senate Report 693, 46th Cong., 2nd Sess., part 2, pp. 89.*

⁴¹⁹ Windom was a Radical Republican from Minnesota. For more information, see <http://bioguide.congress.gov/scripts/biodisplay.pl?index=W000629>.

⁴²⁰ *Ibid.*, 91. Other whites testified there was no racial strife in the South, such as W.P. Ford saying, “as a whole, great friendliness of feeling exists between the colored and the white men...they live on the most amicable terms.” See *Report and Testimony of the Select Committee of the United States Senate to Investigate the Causes of the Removal of the Negroes from the Southern States to the Northern States, Senate Report 693, 46th Cong., 2nd Sess., part 2, pp. 166.*

woods for several days. When he returned home, John Simms confronted an angry wife, who beat him with a hickory stick. Local officials heard of the spousal abuse and arrested Mrs. Simms not simply for assault and battery but also for impugning her husband's Fifteenth Amendment right. Rather than try the group of white men, the state twisted the situation to prosecute a black woman, further reinforcing white supremacy. North Carolina's case against Mrs. Simms attracted attention and applause throughout the South. An article printed in Louisiana's *The Daily Picayune* stated, "The Democratic House will cheerfully appropriate the fees of special counsel in this case [for the prosecution of Mrs. Simms]." ⁴²¹ With power shifting back to white male Democrats, gender, at least in this case, became the central issue.

The pivotal event that transformed southern society and was utilized to consolidate white power centered on the failure of Populism. The multiple economic depressions in the postbellum years hurt farmers still struggling to recover from the Civil War. Exports, something in which the South depended upon, dropped all the while credit tightened. Consequently, smaller landowners found surviving more and more difficult. They formed organizations, such as the Grange, Patrons of Husbandry, and the Farmers' Alliance, to discuss productive farming methods. Others recognized real change could occur if a political body was formed, which was realized with the Populist Party. The Democratic Party felt threatened by reforms proposed, such as the subtreasury plan, as well as the loss of rural whites who were leaving the Democratic Party for the Populist Party in large numbers. ⁴²² When the Populist Party fused with the Democratic Party's candidate in the 1896 presidential election, the Populist Party lost any sort of cohesion

⁴²¹ "A Queer Southern Outrage," *The Daily Picayune*, (New Orleans, Louisiana) November 26, 1878.

⁴²² Edward Ayers in Promise of the New South estimates that between 25 to over 50% of rural southerners over twenty-one years (varying based on state) joined the Populist Party.

and crumbled as a political group.⁴²³ Democrats used the failure of Populism to create white solidarity, blaming black farmers who had also been strong supporters of Populism for the massive fraud and political corruption. Many rural whites returned to the Democratic Party, and with white supremacy unifying white men across socioeconomic classes, southern whites created an oppressive racial era that sought to deprive African Americans of the rights gained under Radical Reconstruction.

The Rise of an Oppressive Racial Order

The last decades of the nineteenth century gave rise to the oppressive racial order known as the “Jim Crow” Era, but as C. Vann Woodward argues, this shift was a choice rather than an inevitability.⁴²⁴ Neither immediate upon the end of Reconstruction or the only alternative, white southerners chose to deny African Americans civil and political rights. Whites first sought to consolidate authority through stripping African-American men of newly acquired legal rights, such as voting. The vote was viewed as an integral part of citizenship and the means to achieve total equality. After reclaiming the majority of political offices, white southerners legally deprived African American men of the vote through “color blind” laws. Politicians could not exclude individuals from voting solely on race, not with the Fifteenth Amendment in effect, but they could find loopholes. Mississippi pioneered the southern strategy to disenfranchise black men. In the 1890 Mississippi Constitution, politicians limited voting through a number of ways.

⁴²³ Several historians argue the presidential election of 1896 and the fusion ended the Populists. See, for example, Lawrence Goodwyn, The Populist Moment: A Short History of the Agrarian Revolt in America, (Oxford: Oxford University Press, 1978).

⁴²⁴ C. Vann Woodward, The Strange Career of Jim Crow, Third Revised Edition, (New York: Oxford University Press, 1974).

Specifically denying women, “idiots,” “insane people,” “and Indians not taxed,” the 1890 Mississippi constitutional convention also stipulated voters must pay a poll tax of two dollars (ostensibly for public schools) and “be able to read any section of the constitution of this State.”⁴²⁵ Literacy tests and poll taxes circumvented the Fifteenth Amendment not by using race as a category for exclusion, but the intended target group felt the impact nonetheless. In 1867, seventy percent of African-American men in Mississippi were registered to vote. By 1892, only six percent of black males in the state were still registered.⁴²⁶ Because of its “color blindness,” the laws could and did disenfranchise poor whites. To remedy the situation and maintain white solidarity, Mississippi created a grandfather clause enabling those whose ancestors voted before the Civil War exemption from the new voting regulations. This aimed at maintaining the vote for all white men.

In 1890, the Colored American Citizens of the United States formed and issued a proclamation to the President, asking for the federal government to intervene. Among the many injustices faced by African-Americans, the organization pointed to disenfranchisement as the most significant injustice. Participants at the 1890 convention argued the situation in the South made African Americans position “worse than abject slavery.”⁴²⁷ Still, nothing had been done. Groups tried to mount legal challenges. In 1898, the Supreme Court of the United States heard the case *Williams v. Mississippi*, which challenged Mississippi’s new voting requirements. Instead of ruling in favor of African Americans, the Supreme Court stated in its opinion, “They

⁴²⁵ Mississippi 1890 Constitution, art. XII, sec. 240, 243, 244.

⁴²⁶ Andrew L. Shapiro, “Challenging Criminal Disenfranchisement under the Voting Rights Act: A New Strategy,” *The Yale Law Journal*, Vol. 103, No. 2 (Nov., 1993): 538.

⁴²⁷ “Colored Americans. The National Organization Issues an Address,” February 7, 1890 *The Knoxville Journal* (Knoxville, Tennessee).

[Mississippi statutes] do not on their face discriminate between the races, and it has not been shown that their actual administration was evil, only that evil was possible under them.”⁴²⁸ The judges acknowledged officials could pervert the state’s legal requirements to vote, but this, they argued, did not mean the state of Mississippi intended any form of racial discrimination.

Alabama, Virginia, and South Carolina soon debated Mississippi’s methods for disenfranchising African Americans. White southerners believed intimate-partner violence had been eradicated from the white community, leaving it only a problem among blacks. Alabama’s 1901 Constitutional Convention illustrates this belief. President of the Convention John B. Knox, gave a speech on the “importance” of the meeting.⁴²⁹ He stated, “the southern people, with this grave problem of the races to deal with, are face-to-face with a new epoch in Constitution-making.”⁴³⁰ Crediting Mississippi for being a “pioneer” in the process, Knox declared Alabama must act “within the limits imposed by the Federal Constitution, to establish white supremacy in this State.”⁴³¹ Virginia’s 1901 Constitutional Convention began much the same way. At one point in the proceedings, Glass claimed, “Discrimination! . . . [T]hat exactly is what this Convention was elected for . . . with a view to the elimination of every negro voter.”⁴³² Including

⁴²⁸ *Williams v. Mississippi* 170 U.S. 213 (1898).

⁴²⁹ State of Alabama, *Journal Proceedings of the Constitutional Convention of the State of Alabama Held in the City of Montgomery*, (Montgomery: The Brown Printing Company, 1901).

⁴³⁰ *Ibid.*, 9.

⁴³¹ *Ibid.*, 13.

⁴³² As quoted in Jason Schall’s “The Consistency of Felon Disenfranchisement with Citizenship Theory,” *Harvard Blackletter Law Journal* Vol. 22 (2006): 59.

wife beating as a measure to disenfranchise would, Virginian legislators believed, aid in the goal to “eliminate the darkey from our body politic.”⁴³³

Upholding part of the Compromise of 1877, the Supreme Court allowed the South to deal with African Americans as each state saw fit. Without federal intervention, southern states quickly deprived black men of their right to vote. Alabama even devised new techniques by requiring a potential voter to be “regularly employed in some lawful occupation” and imposing a character evaluation, whereby the person must demonstrate they “understand the duties and obligations of citizens under a republican form of government.”⁴³⁴ The combination of laws, fraud, and extralegal violence throughout the South effectively limited the franchise. By the early 1900s, African American voters in the South virtually disappeared.

In order to limit the rising aspirations of the black community, southern whites also argued that African Americans existed as a threat to white women, leading many white women to prioritize race over gender. Black men raping white women—referred to as “The New Negro Crime”—created panic in many whites. Against the supposed menace of the “black fiend,” white women sided with white men in the campaign to instill racial dominance over African Americans.⁴³⁵ Newspapers helped create this panic by frequently publishing stories on the rape

⁴³³ State of Virginia, *Proceedings on the Debates of the Constitutional Convention of the State of Virginia Held in the City of Richmond* vol. 1 (Richmond, Virginia: The Hermitage Press, 1906): 1678.

⁴³⁴ Charles W. Chesnutt, *The Disenfranchisement of the Negro*, (New York: Patt, 1903) 83-84.

⁴³⁵ Springing up around the same time, different people used the phrase “the New Negro Crime.” See “Some Fresh Suggestions on the New Negro Crime,” 48 *Harper’s Weekly* (January 23, 1904): 120-121; “The Negro Problem and the New Negro Crime,” 47 *Harper’s Weekly* (June 20, 1903): 1050-1051; and Mrs. W. H. Felton, “From a Southern Woman,” 47 *Harper’s Weekly* (November 14, 1903): 1830.

of a white woman or child by an African-American man.⁴³⁶ Each story told gruesome details about young white females raped and murdered by black men. “A Young Lady Assaulted, Mutilated and Murdered” was about one such young white female named Ada Gross, who was from a respectable family in Arkansas. Gross’s body was found not far from her parents’ home “riddled with buckshot” and her face “hacked by a hatchet in a terrible manner.”⁴³⁷ Instead of waiting “for the slow process of the law,” friends and family members went after the accused and cut off his head, arms, and legs before burning him.⁴³⁸ Stories like this reinforced racial stereotypes of African Americans as primitive and hypersexual. It created terror in both white and black communities, and it helped to maintain white solidarity and dominance.⁴³⁹

The “new wave of racial violence” emerged not during Reconstruction but in the 1890s as the number of lynchings surged.⁴⁴⁰ Terrorist mobs targeted Republicans, African Americans, drunkards, and wife beaters in effort to coerce community members into upholding their racial

⁴³⁶ “Negro Rapist Captured,” February 1, 1890 *The Weekly Times-Herald* (Dallas, Texas); “An Arkansas Young Lady Assaulted, Mutilated and Murdered. Her Slayer Lynched,” February 14, 1890 *Duluth Daily Tribune* (Duluth, Minnesota); “Ravisher Lynched. Swung to a Telegraph Pole - Riddled with Bullets,” February 28, 1890 *The Daily Herald* (Grand Forks, North Dakota); and “A Rape Fiend Lynched,” March 1, 1890 *Omaha Daily-World Herald* (Omaha, Nebraska).

⁴³⁷ “An Arkansas Young Lady Assaulted, Mutilated and Murdered. Her Slayer Lynched,” February 14, 1890 *Duluth Daily Tribune* (Duluth, Minnesota).

⁴³⁸ *Ibid.*

⁴³⁹ For more information on these racial stereotypes see Gail Bederman, *Manliness & Civilization: A Cultural History of Gender and Race in the United States, 1880-1917*, (Chicago: University of Chicago Press, 1995); Donna J. Haraway, *Primate Visions: Gender, Race, and Nature in the World of Modern Science*, (New York: Routledge, 1989); and Deborah G. White, *Ar'n't I a Woman?: Female Slaves in the Plantation South*, (New York: Norton, 1985).

⁴⁴⁰ W.F. Brundage, *Lynching in the New South: Georgia and Virginia, 1880-1930*, (Urbana: University of Illinois Press, 1993): 7, 19. Brundage focuses on Virginia and Georgia as case examples of southern lynchings, but his findings on the types of lynchings bare similarities to the rest of the South (20).

and social values. Lynchings at the turn of the twentieth century had a “blatant connection” with race.⁴⁴¹ Despite attempts to refute this by W.E.B. Du Bois and Ida B. Wells, the racialized view of African Americans as hypersexual and violent continued.⁴⁴² People labored under the assumption, Wells argued, that white women would not consent to sex with black men, which meant any actual sexual interaction had to be rape. Miscegenation laws sprang up in larger numbers around the South in the postbellum period, declaring interracial sexual relations and interracial marriage illegal.⁴⁴³ Historian Peggy Pascoe argues, “Miscegenation law was... the foundation for the larger racial projects of white supremacy and white purity.”⁴⁴⁴ Miscegenation kept the races separate and declared that the mixing of white and black bloodlines was “unnatural.”⁴⁴⁵

With these shifts, womanhood could no longer be extended to African-American women. Racial solidarity and the supposed protection of white womanhood required stereotyping blacks as bestial. Even white women who did consent to sex with black men faced ostracism and legal consequences. Historian Martha Hodes shows how some women falsely cried rape when their interracial liaisons were discovered. Their male partners, of course, were often met with violent reactions once the relationship became public. Ida B. Wells declared that white women were often wrongly “paraded as a victim of violence” to justify racial violence, and when some white

⁴⁴¹ Ibid., 8.

⁴⁴² W.E.B. Du Bois specifically tried to combat the images of “negro criminality” in his photographic exhibit at the Paris Exposition in 1900.

⁴⁴³ For more information on miscegenation, see Peggy Pascoe, What Comes Naturally: Miscegenation Law and the Making of Race in America, (Oxford: Oxford University Press, 2009).

⁴⁴⁴ Ibid., 6.

⁴⁴⁵ *Scott v. Georgia* 39 Ga. 321, 323 (1869).

women refused to claim rape, they were “compelled by threats if not violence, to make the charge against the victim [their sexual partner].”⁴⁴⁶ The rhetoric of protecting white womanhood proved so strong that it cloaked racially motivated crimes against African Americans. Even when fabricated, claims of a black man raping a white woman incited white southerners and provided a socially acceptable excuse to lynch an African American. White women who had previously campaigned for protecting women regardless of race redefined womanhood as only white by the late 1890s. Despite Rebecca Felton’s prior pleas to extend womanhood tenuously to women of color, she gave a speech in 1897 that touched on the fear of black men’s supposedly aggressive sexuality. Felton cried, “If it needs lynching to protect woman’s dearest possession from the ravaging beasts—then I say ‘lynch,’ a thousand times a week if necessary.”⁴⁴⁷ Black women, on the other hand, were left without legal or social protection from sexual assault. In January 1890, two white men from Georgia raped an African American teacher, Victoria Day. No one but Washington, D.C.’s *The Washington Bee* covered the story, and despite Day having reported it to the local authorities, the police did little about it.⁴⁴⁸ Black activist publications like *The*

⁴⁴⁶ As quoted in Martha Hodes, *White Women, Black Men: Illicit Sex in the Nineteenth-Century*, (New Haven: Yale University Press, 1997): 193. Crystal Feimster in *Southern Horrors* also discusses the lynchings of women (both white and black). She argues most had committed a violent crime or for immorality. Lynching these women showed black women were “unwomanly,” and it was a terrorizing method to “remake lower-class white women into self-disciplined ‘southern ladies’ worthy of protection.” (180). Ultimately, lynching women helped to uphold white, male dominance.

⁴⁴⁷ Ibid. See also Leeann Whites, “Rebecca Latimer Felton and the Wife’s Farm: The Class and Racial Politics of Gender Reform,” *The Georgia Historical Quarterly* Vol. 76, No.2 (Summer 1992): 354-372.

⁴⁴⁸ “Raped. A Colored School Teacher--The Way White Men Do Things In The South,” January 11, 1890 *The Washington Bee* (Washington, DC) found in the Library of Congress’s *Chronicling America: Historic American Newspapers* <http://chroniclingamerica.loc.gov/lccn/sn84025891/1890-01-11/ed-1/seq-1/> (accessed November 13, 2013). Another discussion of the rape is found in Kidada E. Williams, *They Left Great*

Washington Bee and the *Georgian Sentinel* demanded justice from the governor of Georgia, but their demands fell on deaf ears. The rapists, despite being identified, never faced trial. Womanhood no longer incorporated African-American women, and any prior protections disappeared.

Rolling Back Reform on Intimate-Partner Violence

Race dominated most issues in the South by the 1890s, including intimate-partner violence. Many people believed intimate-partner violence could only be found in the black community because whites were so superior and civilized that they had eradicated the crime. Newspapers claimed intimate-partner violence was rampant in African-American households. South Carolina's *The State* asked in one article "Is Wife Beating Still In Vogue?" The writer argued that since the subject "of negro farm hands... whip[ping] their wives... comes up for general conversation in a matter of fact way" only the black community faced this problem anymore.⁴⁴⁹ After all, *The State* went on to say, "there is yet a lot of semi-barbarity among these [African American] people."⁴⁵⁰ Since intimate-partner violence was already known as a barbaric crime, intimate-partner violence provided an easy way to uphold white supremacy and regulate African Americans. Racial order rested, in part, on the arguments that whites and blacks were enormously different and whites were far more advanced. To deprive African Americans of political and civil rights granted under Reconstruction, a threat had to be present—a threat of

Marks on Me: African American Testimonies of Racial Violence from Emancipation to World War I, (New York: New York University Press, 2012): 107-108.

⁴⁴⁹ "Is Wife Beating Still in Vogue?" *The State* June 22, 1903 (Columbia, South Carolina).

⁴⁵⁰ *Ibid.*

being outnumbered by supposedly uncivilized beings. As one legislator in Virginia declared, “It was a question of self-preservation...a question of maintaining white civilization,” one in which a white man “never hesitated to vindicate the moral right of brave white men who should not be overwhelmed by an inferior race.”⁴⁵¹ How could whites claim to be better if some male members of their race still engaged in the barbarity of wife beating? Politicians and newspapers endeavored to validate racial superiority by making intimate-partner violence a problem among African Americans alone.

Articles suggesting the connection between the black community and intimate-partner violence appeared as early as the mid-1880s. One article stated that intimate-partner violence was “terribly on the increase among members of *that* [African American] race.”⁴⁵² White men, the article intimated, did not engage in wife beating nearly as much. By the mid-1890s, newspaper descriptions shifted from calling black wife beaters “brutal” and “uncivilized” to using racialized descriptors, including “blood-thirsty Negro,” “bad nigger,” “bad Negro,” “the coon,” and “notorious hoodlum.”⁴⁵³ While negative portrayals of abusive husbands were common in newspapers during the 1870s and 1880s, the racist depictions of African-American abusers surged during the 1890s, coinciding with the rise of an oppressive racial order in the South that ran the gamut from racial violence to segregation to disenfranchisement. Gender no

⁴⁵¹ Ibid., 305.

⁴⁵² “The News in Georgia,” September 10, 1884 *The Macon Telegraph* (Macon, Georgia).

⁴⁵³ “Beat His Wife with a Club,” November 26, 1893 *Wheeling Register* (Wheeling, West Virginia); “A Wife's Complaint. Archie Barry Charged With Beating His Wife,” November 6, 1895 *Times Picayune* (New Orleans, Louisiana); “Southern States Items of Interest,” July 9, 1896 *Times Picayune* (New Orleans, Louisiana); “A Blood Thirsty Negro Attempts to Kill His Wife,” August 15, 1896 *The Daily Advocate* (Baton Rouge, Louisiana).

longer outranked race in the court records. Rather, race took priority in almost every issue, including intimate-partner violence.

While abuse still undoubtedly occurred in white marriages, the image presented indicated intimate-partner violence was rare among whites.⁴⁵⁴ Newspaper articles seldom mentioned the race in the title of the article, particularly if the abuser was white, but by the 1890s, a few headlines sprinkled the papers, stating “White Wife Beater.”⁴⁵⁵ One particular article told of Sam Bell, who beat his wife to the point she was expected to die from the abuse. Given the infrequent coverage for intimate-partner violence cases in white couples, the headline suggests the situation was considered rare. In 1904, another newspaper included the arrest of two white men who had abused their wives. The headline read “Alleged Wife Beaters Arrested on Warrants Sworn out by Wives - Said to Have Been Drunk.”⁴⁵⁶ This was one of the first to include the word “alleged” in front of the crime the men committed. Moreover, the men in this instance were charged with a lesser crime disturbing the peace rather than assault and battery, despite testimony showing they had beaten their wives and children. African-American abusers, on the other hand, were still

⁴⁵⁴ Documented cases of white intimate partner violence after 1890 are found in the annual reports of the Louisiana SPCC from 1893 onwards as well as local newspapers, ie *The Times Picayune* September 13, 1895 (New Orleans, Louisiana).

⁴⁵⁵ “White Wife Beater,” October 16, 1898 *The Sunday State* (Columbia, South Carolina). This newspaper was a white conservative newspaper and not an African American paper, which makes the motive for the application of “white” less circumspect. See Lynn Salsi and Margaret Sims, *Columbia: History of a Southern Capital*, (Charleston, S.C: Arcadia, 2003): 103-108.

⁴⁵⁶ “Alleged Wife Beaters Arrested on Warrants Sworn out by Wives - Said to Have Been Drunk,” October 15, 1904 *The Lexington Herald* (Lexington, Kentucky).

reported as “A Bad Wife Beater. Negro Convict Made an Assault on the Guard.”⁴⁵⁷ Now more than before, race mattered in the legal treatment of intimate-partner violence.

Associating intimate-partner violence with African Americans also served as an excuse for white southerners to lynch black males. In 1893, the *Idaho Daily Statesman* article discussed a lynching of an African-American man and described it as southern “justice.” David (also known as Dave) Jackson supposedly committed the crime of wife beating in Abita Springs, Louisiana, and was summarily lynched. Once northern and western newspapers started publishing the incident as a racially motivated act, Covington citizens denied knowledge of the lynching.⁴⁵⁸ Southern papers claimed no one even knew Jackson had been missing from the jail until October 18 (after the first reports of the lynching). Deputy Sheriff George Cook testified at the coroner’s inquest that he “knew nothing” about Jackson’s removal from jail.⁴⁵⁹ The lynching, they claimed, was mysterious. No one supposedly knew anything until Jackson’s body was found in the river. The coroner ruled the death a murder by persons unknown, and the case remained unsolved.

⁴⁵⁷ “A Bad Wife Beater. Negro Convict Made an Assault on the Guard,” *The State* January 1, 1905 (Columbia, South Carolina).

⁴⁵⁸ *Idaho Daily Statesman*, (Boise, Idaho) October 13, 1893. Some of the other articles on the David Jackson lynching are as follows: “Southern States Items Of Interest Gleaned by the Picayune's Corps of Special Correspondents. Covington Enlivened,” *The Daily Picayune* (New Orleans, Louisiana) October 11, 1893; “Jackson Was Not Lynched, But His Career of Crime Will be Cut Short by a Term in the Penitentiary,” *The Daily Picayune* (New Orleans, Louisiana) October 13, 1893; “Thrown In The Tchefuncta [sic]. The Negro Dave Jackson Hanged by Unknown Parties,” *The Daily Picayune* (New Orleans, Louisiana) October 29, 1893; “Coroner’s Inquest on Dave Jackson’s Body. Cook’s Disappearance,” *The Daily Picayune* (New Orleans, Louisiana) October 31, 1893.

⁴⁵⁹ “Coroner’s Inquest on Dave Jackson’s Body. Cook’s Disappearance,” *The Daily Picayune* (New Orleans, Louisiana) October 31, 1893.

In her 1895 publication “A Red Record,” noted anti-lynching activist Ida B. Wells referenced Dave Jackson’s murder. She titled the chapter “Lynched for Anything or Nothing” and said,

In nearly all communities wife beating is punishable with a fine, and in no community is it made a felony. Dave Jackson, of Abita, La., was a colored man who had beaten his wife. He had not killed her, nor seriously wounded her, but as Louisiana lynchers had not filled out their quota of crimes, his case was deemed of sufficient importance to apply the method of that barbarous people.⁴⁶⁰

Seeing through the claim of wife beating, Wells condemned southern society and its lynchings. She noted the reason for the lynching was not actually intimate-partner violence but rather racial animosity and an act of a “barbarous people.”⁴⁶¹ Despite northern scrutiny from whites and blacks alike, locals vociferously denied any wrongdoing. Instead, they claimed Dave Jackson had been at fault for the crime of wife beating and “was a mean and notorious negro.”⁴⁶²

The crime of intimate-partner violence was also used by whites to disenfranchise African American voters. Mississippi’s 1890 state constitution targeted crimes they believed specific to the black community, including theft, rape, bigamy, burglary, and wife-beating, and used these crimes to deny black men the right to vote.⁴⁶³ During the same year, South Carolina’s legislature passed a law that had the same effect as Mississippi’s new constitution.⁴⁶⁴ Intimate-partner

⁴⁶⁰ Ida B. Wells, “A Red Record: Tabulated Statistics and Alleged Causes of Lynching in the United States 1892, 1893, 1894,” (Chicago: Donohue & Henneberry, 1895). Accessed December 10, 2012. <http://www.gutenberg.org/files/14977/14977-h/14977-h.htm>.

⁴⁶¹ Ibid.

⁴⁶² “A Negro, Supposed to Have Been a Wife Beater, Lynched,” *The Daily Picayune* (New Orleans, Louisiana) October 11, 1893.

⁴⁶³ Jason Schall, “The Consistency of Felon Disenfranchisement with Citizenship Theory,” *Harvard Blackletter Law Journal* Vol. 22 (2006): 58-59.

⁴⁶⁴ South Carolina Code sec. 7-5-120 (proviso).

violence qualified as misdemeanor assault and battery, and believing it no longer an issue in the white community, Mississippi and South Carolina included it in list of crimes that excluded someone from the right to vote. A decade later, Alabama followed other southern states by using supposedly black crimes to disenfranchise African-American men. Some Alabama politicians wondered if that would be effective. John Burns infamously declared, “The crime of wife beating alone would disqualify sixty percent of the Negroes.”⁴⁶⁵ Legislator Knight agreed, commenting wife beating by itself “would settle the vexed question of negro suffrage” in Hale County.⁴⁶⁶ Clearly, Burns, Knight, and other white politicians believed intimate-partner violence was so prevalent in the black community and could be used to eliminate the majority of black voters. Voting disqualifications based on intimate-partner violence, then, deliberately served as a means of enforcing white supremacy, and the legal system had an incentive to prosecute black abusers and not white ones.

By the 1890s, southern courts responded by prosecuting white abusers as less frequently. The 1896 Annual Report of the Chief of Police of Columbus, Georgia, for instance, reported a hundred percent decrease in arrests for accounts of wife beating compared to the prior year.⁴⁶⁷ In Columbus, Georgia, then, no crimes of intimate-partner violence supposedly took place, which would be a radical change from the previous year. The Orleans Parish local courts show the same decline. Only nine out of the sample size of two hundred two intimate-partner violence cases

⁴⁶⁵ As quoted in Reva B. Siegel, “‘The Rule of Love’: Wife Beating as Prerogative and Privilege,” *The Yale Law Journal*, vol. 105 (1996): 2140.

⁴⁶⁶ “The Alabama Convention. Former Governor Oates Proposes a Suffrage Scheme,” June 5, 1901 *The Daily Picayune* (New Orleans, Louisiana).

⁴⁶⁷ “Annual Report of the Chief of Police,” December 12, 1896 *Columbus Inquirer-Sun* (Columbus, Georgia).

were brought to court during the 1890s (see Appendix). The Orleans Parish court cases illustrate a serious decline from the previous decade.

Table 6.1 Intimate-Partner Violence Cases in Orleans Parish By Decade, 1870-1900

Decade	Total Number of Cases	Percentage Change
1870-1879	26	N/A
1880-1889	165	+534.5%
1890-1899	9	-94.5%

Clearly, in Orleans Parish as in Columbus, Georgia, something generated a decline in the prosecution of intimate-partner violence lawsuits. Had legal intervention truly solved the problem within a decade or two? Were practically no men abusing their wives in the late 1890s? In a search of southern newspapers from 1890 to 1900, twenty-seven articles covering a court case involving intimate-partner violence mentioned the race of the abuser, which testifies at least to the fact that the problem still existed. Of those twenty-seven, twenty (seventy-four percent) of the perpetrators were African Americans.⁴⁶⁸ Moreover, in a court case to decide the constitutionality of jury selection and disenfranchisement practices in Mississippi, the Mississippi State Supreme Court in *Ratliffe v. Beale* argued,

⁴⁶⁸ *The Daily Advocate* August 15, 1896; *The Daily Advocate* August 7, 1895; *Times Picayune* July 9, 1896; *Times Picayune* November 6, 1895; *Times Picayune* March 23, 1895; *The Daily Advocate* December 8, 1900; *The Age Herald* October 7, 1900; *The Weekly Advocate* July 29, 1899; *The Charlotte Observer* August 25, 1896; *The Birmingham Herald* September 15, 1895; *The Daily Advocate* June 16, 1895; *The Wheeling Register* November 26, 1893; *The Charlotte News* July 17, 1893; *The Columbus Daily* June 28, 1893; *The Charlotte Observer* October 8, 1892; *The Columbus Daily* June 12, 1892; *The Knoxville Journal* November 3, 1891; *The Columbus Daily* August 8, 1891 (2 articles); *The Charlotte News* January 17, 1891.

By reason of its [African Americans'] previous condition of servitude and dependence, this race had acquired or accentuated certain peculiarities of habit, of temperament, and of character, which clearly distinguished it as a race from that of the whites—a patient, docile people, but careless, landless, and migratory within narrow limits, without forethought, and its criminal members given rather to furtive offenses than to the robust crimes of the whites.⁴⁶⁹

African Americans, the court argued, were supposedly prone to petty crimes used in the new methods of disenfranchising black men. The list of misdemeanors that Mississippi, South Carolina, Alabama, and other southern states used as color blind methods to deprive African-American men of the right to vote included, among other offenses such as rape and bigamy, the crime of “wife beating.”⁴⁷⁰ The courts, then, agreed with southern politicians and newspapers that intimate-partner violence was a problem in the black community. Given the solidification of the Democratic Party and the racial concerns in the decade, white supremacist views influenced legal intervention as well as social attitudes in intimate-partner violence. Racializing it as a black problem, concern over abuse dwindled except as another means to disempower African-American men.

Denying legal personhood of black men had implications for recognition of women as autonomous individuals in a marriage. Some southern states resurrected antebellum cases as precedents to deny women the right to be free from violence. The 1890 case of *Commonwealth v. Sapp*, for instance, rejected testimony of white women against their husbands in the majority of assault and battery cases. In *Sapp*, William Sapp sprinkled arsenic poison on a piece of watermelon in full view of his wife and then gave her the piece to eat. She filed charges against

⁴⁶⁹ *Ratliff v. Beale* 20 So. 865, 868 (Miss. 1896).

⁴⁷⁰ Jason Schall, “The Consistency of Felon Disenfranchisement with Citizenship Theory,” *Harvard Blackletter Law Journal* Vol. 22 (2006): 58-59; South Carolina Code sec. 7-5-120 (proviso).

him, but the only evidence the prosecution had was the wife's testimony. The appeals court in Kentucky affirmed the right of privileged communication between husband and wife. Citing a legal scholar, the appeals court's opinion declared,

The great object of the rule is to secure domestic happiness, by placing the protecting seal of the law upon all confidential communications between husband and wife, and whatever has come to the knowledge of either by means of the hallowed confidence, which that relation inspires, cannot be afterwards divulged in testimony.⁴⁷¹

Marriage, the judges argued, required a veil of privacy. *Sapp* conceded only rare instances permitted a wife to testify against her husband, but this was not one of them.⁴⁷² For precedent, they cited the 1852 *State of North Carolina v. Hussey*, which allowed wives to give witness against their husbands only if permanent injury occurred.⁴⁷³ *Sapp* influenced other cases by denying women the right to act as witness against their husband. This impacted even civil trials. Citing *Sapp*, *Fightmaster v. Fightmaster* (1901) ruled a wife as ineligible to stand trial against her husband in divorce cases that involved physical abuse.⁴⁷⁴ Often without any witnesses, wives found they were unable to press charges against abusive spouses and sometimes unable to obtain a divorce. By the turn of the twentieth century, some states not only stopped criminal prosecutions for intimate-partner violence but also ceased to grant divorces for physical abuse.⁴⁷⁵

⁴⁷¹ *Commonwealth v. Sapp* 12 Ky.L.Rptr. 484 (1890). Discussion of the conservative ruling of *Sapp* was also found in a 1934 law review. See "Evidence-Privileged Communications-Husband and Wife," *Indiana Law Journal*, Vol. 10: Iss. 3, Article 8 (1934). <http://www.repository.law.indiana.edu/ilj/vol10/iss3/8>. Accessed June 25, 2013.

⁴⁷² *Ibid.*

⁴⁷³ *State v. Hussey* 44 N.C. (Busb.) 123 (1852).

⁴⁷⁴ *Fightmaster v. Fightmaster* 22 Ky.L.Rptr. 1512 (1901).

⁴⁷⁵ *Alexander v. Alexander* 165 N.C. 45 (1914). *Alexander*, like *Sapp*, cited an older case to support protection of the privilege of chastisement. In *Alexander*, the judges used *Joyner v Joyner* 52 N.C. 322 (1862), which stated "the law gives the husband power to use such a degree of force as is necessary to make the wife behave herself and know her place."

Women could not testify against their husbands anymore after 1890. Turn-of-the-twentieth-century courts in the South showed a regression from the legal intervention against intimate-partner violence during the 1870s and 1880s.

Popular literature of the time reflected the shift in intimate-partner violence. Few wrote about spousal abuse, and those who did, tended to do so indirectly. Unlike the majority of writers during the period, Alice Moore Dunbar-Nelson published a short story in 1890 that dealt directly with intimate-partner violence in the South. Despite her attention to female victimhood, she painted a terribly bleak picture for women who suffered from abuse. Published in 1899, *The Goodness of St. Rocque, and Other Stories* contained the short story “Tony’s Wife.” Set in New Orleans, Louisiana—Dunbar-Nelson’s birthplace—the story centered around a working-class Italian/German couple. They owned a small shop on Prytania Street that sold everything from oysters to coal. Described as a “great, black-bearded, hoarse-voiced, six-foot specimen of Italian humanity,” the husband, Tony, treated his common law wife brutally.⁴⁷⁶ The wife remained nameless in the story, only called Mrs. Tony, and depicted as “meek, pale, little, ugly, and German” with “drawn in sleek, thin tightness away from a pinched, pitiful face, whose dull cold eyes hurt you, because you knew they were trying to mirror sorrow, and could not because of their expressionless quality.”⁴⁷⁷ Mrs. Tony worked doggedly during her relationship. She ran the store, dealt with customers, cleaned house, shucked oysters, and even made lace to sell to the locals for an additional income. The abuse was no secret, but despite widespread awareness, no one intervened to stop the abuse, not even Mrs. Tony’s mother. The young children upon

⁴⁷⁶ Alice Ruth Moore Dunbar-Nelson, *The Goodness of St. Rocque, and Other Stories*, (New York: Dodd, Mead, & Co., 1899): 22.

⁴⁷⁷ *Ibid.*, 23.

noticing the bruises only muttered, “Poor Mrs. Tony.”⁴⁷⁸ When her husband became sick, Mrs. Tony begged him to formalize their marriage to the priest, but he refused. Upon Tony’s death, his brother inherited the shop, including the money Mrs. Tony had made from her sewing. She was forced to leave the home and shop with nothing but “her bundle of clothes.”⁴⁷⁹ Despite having acted as an obedient wife and endured Tony’s abuse, Mrs. Tony received no protection from spousal abuse or poverty.

In “Tony’s Wife,” Dunbar-Nelson illustrates the vulnerability not only of women in common law marriages but also immigrant women of lower socioeconomic classes. Mrs. Tony was at a disadvantage for not being legally married. Without the state’s recognition of her common law marriage, she inherited nothing, leaving her economically devastated. She also faced prejudice because of her working-class status and ethnicity. Despite New Orleans’s large immigrant population, discrimination against “non-whites”, particularly Italian, rose in a period when nativism dominated. Although Mrs. Tony was not African American, Dunbar-Nelson made clear her critique of racial and ethnic prejudice. Dunbar-Nelson also drew from other elements of her personal life. During her engagement to her first husband, the poet Paul Dunbar, Alice was raped by Dunbar.⁴⁸⁰ He continued to abuse her both verbally and physically after their marriage.⁴⁸¹ She endured four years before separating in 1902, and only with Paul’s death did

⁴⁷⁸ Ibid., 25.

⁴⁷⁹ Ibid., 33.

⁴⁸⁰ For information on African American women and rape, particularly a culture of dissemblance, see Darlene Clark Hine, “Rape and the Inner Lives of Black Women in the Middle West,” *Signs* vol. 14, no. 4 (Summer 1989): 912-920.

⁴⁸¹ Eleanor Alexander, Lyrics of Sunshine and Shadow: The Tragic Courtship and Marriage of Paul Laurence Dunbar and Alice Ruth Moore : a History of Love and Violence Among the African American Elite, (New York: New York University Press, 2001).

she achieve her complete freedom from the abusive marriage. Arguably, her affluent status enabled her to secure a separate life from him, including another home, but Dunbar-Nelson could not dissolve her marriage because of changes in southern treatment of intimate partner violence. Like Mrs. Tony in the story, many southern women in the last decade of the nineteenth century lost social support and legal recourse for addressing abuse. The picture for women facing intimate-partner violence in the South became increasingly bleak after the 1890s.

“Tony’s Wife” presented the reality experienced by many southern women by the end of the nineteenth century. As intimate-partner violence became racialized, all abused women suffered. Racialization of intimate-partner violence meant African American women received legal assistance only as a method of maintaining white, male power. Often intervention took place as an excuse to disenfranchise or lynch black men, and attention to African-American abusers helped whites to label people of color as barbaric and primitive. Women fortunate enough to have money could seek separate room and board and perhaps (if married) a full divorce, but they were denied any other civil and criminal action. The shift impacted white women as well.

Racializing intimate-partner violence meant people had to deny the real presence of violence among white couples. After all, southerners claimed, intimate-partner violence had been eradicated in the white community, so what need was there to raise awareness or legal resources for white women? In instances where white men were found to be excessively violent, courts funneled such cases to Societies for the Prevention of Cruelty to Children and family courts, which prioritized family stability above fixing the problem of intimate-partner violence.⁴⁸²

⁴⁸² For more on the shift to SPCC’s and family courts, see Elizabeth H. Pleck, Domestic Tyranny: The Making of Social Policy against Family Violence from Colonial Times to the Present, (New York: Oxford University Press, 1987): 126, 136.

Intervention became unnecessary in white couples since, one newspaper claimed, intimate-partner violence was a “rare crime” and women resented interference given “the fact that the women whipped by their husbands seem to enjoy it.”⁴⁸³ Socially and politically, white men benefitted, and their dominance was secured for another few decades. Women, regardless of race or socioeconomic classes, lost. On the most intimate level, women remained vulnerable to the dynamics of power, concentrated in the hands of men, until the Women’s Liberation Movement of the 1970s. For several decades, the veil of privacy would protect the white southern male “privilege” of chastisement.

⁴⁸³ “Whipping Post for Wife Beaters,” *The Biloxi Daily Herald* May 23, 1904 (Biloxi, Mississippi).

CHAPTER 7
THE DECLINE OF INTIMATE-PARTNER INTERVENTION IN THE NORTH

Mr. and Mrs. W were 36 and 32 years of age, respectively, when they became known to the organization. They had been married 14 years at the time and had four children... The wife complained that her husband was abusive, had a very hot temper, and a venereal disease. Mr. W countered with the accusations that his wife was immoral and a bad housekeeper. —Chicago caseworker from case no.1517 (1926)⁴⁸⁴

To address the W's marital problems, the Court of Domestic Relations sent social workers to the house to interview, assess, and provide a solution that would make the marriage more stable. The caseworker spoke to both parties, noting each spouse's issue with the other, and found that the couple had "gotten into the habit of quarrelling."⁴⁸⁵ The counselor implemented a course of treatment, which involved sending a visiting housekeeper to instruct the wife in home economics. No attempt was made to address the well-documented anger problems of the husband. Instead, the caseworker argued, abuse was only a symptom of a larger issue, for which the woman held accountability and had to change.

The case of the W's illustrates the new intervention in intimate-partner violence. At the turn of the twentieth century, Progressives believed experts in individual fields knew the most effective solutions to the problems American society faced, and these professional authorities increasingly provided new policies for a host of social ills. As expertise mattered, science drew renewed attention and grew in specializations, such as psychology and social work. Institutions such as the Societies for the Prevention of Cruelty of Children (SPCC) began staffing social workers and adopting their scientific methods for intervening in the family. Courts also relied on psychologists and social workers to fix the problems in marriages thereby effectively transferring

⁴⁸⁴ Ernest Mowrer and Harriet R. Mowrer, Domestic Discord: Its Analysis and Treatment, (Chicago, Ill: University of Chicago Press, 1928): 153.

⁴⁸⁵ Ibid.

intimate-partner violence from the authority of the courts to the realm of science. Family counselors during the period, instead of holding the abuser accountable, looked to the individuals in the marriage to find internal conflict that manifested itself in violence. For the W's, treatment took the form of teaching the wife how to be a better housekeeper. The caseworker provided no counseling to the husband for being abusive since trends in psychology viewed the violent behavior as a symptom and not worth addressing. This meant the victim of intimate-partner violence faced anything from psychotherapy to instruction on sexual hygiene— all aimed at changing the woman.

The Field of Science and Views of Gender

The ideological trend in psychology and social work during the turn of the twentieth century tended to view gender expectations very conservatively. Experts in science increasingly vocalized their dislike of general changes between the sexes as advocated in the Suffrage Movement and the National Women's Party (NWP). Granting women's right to vote, in particular, drew the ire of some experts. American biologist Dr. William T. Sedgwick pronounced "feminist propaganda" of suffragists as the "best example of biological bosh."⁴⁸⁶ Sedgwick and other anti-suffragists, such as W.L. George, argued the equality of the sexes denied the "natural" biological principle in which the male asserted dominance over the female. Moreover, they claimed, such "revolutionary" ideas "would mean degeneration and degradation of the human fibre," including "total destruction of wifehood and the home."⁴⁸⁷ If women

⁴⁸⁶ George MacAdam, "Feminist Revolutionary Principle is Biological Bosh," *New York Times*, 18 January 1914, sec. 5: 2.

⁴⁸⁷ Ibid.

continued to demand change, they argued, society would suffer. Women voting would upset the “natural” balance of power between the sexes and bring chaos to society by destroying the most basic social unit—the family. To biologists and others in the medical and scientific profession, nature dictated the relationship between men and women. The home supposedly needed a dominant male.

Natural law and the resistance to the modern woman formed the basis for many scientific arguments on the roles of the sexes. Another doctor, Abraham Myerson, stated in his 1920 book, *The Nervous Housewife*: “The husband differs from the wife in this fundamental, that essentially he is not a house man as she is a house woman.”⁴⁸⁸ The book discussed women suffering from physical and mental complaints that resulted from different neuroses. Myerson found several reasons for female disorders with most caused by the tension over modernity. He also found the strain over women adopting “manly” behaviors and dress—a concept he called feminism—to be a common problem that led to a multitude of diseases that harmed marriages. Myerson resolved the solution to marital problems saying,

If only one will is expected to be dominant in the household, the man's, then there can arise no conflict. If the form of the household is unaltered, but if the woman demands its control or expects equality, then conflict arises. If a woman expects a man to beat her at his pleasure, as has everywhere been the case and still is in some places, if she considers it just, brutality exists only in extremes of violence. If she considers a blow, or even a rough word, an unendurable insult, then brutality arises with the commonest disagreement. In other words, it is comparatively easy to deal with a woman expecting an inferior position...it is very much more difficult to deal with her modern sister.⁴⁸⁹

To Myerson, abuse was a relative term that only younger women of the modern generation identified as a problem. If women accepted “natural” gender roles, then domestic harmony would reign. Although he did not advocate spousal abuse as pointedly as others did,

⁴⁸⁸ Abraham Myerson, MD, *The Nervous Housewife*, (Boston: Little, Brown, and Co., 1920).

⁴⁸⁹ Ibid.

Myerson weakened anti-intimate-partner violence arguments by claiming recent changes in women's expectations created the problem, not the abuse itself.

Some extended the rationale of the law of nature and argued male domination in the home meant resurrecting and protecting the male privilege of chastisement. In 1913, Dr. William F. Waugh, Dean of Bennett Medical College and chief surgeon of the Jefferson Park Hospital in Chicago, declared "wife beating as a wholesome and proper discipline."⁴⁹⁰ Like George and Sedgewick, Waugh believed marriage rested on "natural" biological differences between the sexes. Once married, Waugh advised, "rule her... When she awakens your jealousy, beat her; she needs it."⁴⁹¹ For Waugh, fear and power rested as the cornerstones of every good marriage. If a wife feared her husband, she would be devoted and the marriage would be a success (defined as stability, not harmony). Women in marriage, to these experts, did not need protection or legal recognition as autonomous individuals because doing so would compromise the husband's position and thereby the marriage itself. Abuse, then, served as a method to maintain a supposedly good marriage based on natural law.

Other articles at the turn of the twentieth century also tapped into the scientific community's fascination with masculinity and men's primitive roots; these specialists sought to redefine gender expectations based on male dominance and female obedience. American psychologist G. Stanley Hall and others in the profession like Waugh believed industrialization and civilization placed manhood in danger. Men became sick and developed nervous diseases,

⁴⁹⁰ "Votes for Women Put Temporarily in the Background: Whether to Beat or Not to Beat your Wife is the Latest Controversy in Order," *Angelica Advocate*, August 21, 1913 (Angelica, New York). A similar article was published in *The Sunday Oregonian*, August 10, 1913 (Portland, Oregon): 3.

⁴⁹¹ *Ibid.*

such as neurasthenia, from becoming too civilized and consequently too effeminate. To recapture their masculinity, Stanley advised men to embrace their primitive heritage during childhood and emerge as an adult with a defined, aggressive masculinity.⁴⁹² Waugh agreed stating, “There is a constantly thickening coat of varnish of civilization formed over the man and the woman, but underneath it they are identical with the cave man and the cave woman, unchanged at heart.”⁴⁹³ Men and women were ultimately, Waugh argued, no different from cave dwellers from centuries ago, and for their own mental health, they should accept their primitive instincts and this “natural” order of society. This included men’s privilege of chastisement since spousal abuse was, Waugh declared, “natural.” His argument and medical authority helped to gain acceptance for curtailing anti-intimate partner violence efforts by supporting conservative gender expectations and placing wife beating beyond the scope of the law. At the root of rolling back reform were experts utilizing their professional authority to redefine gender expectations yet again. Although such medical and scientific views facilitated the retreat from intervening in instances of wife beating and punishing the abuser, the real damage to anti-intimate-partner violence efforts came with the alliance between the medical profession and the family courts.

The Growth of Psychology and Social Work

Psychology and psychotherapy gained momentum in Europe during the mid to late 1800s, but the United States did not develop the scientific specialization until closer to the turn

⁴⁹² Gail Bederman has an excellent discussion of G. Stanley Hall and his psychological theories in her book Manliness and Civilization: A Cultural History of Gender and Race in the United States, 1880-1917, (Chicago: The University of Chicago Press, 1995): 77-120.

⁴⁹³ “Jealous Women Need Whipping,” *Chicago Daily Tribune* August 11, 1912 (Chicago, Illinois).

of the twentieth century.⁴⁹⁴ Shaped in large part by the advocate for aggressive masculinity—Stanley G. Hall—Americans created clinics, medical literature, and professional degree programs for psychology in the 1880s. Hall also founded the American Psychological Association in 1892, and served as the first president to further promote interests of psychologists and to consolidate professional authority. Influenced by Sigmund Freud’s work, some American practitioners decided to create the *Journal of Abnormal Psychology* in 1906, which was dedicated exclusively to Freud’s theories and psychoanalytic methods. The popularity of psychoanalysis led many professionals to fear non-medical laypersons would practice the art, decreasing the medical authority and respect of the rising field. To keep professional authority exclusive to psychologists, the American Psychoanalytic Association (APA) was created in 1910. The APA quickly issued training requirements and guidelines for the emerging specialty, and psychology and psychotherapy gained considerable influence in the first two decades of the twentieth century.

Social work, closely related to the growing field of psychology, blended reformers’ goals with psychology. Social work initially sought “to bring about social reconstruction...[with] the family as its unit.”⁴⁹⁵ The individual mattered as much as the person could be brought to “the best adaptation within the present social order.”⁴⁹⁶ The treatment social workers in the early

⁴⁹⁴ For a comprehensive discussion of the professionalization of medicine in the United States and internal conflict, such as between psychologists and psychiatrists, see Paul Starr, The Social Transformation of American Medicine, (New York: Basic Books, 1982). For a history of American psychotherapy in particular, see John Norcross, Gary Vandenbos, and Donald Freedheim, History of Psychotherapy: Continuity and Change, (Washington, DC: American Psychological Association, 2011).

⁴⁹⁵ Ernest Mowrer and Harriet R. Mowrer, Domestic Discord: Its Analysis and Treatment, (Chicago, Ill: University of Chicago Press, 1928): 4-5.

⁴⁹⁶ Ibid.

1900s applied, then, revolved around the family and family stability, since Dr. Ernest Mowrer and Harriet Mowrer argued, family was “an asset to social organization and well-being.”⁴⁹⁷ Originating in 1898, universities offered more and more classes on helping children and the family through home visits until 1904 when it was made into a formal field with a graduate level degree. With its newly formed expertise in marriages, social work, along with psychology, dominated new solutions for intimate-partner violence.

The fields grew so rapidly that specialized clinics, such as family therapy and marriage counseling, started appearing as early as the 1910s and 1920s. To solve issues, whether they were personal discontent or social problems, these specialists used a counseling method that taught people to reflect on inner conflicts. Even victims of violence were told to find suppressed desires, usually sexual, and come to terms with them. Typically, suggestions for personal change accompanied the treatment, which sent abused women on a host of personal makeovers to please their husbands. None sought to punish the abuser. Mental healthcare workers wanted to reconstruct the family instead by having individuals examine themselves and see how they could change in order to better the relationship. Success, Dr. Ernest Mowrer and Harriet Mowrer agreed, resulted when the individual had met “conformity of overt behavior to the dictates of the group.”⁴⁹⁸ Essentially, a stable family mattered more than individual needs.

Declining Assistance in Institutions

In part, the Progressive Era’s movement to fix social problems through the use of the government and experts enabled further growth of such agencies as the SPCC, but by the second

⁴⁹⁷ Ibid., 25.

⁴⁹⁸ Ibid, 89. The cases discussed are all reports from the caseworkers and not interpretations of the Mowrers.

decade of the twentieth century, organizations adopted scientific experts' advice to uphold conservative gender expectations. Consequently, the SPCCs shifted their focus from "cruelty to that of prevention."⁴⁹⁹ Physical violence, then, took a back seat on finding the factors that supposedly created abuse in the first place, such as poverty and more egalitarian relationships between the sexes. In doing so, they signified not only a change in approach but also a change in the scientific experts' views on gender, family, and violence, particularly intimate-partner violence.

By 1912, the SPCC organizations expanded their definition of child abuse to include physical neglect and believed physical abuse to be a less significant issue. The Beverly Branch of the Massachusetts SPCC declared in the 1912 annual report, "As in other years and other districts we have both moral and physical neglect and a few instances of old-fashioned cruelty."⁵⁰⁰ With "few instances of old-fashioned cruelty," physical abuse, they argued, was no longer as pressing as neglect.⁵⁰¹ The annual overview went on to stress the change, stating, "Throughout the district the major part of the work deals either directly or indirectly with cases of neglect of children, as no doubt it will until society has found a way to remove conditions which create the neglect problem."⁵⁰² By 1916, neglect ranked the second most frequent factor cited for Massachusetts SPCC intervention after temperance and abuse third.⁵⁰³ Neglect occurred

⁴⁹⁹ Massachusetts was one of these states. See Massachusetts Society for the Prevention of Cruelty to Children, *Thirty-Second Annual Report*, (Boston: The Berkeley Press, 1912).

⁵⁰⁰ *Ibid.*, 35.

⁵⁰¹ *Ibid.*

⁵⁰² *Ibid.*

⁵⁰³ Massachusetts Society for the Prevention of Cruelty to Children, *Thirty-Sixth Annual Report*, (Boston: Griffith Stillings Press, 1916): 28; Elizabeth Pleck examines statistics from

in forty-four percent of the cases that year and abuse (physical cruelty) only six percent.⁵⁰⁴ By 1917, the Massachusetts SPCC noted, “The principle concern of the Society is with neglected children.”⁵⁰⁵ Ranking the issues to combat in the community, the 1917 annual report mention neglect, followed by poor health care, “sex immoralities,” “use of drugs,” child support, children with special needs, bastardy, and lastly, physical abuse.⁵⁰⁶ Neglect, not abuse, began to be the new focus.

Along with the shift from abuse to neglect, the SPCC began staffing social workers for their organizations, which resulted in an analysis of why individuals did what they did and how it could be prevented in the future. Prevention no longer pointed at the abuser but sought to address social conditions that supposedly caused the problem. Solutions ranged from “interest of a friendly visitor, the influence of the church, a latent love of children, fear of prosecution and sometimes the actual prosecution itself.”⁵⁰⁷ Jail time and removal of the abused wife or child, however, was not thought to be the best method to solve the problem of intimate-partner violence. The Massachusetts SPCC prided itself in reducing the number of cases that went to court from one in four cases in the early 1900s to only one out of six cases in 1920.⁵⁰⁸ These cases resulted in legal action primarily for child support rather than assault and battery. Viewing

other SPCCS during the period and shows 12% was a rough average for child cruelty cases. See Elizabeth Pleck, Domestic Tyranny: The Making of American Social Policy against Family Violence from Colonial Times to the Present, (Chicago: University of Illinois Press, 2004): 84.

⁵⁰⁴ Ibid.

⁵⁰⁵ Massachusetts Society for the Prevention of Cruelty to Children, *Thirty-Sixth Annual Report*, (Boston: Griffith Stillings Press, 1917): 27.

⁵⁰⁶ Ibid.

⁵⁰⁷ Ibid.

⁵⁰⁸ See Massachusetts Society for the Prevention of Cruelty to Children, *Fortieth Annual Report*, (Boston: Griffith Stillings Press, 1920): 25.

child neglect as preventable, the Massachusetts SPCC decided they had “not been interested principally in the punishment of the offender, but in the reshaping of the ideals of the family and the conditions under which the children lived, so that the family and home might be saved for the child whenever possible.”⁵⁰⁹ This meant serious changes to how the abuser was dealt with as well as how the abuser was viewed.

As the goals changed in SPCCs, other reform organizations, such as the WCTU, also reworked their approaches in a way that reduced the focus on intimate-partner violence in the early 1900s. Temperance laws, the WCTU continued to argue, were effective in combatting crime, including intimate-partner violence. A 1908 study of Kansas City claimed “gambling [decreased] seventeen percent, burglary and grand larceny [decreased] thirty three percent, vagrancy [decreased] forty percent, [and] wife beating [decreased] seventy percent” in a year’s time because of local prohibition laws.⁵¹⁰ The objective, then, in banning the sale of alcohol remained the central focus of temperance organizations. The WCTU, however, changed its tactics. By the turn of the twentieth century, the WCTU virtually abandoned its campaign against the image of a brutish, alcoholic husband, which had long helped raise social awareness to both problems with alcohol and intimate-partner violence. Instead, the WCTU argued alcoholism was now understood as a sickness and the consequence of economic conditions.⁵¹¹ The temperance movement’s primary goal of banning alcohol would help alcoholics from engaging in a host of

⁵⁰⁹ Massachusetts Society for the Prevention of Cruelty to Children, *Fortieth Annual Report*, (Boston: Griffith Stillings Press, 1920): 25.

⁵¹⁰ “What Prohibition Does to a Town in a Fiscal Way,” *The Daily State* December 14, 1908 (Baton Rouge, Louisiana): 7.

⁵¹¹ Ruth Bordin, Woman and Temperance: The Quest for Power and Liberty, 1873-1900, (Philadelphia: Temple University Press, 1981): 14.

vices, such as wife beating or gambling. But, instead of addressing intimate-partner violence as the WCTU had in the past, the solution then became a preventative measure through the attack on poverty.

Social workers agreed with the WCTU's new views on alcohol. By 1917, SPCCs worked alongside temperance organizations and argued more hospitals for inebriates were needed in order to "deter and cure" those with drinking problems, not jail time.⁵¹² Poverty too became a new objective to prevent child neglect. A collection of cases, *Darkness and Daylight*, discussed Helen Campbell and Colonel Thomas W. Knox's experiences serving the poor in New York City. Their descriptions of the cases illustrate the changing mentality towards abuse in the wake of the new scientific field of social work. They focused on the tenement house itself as if it, by its physical existence, brought about social problems. Inside tenement districts "squalid misery abounds on every hand... Ignorant, weary, and complaining wives, cross and hungry husbands, wild and ungoverned children, are continually at war with each other."⁵¹³ At one point in the narrative, the authors described a husband attacking his wife. The couple's argument escalated from shouts and verbal insults to throwing furniture. Campbell and Knox described the man's "raging cry of demoniac passion" as a "wild beast rage."⁵¹⁴ After yelling for a while, the husband proceeded to beat his wife, and despite witnesses, including the authors and the downstairs

⁵¹² Massachusetts Society for the Prevention of Cruelty to Children, *Thirty-Sixth Annual Report*, (Boston: Griffith Stillings Press, 1917): 31.

⁵¹³ Helen Campbell, Col. Thomas W. Knox, and Thomas Byrnes, *Darkness and Daylight: or Lights and Shadows of New York Life. A Pictorial Record of Personal Experiences By Day and Night in the Great Metropolis*, (Hartford: The Hartford Publishing Company, 1896): 480.

⁵¹⁴ *Ibid.*

neighbors, “no one went to her.”⁵¹⁵ After all, Campbell and Knox claimed, “the house was well used to such demonstration.”⁵¹⁶ Tenement housing districts, to those like Campbell and Knox, bred sin and vice. Reformers viewed the living conditions of “lower” socioeconomic classes with disdain, believing those conditions created alcoholism, abuse, crime, and disease.

Collectively, organizations altered their view on the role of abuse in society. Other factors, which served to prevent social ills, became the focus. As a result, intimate-partner violence dwindled in reform organizations’ priorities, and women lost resources that they had utilized in the past. As institutions rolled back their reform in intimate-partner violence, the influence of scientific experts reached to the state, and the legal system again changed its policies towards abused women.

Rolling Back Legal Reform

In 1910, the United States Supreme Court reaffirmed the role of experts by removing intimate-partner violence from the domain of courts to reaffirm the sanctity of family. Jessie Thompson sued her husband, Charles, in Washington, D.C.’s civil court, attempting to collect \$70,000 in damages for assault and battery when she was pregnant. Despite undeniable proof of abuse, Jessie lost the case. Wives of the time generally did not succeed in torts against their spouses, but the Supreme Court’s ruling went beyond denying Jessie the right to collect money for damages caused by her husband. Many states passed legislation allowing married women to contract business separately, provide testimony against their husbands in felony cases, and hold possessions as individuals. These laws permitted women some level of economic and legal

⁵¹⁵ Ibid.

⁵¹⁶ Ibid.

autonomy, but in the 1910 *Thompson* case, the justices declared “At the common law the husband and wife were regarded as one. The legal existence of the wife during coverture being merged in that of the husband.”⁵¹⁷

All the late nineteenth-century changes towards legal autonomy of a married woman did not, according to the *Thompson* decision, include the right to sue her own husband, even if she suffered permanent damage. The Supreme Court argued the right of a wife to sue her husband would set a “radical” precedent and lead to “destruction by the statute of the unity of the married relation.”⁵¹⁸ Essentially, such a legal right would destroy the institution of marriage. Moreover, the Chief Justice claimed, it would “open the doors of the courts to accusations of all sorts of one spouse against the other and bring into public notice” domestic issues.⁵¹⁹ With *Thompson*, the highest court in the country reaffirmed the privacy of family and set back decades of work in combating intimate-partner and family violence. The Supreme Court categorized intimate-partner violence as a private issue and beyond the scope of the criminal and civil court system. Allowing the public into a couple’s relationship, the *Thompson* decision stated, to promote “the public welfare and domestic harmony is at least a debatable question.”⁵²⁰ The statement insinuated marital peace could best be achieved by protecting family stability through protecting privacy, which hindered the ability to hold abusers accountable. Legal reform regressed, and after four decades, the veil of privacy fell back over the family.

⁵¹⁷ *Thompson v. Thompson* 218 U.S. 611 (1910).

⁵¹⁸ *Ibid.*

⁵¹⁹ *Ibid.*

⁵²⁰ *Ibid.*

Heavily cited in the years following, *Thompson* established a legal precedent for rolling back the wave of marital violence reform.⁵²¹ The same year as *Thompson*, the state of Minnesota heard a similar case in which a wife attempted to sue her husband for damages. In *Drake v. Drake*, Minnesota's courts decided against both the husband and wife's claims. The husband sought to enjoin his wife for "nagging" him, but the Minnesota court found the examples vague and without legal basis.⁵²² The wife countered that her husband was a habitual abuser and the level of violence entitled her to a divorce. The court dismissed her as well, claiming nagging and intimate-partner violence were "matters of no serious moment" because if only the couple slept on it, the events "would silently be forgiven or forgotten."⁵²³ The court declared the public had no right to intervene in their supposedly petty problems and that the woman, despite recent legislation granting her economic rights, was subsumed under her husband's identity according to the common-law definition of coverture. *Drake*, like *Thompson*, confirmed spousal immunity from torts, the common law definition of married women as coverture, and the privacy of family, but *Drake* also reduced wife beating to "trivial family disagreements."⁵²⁴ Serving as a legal affirmation to social attitudes, *Thompson* and *Drake* illustrated American interest in addressing intimate-partner violence had officially ended.

Even as the criminal and civil court system declined to address intimate-partner violence, abuse still posed a threat to the stability of the family unit, and as a result, many states created a

⁵²¹ *Thompson v. Thompson* was cited by no less than 296 cases that followed from 1921 to the present.

⁵²² Virginia Law Review, "Husband and Wife. Right of Husband to Enjoin "Nagging" by Wife," *The Virginia Law Register*, New Series, Vol. 6, No. 12 (Apr., 1921): 946-948.

⁵²³ *Drake v. Drake* 177 N.W. 624, 625 (Minn. 1920).

⁵²⁴ *Ibid.*

new type of court to deal specifically with issues relating to the family and give experts the power to solve the various problems categorized as marital discord. The first family court emerged in Buffalo, New York, to deal with a wider range of family problems, and they grew in number so that by the late 1920s much of the country had at least one family court in each state.⁵²⁵ Family courts primarily sought, as historian Elizabeth Pleck observes, to “preserve the family, act in the best interest of the child, and offer a curative rather than punitive approach to family problems.”⁵²⁶

Despite the Chief Justice’s claims in *Thompson* that women could seek divorce in civil courts, the creation of family courts aided the retreat from addressing intimate-partner violence even there. The new courts actually decriminalized violence between family members. After all, Progressives believed family violence was caused by preventable conditions, such as poverty. Abuse, then, was not a focus or real issue of the new courts. Increasingly, they started to rely upon the professionals in science and medicine, who influenced the discussion on spousal abuse by asserting their expertise. Some criminal courts more explicitly denied the right of anyone to interfere by the first decade of the twentieth century, but when most courts began referring cases of intimate-partner violence to family courts, the impact was the same.⁵²⁷ Intimate-partner violence became sidelined as a lesser issue or result of poverty and immorality.

⁵²⁵ By 1923, every state except for Wyoming and Connecticut had juvenile courts. See Albert R. Roberts, *Juvenile Justice Sourcebook: Past, Present, and Future*, (Oxford: Oxford University Press, 2004): 168.

⁵²⁶ Elizabeth Pleck, *Domestic Tyranny: The Making of Social Policy against Family Violence from Colonial Times to the Present*, (New York: Oxford University Press, 1987): 126.

⁵²⁷ Examples of explicitly labeling intimate-partner violence as unimportant are *Drake v. Drake* 177 N.W. 624, 625 (Minn. 1920) and *Thompson v. Thompson* 218 U.S. 611 (1910).

Family courts utilized these new social and mental healthcare workers and their methods, often assigning newly trained psychologists and social workers to handle cases. Abuse rated as the highest reason for court mandated psychological therapy in the 1920s.⁵²⁸ Psychologists, however, did not seek to treat the abuse but rather sought to uncover a reason for conflict. In their analyses, Sigmund Freud's views on subconscious desires and repressed sexual urges influenced treatment for marital discord. Professionals pointed to sexual adjustment and loose gender roles as the two most frequent underlying problems for intimate-partner violence. The solution, then, was to teach women to be obedient and dutiful wives.

One Chicago case sent for therapy involved a Mr. and Mrs. "A," who had been married for eleven years. After their sixth child, Mrs. A left her husband and returned to live with her parents, claiming Mr. A was abusive. She told the caseworker that she believed returning to her husband "would only mean more children for whom they cannot provide adequately."⁵²⁹ To solve the problem, the caseworker provided the wife with birth control and sexual hygiene information. No attempt to counsel the husband was made. To the courts and psychologists, the solution lay not with stopping the violent husband from abusing his partner but with the wife's ability to limit the family size and keep her genitals clean enough to meet her husband's olfactory and sexual desires. She had to change, and the family had to be maintained.

Even in cases with chronic alcoholism and physical abuse, social workers placed higher value on family stability (keeping a marriage intact) than stopping the violence. In the case of Mr. and Mrs. G, therapists worked with the couple for over fifteen years. Mrs. G complained her

⁵²⁸ The Mowrer sample focused on data from the United Charities of Chicago and the Jewish Social Service Bureau of Chicago. Abuse topped the list of diagnostic factors with 41% of all cases. See Ernest Mowrer and Harriet R. Mowrer, Domestic Discord: Its Analysis and Treatment, (Chicago, Ill: University of Chicago Press, 1928): 40.

⁵²⁹ *Ibid.*, 152.

husband was an alcoholic and abusive, and Mr. G countered that his wife was immoral and a bad housekeeper. Mr. G's problem with alcohol was well documented as he had spent time in the Chicago Psychopathic Hospital for drunkenness, always discharged as cured. Mrs. G showed her bruises as evidence of physical violence, but the husband continued to deny any abuse. The caseworkers attempted to affect change when they "tried to arouse his pride in the fact that he was not drinking now and there was no excuse for his being brutal."⁵³⁰ Here the caseworkers directly commented on his violent behavior (a tactic typically avoided), hoping that by praising him for not drinking, he would stop getting intoxicated and thereby solve the secondary issues. They failed. Mr. G was forced by the local criminal court into the Elgin Hospital for the Insane a few days later for being an "alcoholic in a deteriorating condition."⁵³¹ After his stay in Elgin, the caseworkers tried to force a reconciliation to repair the family. They urged the wife "to try and make a home now for Mr. G and the children, to live peacefully and train her children properly."⁵³² Despite repeated refusals, the psychologists pleaded and finally made Mrs. G accede to their requests. The caseworkers closed the case, and they felt satisfied that despite continued conflict the couple still lived together.

As shown in this case, social workers, like temperance advocates in the early 1900s, viewed alcoholism as a sickness in need of addressing. Mr. G needed medical attention, even if he had to be coerced to go to a hospital for treatment of alcoholism. The other problems would fix themselves by correction of the primary issue. Nowhere in the caseworker's notes did the woman's right to be free from violence factor into the course of treatment. Even with a long

⁵³⁰ Ibid., 167.

⁵³¹ Ibid.

⁵³² Ibid.

history of alcoholism and physical abuse, the caseworkers insisted the wife continue to live with her husband and preserve the marriage. Maintaining the most basic social unit superseded any violation of a woman's right.

In another long-term case, the courts and social workers followed a Mr. and Mrs. B for eleven years, trying to keep the couple together. The husband and wife found themselves in the Chicago family court after being denied a legal separation. Like many of the other cases, the wife claimed the husband abused her and had a violent temper, and the husband accused his wife of bad housekeeping and nagging. The caseworkers visited the home and found the house "in a terrible condition, the bed was unmade, everything was dusty and dirty, and the children were dirty and half-dressed."⁵³³ Mrs. B asked for help to leave her husband since the abuse and conflict was too much for her to endure anymore. The caseworkers refused. Instead of helping a victim of abuse, they found the party at fault to be the wife. The caseworkers called her selfish and jealous. They told her she nagged her husband too much and needed to "realize her responsibility as a wife and mother" by having her husband's meals on time and by learning good housekeeping "if she wishes to command the respect of her husband."⁵³⁴ Here, as in the other cases, the medical profession wielded authority to shape public policy and ensure the family remained together. This new goal directed intervention, and women found the courts less capable of providing a real solution. No longer did legal intervention provide assistance for a separation, for criminal punishment or counseling of the abuser. In social workers' and the new family courts' view, intimate-partner violence mattered less than preservation of the marriage.

⁵³³ Ibid., 169.

⁵³⁴ Ibid.

The new trend in medicine and the law also took responsibility away from the abuser and redirected blame towards the wife. Victim blaming pointed to a larger issue. If the legal, medical, and social resources for abused women did not seek to solve the problem, then what purpose did they serve? By the 1920s, they effectively acted as a method of controlling gender expectations and dynamics in marriage. Many men resented changes in women's roles from increased participation in the work force to demands for the right to vote, and punishing wife beaters chipped away at what had been for centuries a male privilege. Rolling back the reform to end spousal abuse helped, in some way, to re-solidify male authority in the home. At the very least, men were not being demonized or punished for their violence, which reaffirmed a basic level of power over their female partners. Mental professionals and legal officials further upheld conservative gender expectations by training women on the standards of good housekeeping and submissiveness.⁵³⁵ Reclaiming an aggressive, powerful masculinity effectively eroded some gains women made in the late 1800s, particularly the right to be free from violence.

In the late 1800s, the North possessed multiple different resources for abused women. Like the South in the 1870s and 1880s, criminal courts charged abusive men with assault and battery or with the specific crime of wife beating, many major cities possessed Progressive organizations that could offer additional help, such as the SPCCs. Chicago even established a shelter for battered women called the Woman's Club. Arguably, Progressive agencies, like the SPCC, offered qualified help, and while the effectiveness could be debated, they offered some

⁵³⁵ Historically, psychotherapy has had what some professionals call a "gender gap," in which man is held as the standard of mental health. This immediately categorizes woman as "other" and more often than not "abnormal." See Jean Baker Miller, "The Effects of Inequality on Psychology," *The Gender Gap in Psychotherapy: Social Realities and Psychological Processes*, (New York: Plenum Press, 1984): 5-16.

sort of assistance, treating the abuser as a brute that forfeited his rights as a man.⁵³⁶ Society viewed wife beaters as a social pariah, deserving everything from a whipping to jail time, and the victims as deserving aid through a separation or treatment to make their partners stop the abuse. The movement enabled women some recourse for intimate-partner violence at least until the early 1900s.

By the first decade of the twentieth century, scientific experts directed new public policies that dealt with family violence. Wielding influence to impact intimate-partner violence either positively or negatively. Influential experts contested gender expectations again, claiming natural law required men to be the dominant ones and women to be submissive. Violence in a marriage, some argued, became but a method of control and was again the male privilege of chastisement rather than a violation of a woman's right to be free from violence. The criminal and civil courts resurrected the concept of family privacy and relegated intimate-partner violence to the family courts, psychologists, and social workers.

Family courts and the medical profession helped to establish a new method to "treating" intimate-partner violence. Abusers no longer were the focus, but rather victims came under scrutiny. In court-mandated therapy, mental health professionals examined the intra-psychic tensions of the individual. After all, Mowrer claimed, domestic conflict came from "disorganization of the personality [and] leads to greater emphasis upon the persona

⁵³⁶ Some have argued that the SPCCs focused on poorer immigrant families and sought to instill white, middle class values and not genuine help for abused women. See Jacques Donzelot, The Policing of Families, (New York: Random House, 1977) and Christopher Lasch, Haven in a Heartless World: The Family Besieged, (New York, Basic Books, 1977). Others disagree. See Linda Gordon, "Child Abuse, Gender, and the Myth of Family Independence: An Historical Critique," *Child Welfare*, v. LXIV, No. 3 (May-June 1985): 213-224.

development and social experiences” of the couple.⁵³⁷ Often, however, the only partner who attended counseling sessions was the wife, which meant treatment revolved around changing her. These women, they claimed, needed to become good housekeepers and sexually available to their husbands, and so counselors led wives down a long, never-ending path of self-examination, asking what she could change to make the marriage better. In doing so, the North co-opted efforts to end intimate-partner violence and kept real reform for abused women from happening until the 1970s Women’s Liberation Movement.

⁵³⁷ Harriet R. Mowrer, Personality Adjustment and Domestic Discord, (New York: American Book Company, 1935): 5.

CONCLUSION GENDER AND INTIMATE-PARTNER VIOLENCE

Between 1865 and 1920, men and women continued to contest the definition of womanhood. How did society expect a woman to behave? What rights did a woman have? How would power be distributed in a woman's relationship with a man? These questions yielded different answers over the course of fifty-five years as competing images of manhood and womanhood clashed. These varying gender expectations that dominated across the decades influenced the socio-legal response to intimate-partner violence and abused women.

During the Civil War, men and women's experiences tested their assumptions on gender expectations. Men in battle questioned the ideal of manhood and dying the good death. Others lost control of restraint and "delight[ed] in killing."⁵³⁸ War tested the ability to act civilized and yet fight to protect one's country and family. Once home, these men struggled to adapt to civilian life, particularly those who suffered amputations or shell-shock syndrome. Civilians stared at amputees as a spectacle, and men with shell-shock faced a society largely unaware and not accepting of the disorder.⁵³⁹ The unstable postwar economy provided more difficulties for veterans, and these men who suffered physical or mental injuries faced a harder time of finding a job and providing for their families.

For women, the war brought different experiences that challenged the antebellum notion of womanhood. Many women stepped out of the home and served as nurses. Nursing brought close contact with the horrors of war, but so did staying on the homefront. With so many men fighting in the war, women frequently took over positions men held whether working in a

⁵³⁸ Drew Gilpin Faust, *This Republic of Suffering*, (New York: Alfred A. Knopf, 2008): 37.

⁵³⁹ Frances M. Clarke, *War Stories: Suffering and Sacrifice in the Civil War North*, (Chicago: University of Chicago Press): 73.

munitions factory, running a plantation, or managing the household affairs. In the war torn South, women faced occupying Union soldiers and more severe economic hardship. Regardless of the location, women realized the drawbacks to complete dependence on men and emerged from the war with awareness of the drawbacks of antebellum gender expectations.⁵⁴⁰

After the war, women renegotiated gender expectations to allow for a more reciprocal relationship between the sexes. Men remained the dominant sex, but this dominance came with limitations. Women possessed “the inalienable right [to] dignity and respect.”⁵⁴¹ Part of right included the end to intimate-partner violence. Women expected men to recognize their right to be free from violence. Whether courting, engaged, common law married, or legally married, many women rejected the antebellum male privilege of chastisement. Some physically fought back.⁵⁴² Others turned to family and neighbors to uphold their right to be free from violence.

Family members and the community responded by intervening in abusive relationships. While intervention by family primarily took place in the home, the expanding number of public spaces in the postbellum period enabled the community to intervene. Crowds gathered, and some helped to remove women from the abusive situation.⁵⁴³ Many risked their own well-being in a

⁵⁴⁰ Alecia P. Long and LeeAnn Whites, eds., Occupied Women: Gender, Military Occupation, and the American Civil War, (Baton Rouge, Louisiana State University Press, 2009): 251.

⁵⁴¹ Desiree Martin, Evening Visits with a Sister or the Destiny of a Strand of Moss, (New Orleans, Louisiana: Imprimerie Cosmopolite, 1877): 187.

⁵⁴² *State v. James Wilson* (1887) CRDC# 9856 and *State v. G.C. Shields* (1887) CRDC# 9767 are two examples. Linda Gordon in Heroes of Their Own Lives also shows female agency through physical confrontation. See Linda Gordon, Heroes of Their Own Lives: The Politics and History of Family Violence: Boston, 1880-1960, (New York, N.Y., U.S.A: Viking, 1988).

⁵⁴³ *State v. Martin* (1886) CRDC# 8562.

determined effort to stop the violence.⁵⁴⁴ Other times, crowds gathered and threatened to physically harm the abuser if he continued to act violently towards his wife.⁵⁴⁵ Community intervention, moreover, showed how cross-racial alliances sometimes formed over the issue of intimate-partner violence.⁵⁴⁶ Overall, the level of extralegal intervention testified to an American society internalizing a woman's right to be free from violence.

The next level of intervention came from institutions. In the last few decades of the nineteenth century, America underwent a "search for order" and looked to perfect society through bureaucratic means.⁵⁴⁷ Organizations formed to address the problems in society. One of the social ills these groups attempted to solve was intimate-partner violence. The WCTU helped raise social awareness for intimate-partner violence by creating the powerful link between alcohol and abuse. Alcohol made men brutes, the WCTU argued, who went home and beat their innocent wives and children.⁵⁴⁸ Through newspapers, the media reiterated the message of abusive men as brutes.⁵⁴⁹ Intimate-partner violence became a public problem with a public policy

⁵⁴⁴ *State v. Will Bassinger* (1887) CRDC# 9764.

⁵⁴⁵ A few examples are *Wheeling Register* July 25, 1882 (Wheeling, West Virginia); *Macon Weekly* July, 7, 1885 (Macon, Georgia); *Macon Weekly* September 23, 1885 (Macon, Georgia); *Macon Weekly* November 15, 1884 (Macon, Georgia); *The Daily Advocate* August 22, 1884 (Baton Rouge, Louisiana).

⁵⁴⁶ For example, *State v. William Hines* (1886) CRDC# 8841; *State v. James Gillen* (1882) CRDC# 2911; *State v. William Teal* (1881) CRDC# 1786.

⁵⁴⁷ Robert Wiebe, *The Search for Order, 1877-1920*, (New York: Hill and Wang, 1967).

⁵⁴⁸ Ruth Bordin, *Woman and Temperance: The Quest for Power and Liberty, 1873-1900*, (Philadelphia: Temple University Press, 1981).

⁵⁴⁹ Some examples are: *Times Picayune* August 28, 1870 (New Orleans, Louisiana); *The Columbus Daily* May 11, 1870 (Columbus, Georgia); *Macon Weekly* January 17, 1871 (Macon, Georgia); *Times Picayune* March 30, 1871 (New Orleans, Louisiana); *Times Picayune* October

necessary to address it. The National Woman Suffrage Association (NWSA), led by Elizabeth Cady Stanton, and later the National American Woman Suffrage Association (NAWSA) lobbied local governments to loosen divorce laws so that women in abusive marriages could escape. The success varied across the states, but many civil courts began recognizing physical and mental cruelty as a legitimate reason for legal separations and full divorces.⁵⁵⁰ Societies for the Prevention of Cruelty to Children, although formed to end child abuse, provided services to abused women as well. They fought for rights of dependents and legal protection. Collectively, these institutions pressured the state to act.

With the 1871 precedent setting case *Fulgham v. the State of Alabama*, the legal system responded through jurisprudence.⁵⁵¹ Few states passed laws criminalizing intimate-partner violence specifically. Instead, judges reinterpreted gender-neutral language in assault and battery statutes to prosecute abusive men. Through case law, intimate-partner violence became a crime, and the courts recognized women's right as autonomous individuals to be free from violence. Gender expectations, then, influenced the law. Judges no longer viewed women as completely civilly dead upon marriage. While the personhood of women was not fully recognized in the postbellum decades, the law acknowledged women as autonomous individuals, who had the constitutional right as human beings not to be beaten. The new interpretation of criminal law was

31, 1871 (New Orleans, Louisiana); *Macon Weekly* April 8, 1873 (Macon, Georgia); and *The Morning Republican* July 26, 1873 (Little Rock, Arkansas).

⁵⁵⁰ Hendrick Hartzog, *Man and Wife: A History*, (Cambridge, Mass: Harvard University Press, 2000): 12.

⁵⁵¹ *Fulgham v. the State* 46 Ala. 143 (1871).

not an empty threat since ninety-two percent of intimate-partner violence cases considered in this study resulted in a conviction.⁵⁵²

By the 1890s, however, the South pulled back from addressing the problem of intimate-partner violence. Southern white Democrats campaigned on white supremacy and made race the central focus of southern society. As Democrats increasingly took political positions (through legal elections, through fraud, or with violence), politicians denied African-American men rights through supposedly color blind laws. Since intimate-partner violence had already been associated with being uncivilized and brutish, white southerners increasingly associated wife beating with the black community. Politicians, then, used intimate-partner violence as a means of disqualifying a voter because, Alabama legislator John Burns declared, “The crime of wife beating alone would disqualify sixty percent of the Negroes.”⁵⁵³ Disenfranchisement for the misdemeanor of intimate-partner violence, then, deliberately served as a means of enforcing white supremacy. By the 1890s, prosecutions fell as the South lost interest in the problem of intimate-partner violence and became obsessed with legalizing an oppressive racial order for African Americans.⁵⁵⁴

The North held onto concern for intimate-partner violence a little longer, but with the rise of experts by the early 1900s, northern states rolled back reform. People continually contested gender expectations in the postbellum decade. Many scientists at the turn of the twentieth

⁵⁵² From the sample, the number of cases that resulted in successful prosecution is 169. Only 14 of the defendants in assault and battery cases tried were found to be not guilty, leaving 155 cases (92%) resulting in a guilty verdict.

⁵⁵³ As quoted in Reva B. Siegel, “The Rule of Love’: Wife Beating as Prerogative and Privilege,” *The Yale Law Journal*, vol. 105 (1996): 2140.

⁵⁵⁴ See Table 6.1 for the decline in prosecutions by decade or the appendix for prosecutions by year.

century argued women were naturally inferior and needed (if not wanted) to be dominated by men.⁵⁵⁵ This, some stated, included the need for physical coercion. If women wanted to avoid being beaten, then, psychologists and social workers urged, women needed to examine their personal issues and learn how to be an ideal wife for her husband. In the 1910 landmark case, *Thompson v. Thompson*, the U.S. Supreme Court relegated intimate-partner violence to the domain of professionals. “Domestic harmony” through recognizing privacy of the family meant no more addressing the problem of intimate-partner violence, and judges in criminal and civil courts resurrected the antebellum male privilege of chastisement.⁵⁵⁶ As Progressives increasingly turned to professionals to devise more effective public policies for problems, psychologists and social workers influenced SPCCS and newly created family courts. In these institutions, experts upheld male dominance and family stability. Even in the WCTU, abuse mattered increasingly less. Temperance advocates viewed alcoholism as a disease and intimate-partner violence as a secondary problem to the primary issue of alcohol abuse. Without alcohol, the theory went, wife beating would not even be an issue. With the ratification of the 18th Amendment in 1919, prohibition promised a cure to a host of issues, including intimate-partner violence, and the concern for intimate-partner violence further dwindled. Collectively, these changes meant loss of

⁵⁵⁵ George MacAdam, “Feminist Revolutionary Principle is Biological Bosh,” *New York Times*, January 18, 1914, sec. 5:2; Votes for Women Put Temporarily in the Background: Whether to Beat or Not to Beat Your Wife is the Latest Controversy in Order,” *Angelica Advocate*, August 21, 1913 (Angelica, New York); Abraham Myerson, *The Nervous Housewife*, (Boston: Little, Brown, and Co., 1920); “Jealous Women Need Whipping,” *Chicago Daily Tribune* August 11, 1912 (Chicago, Illinois). For more on sexism in early medicine, see Barbara Ehrenreich and Deirdre English, For Her Own Good: 150 Years of the Experts' Advice to Women, (Garden City, N.Y: Anchor Press, 1978).

⁵⁵⁶ *Thompson v. Thompson* 218 U.S. 611 (1910). For more on the impact of *Thompson* on women’s rights, see Linda K. Kerber, No Constitutional Right to Be Ladies: Women and the Obligations of Citizenship, (New York: Hill and Wang, 1998).

alternatives for abused women, and experts, whether in as social workers in the SPCCs or as counselors in the family courts, encouraged women to stay with their abusive husbands. Reform, for all intents and purposes, ended by the 1920s.

Examining intimate-partner violence during the postbellum decades reveals the interplay of complex factors. As the historian LeeAnn Whites writes, “gender matters.”⁵⁵⁷ In the lives of these women, the social construction of gender had real, tangible consequences. During the 1870s and 1880s, the fluid definition of womanhood permitted some sense of agency to claim their right to be free from violence, but by the 1890s in the South and 1910s in the North, society’s view of women enabled men to use nonlethal violence against their female partners without fear of punishment. This had serious implications for women’s emotional and physical well-being.

Social expectations for men and women are significant because they affect people’s lives. These gender ideals are more than abstractions that provide mental exercise; they matter because they can influence who has the fundamental right to be free from violence. People interpreted and reinterpreted gender, and they interpreted and reinterpreted the proper method for addressing battered women and abusive men. Sometimes, society recognized the right of a woman to be free from violence and demanded governmental intervention to punish the abuser. Other times, people thought women caused the violence, and the courts utilized intimate-partner violence as a measure of social control. Gender expectations influenced social responses to problems as well as legal reform, and those social views on gender both advanced and reversed progress.

Contrary to popular opinion, the history of intimate-partner violence did not follow a linear progression towards eradicating the problem. Intimate-partner violence did not initially

⁵⁵⁷ LeeAnn Whites, Gender Matters: Civil War, Reconstruction, and the Making of the New South, (New York: Palgrave Macmillan, 2005).

emerge from the shadows in the 1960s and 1970s. Instead, Americans in the late 1800s addressed the problem of intimate-partner violence and pursued some sense of justice for victims, if only for a few decades. The problem of intimate-partner violence had been brought out into the open and addressed. Women gained concrete advances in the 1870s and 1880s towards the right to be free from violence. Abusers faced social condemnation and legal punishment for their actions. But then, by the 1890s, intimate-partner violence was permitted to slip back under a veil of privacy and silence. Like a wave, the reform had crested and receded, negatively altering women's position before the courts and in their relationships with men. Turn-of-the-twentieth-century solutions for intimate-partner violence became a perverted method for social control, posturing as a righteous cause but all the while privileging one group at the cost of another. Rather than displaying a steady momentum towards a solution to gender-based violence, the erratic history of intimate-partner violence illustrates the drawbacks in perceiving the passage of time as the equivalent of progress. Such a mentality glosses over the lived realities of people, such as abused women in the early twentieth century, and in doing so, perpetuates a harmful myth of progress.

This dissertation applies the lens of gender to intimate-partner violence from 1865 to 1920 and offers important insight to the history of gender and the law. It shows not only that gender is a process, created and recreated by the public, but also that the social construction of gender has real consequences for men and women. Moreover, this dissertation complicates the view that time is progress. Rather than a straight line, the path towards ending intimate-partner violence appears more like a wave with advancements and major setbacks. Change was not steady, and the social problem did not become incrementally better over time. This perhaps does not offer solace to the modern-day movement against intimate-partner violence, promising things

will get better over time, but it does encourage more critical analysis of the multifaceted problem of intimate-partner violence, and the way evolving beliefs about gender have shaped American society's reactions and responses.

BIBLIOGRAPHY

Primary Sources

Books

Addams, Jane. The Child, the Clinic, and the Court: A Group of Papers. New York: Published in cooperation with the Wieboldt Foundation [by] New Republic, 1925.

Ames, Blanche. Chronicles from the Nineteenth Century: Family Letters of Blanche Butler and Adelbert Ames Married July 21st, 1870, vol. 1. Ames, Blanche Butler, comp., Clinton, MA: Privately published, 1957.

American Statistical Association. Publications of the American Statistical Association, vol. 1: 1888-1889. Boston: W.J. Schofield, Printer, 1889.

Bennett, Charles H. "The Frog Who Would a Wooing Go." New York: McLoughlin Bros. publishers, New York, 1875.

Broughton, Virginia E. W. Twenty Year's Experience of a Missionary. S.l.: Pony Press, 1907.

Campbell, Helen, Col. Thomas W. Knox, and Thomas Byrnes. Darkness and Daylight: or Lights and Shadows of New York Life. A Pictorial Record of Personal Experiences By Day and Night in the Great Metropolis. Hartford: The Hartford Publishing Company, 1896.

Cavan, Ruth S, and Katherine H. Tinker. The Family and the Depression: A Study of One Hundred Chicago Families. Chicago, Illinois: The University of Chicago Press, 1938.

Chesnutt, Charles W. The Disenfranchisement of the Negro. New York: Patt, 1903.

Children's Aid Society. Annual Report of the Children's Aid Society, vol. 21-30, New York: Wynkoop and Hallenbeck, 1883.

Cory, Marielou Armstrong. The Ladies Memorial Association of Montgomery Alabama: The Origin and Organization, 1860-1870. Montgomery: Alabama Printing Company, 1902.

Daniels, W.H. The Temperance Reform and its Great Reformers: An Illustrated History. New York: Nelson & Philips, 1878.

Daggett, Harriet S. Louisiana Statutes Related to the Civil Code. New Orleans: Louisiana Law Institute, 1943.

Davenport, Charles Benedict. Eugenics: The Science of Human Improvement Through Better Breeding. New York: Henry Holt & Co., 1910.

- Davis, Paulina. A History of the National Woman's Rights Movement, for Twenty Years with the Proceedings of the Decade Meeting Held ... October 20, 1870, from 1850 to 1870. New York: Journeymen Printers' Co-op. Assoc, 1871.
- Dimitry, Adelaide S. War-time Sketches, Historical and Otherwise. New Orleans: Louisiana Print. Co. Press, 1911.
- Dennett, Mary W. The Sex Side of Life. 1919.
- Doctor M.A. Simmons Medicine Company. Dr. M.A. Simmons Song, Fortune, Dream, and Cook Book. St. Louis: Dr. M.A. Simmons Medicine Company, 1901.
- Dunbar-Nelson, Alice Ruth Moore. The Goodness of St. Rocque, and Other Stories. New York: Dodd, Mead, & Co., 1899.
- Felton, Rebecca Latimer. The Romantic Story of Georgia's Women. Atlanta: Atlanta Georgian Sunday American, 1930.
- _____. My Memoirs of Georgia Politics. Atlanta, Georgia: Index Print. Co, 1911.
- Friedan, Betty. The Feminine Mystique. New York: W.W. Norton, 1963.
- _____. "The National Organization for Women's 1966 Statement of Purpose," First National Conference in Washington, D.C. on October 29, 1966.
- Grattan, Peachy R. Reports of Cases Decided in Supreme Court of Appeals in Virginia, vol. XXII. Richmond: R.F. Walker, Superintendent of Public Printing, 1873.
- Hennen, William D., J.D., A Digest of the Reported Decisions of the Superior Court of the Late Territory of Orleans; the Late Court of Errors and Appeals; and the Supreme Court of the State of Louisiana, vol. II. Boston: Charles C. Little and James Brown, 1852.
- Kanin, Eugene J. "Male Aggression in Dating-Courtship Relations," *American Journal of Sociology* Vol. 63, No. 2 (Sep., 1957): 197-204.
- Kendall, John Smith, A.M., History of New Orleans, vol. 2. Chicago: The Lewis Publishing Company, 1922.
- Louisiana Society for the Prevention of Cruelty to Children. Third Annual Report. New Orleans: Hopkins' Printing Office, 22 Commercial Place, 1895.
- _____. 19th Annual Report. New Orleans, Hopkins' Printing Office, 22 Commercial Place, 1911.

- Makepeace, James M. "Courtship Violence among College Students," *Family Relations* Vol. 30, No. 1 (Jan., 1981): 97-102.
- Marr, Robert. Annotated Revised Statutes of Louisiana, Vol. 1. New Orleans: F.F. Hansell and Bros., 1916.
- Martin, Desiree. Evening Visits with a Sister or the Destiny of a Strand of Moss. New Orleans, La: Imprimerie Cosmopolite, 1877; translation Claude Remillard and Denise R. Charchere. Manchester, MO: Independent Publishing Corporation, 2004.
- Massachusetts Society for the Prevention of Cruelty to Children. Thirty-Second Annual Report. Boston: The Berkeley Press, 1912.
- _____. Annual Report, vol. 1-18. Boston: Wright and Potter Printing Co., 1900.
- _____. Thirty-Sixth Annual Report. Boston: Griffith Stillings Press, 1916.
- _____. Fortieth Annual Report. Boston: Griffith Stillings Press, 1920.
- Moore, Marinda Branson. The First Dixie Reader: Designed to Follow the Dixie Primer. Raleigh: Branson, Farrar & Co., 1863.
- Mowrer, Ernest R, and Harriet R. Mowrer. Domestic Discord: Its Analysis and Treatment. Chicago, Ill: University of Chicago Press, 1928.
- Mowrer, Harriet R. Personality Adjustment and Domestic Discord. New York: Cincinnati, 1935.
- Myerson, Abraham, MD. The Nervous Housewife. Boston: Little, Brown, and Co., 1920.
- Nation, Carry A. The Use and Need of the Life of Carry A. Nation, 1905.
- Patmore, Coventry. The Angel in the House. London: Macmillan & Co, 1863.
- Peyroux, Edmund Augustus, Revised Civil Code of the State of Louisiana to which where added useful abundant references to the decision of the Supreme Court, annual reports and also references to the acts of legislature up to and including the session of 1882. New Orleans: Geo Muller Printer, 1885.
- Powdermaker, Hortense. After Freedom: A Cultural Study in the Deep South. New York: Viking Press, 1939.
- Powell, Aaron M. The National Purity Congress: Its Papers, Addresses, and Portraits. New York: American Purity Alliance, 1896.
- Rabbino, Bernhard. Back to the Home. New York: Printed by Court Press, 1933.

The Republican Office. Revised Laws of Louisiana, Containing the Revised Statutes of the State as amended by acts of the legislature from the session of 1870 to that of 1896, inclusive and all other acts of general nature for the same period, all annotated with the decisions of the Supreme Court of Louisiana contained in Annuals 39 to 48 and a part of 49. New Orleans: The Republican Office, 1870.

Robinson, William J. Sex Morality: Past, Present, and Future. New York: Critic and Guide Co, 1912.

Schouler, James. A Treatise on the Law of the Domestic Relations: Embracing Husband and Wife, Parent and Child, Guardian and Ward, Infancy, and Master and Servant. Boston: Little, Brown, 1870.

Stanton, Elizabeth Cady, Susan B. Anthony, and Matilda Joslyn Gage, History of Woman Suffrage, 1861-1876, Vol. II, Susan B. Anthony, 17 Madison St., Rochester, N. Y.: 1881.

The State of Alabama. Journal Proceedings of the Constitutional Convention of the State of Alabama Held in the City of Montgomery. Montgomery: The Brown Printing Company, 1901.

The State of Louisiana. Louisiana Legal Archives vol. 3, part 1, compiled edition of the civil codes of Louisiana. Baton Rouge: Louisiana State Law Institute, 1940.

The State of Virginia. Proceedings on the Debates of the Constitutional Convention of the State of Virginia Held in the City of Richmond vol. 1. Richmond, Virginia: The Hermitage Press, 1906.

Stuart, Ruth McEnery. "Jessekiah Brown's Courtship" in A Golden Wedding and Other Tales. New York: Harper and Brothers, 1893.

United States Congress. Report and Testimony of the Select Committee of the United States Senate to Investigate the Causes of the Removal of the Negroes from the Southern States to the Northern States, Senate Report 693, 46th Cong., 2nd Sess., part 2.

_____. Senate Report, 42 Congress, No. 41, Testimony Taken by the U.S. Congress Joint Select Conditions of Affairs in the Late Insurrectionary States. 1872.

Virginia Law Review. "Husband and Wife. Right of Husband to Enjoin "Nagging" by Wife," The Virginia Law Register, New Series, Vol. 6, No. 12 (Apr., 1921): 946-948.

Watkins, Samuel Rush. Memoir of Samuel Rush Watkins. Chattanooga, TN: Times Printing Company, 1900.

Watterson, Henry. "Major Jones's Courtship" in Oddities in Southern Life and Character. Boston: Houghton, Mifflin, 1883.

Wells-Barnett, Ida B. Southern Horrors: Lynch Law in All Its Phases. New York: New York Age, 1892.

Willard, Frances. Address Before The Second Biennial Convention Of The World's Woman's Christian Temperance Union. Chicago: Women's Temperance Publishing Association, 1893.

Woodhull, Victoria. "The Speech of Victoria C. Woodhull before the National Women's Suffrage Convention at Apollo Hall May 11, 1871," reprinted in The Argument for Women's Electoral Rights Under Amendments Xiv and Xv of the Constitution of the United States: A Review of My Work at Washington, D.C. in 1870-1871. London: G. Norman and Son, printers, 1887.

. The Principles of Social Freedom Delivered in New York City November 20, 1871. New York: Woodhull, Claflin, and Company, 1871.

Wright, Almroth. The Unexpurgated Case against Woman Suffrage. London: Constable, 1913.

Newspapers and Periodicals

Angelica Advocate

The Biloxi Daily Herald

Chicago Daily Tribune

The Cleveland Gazette

Columbus Daily Inquirer

Columbus Inquirer-Sun

The Daily Herald

The Daily Picayune

Duluth Daily Tribune

Harper's Weekly

Idaho Daily Statesman

The Knoxville Journal

The Lexington Herald
Morning Republican
Macon Weekly Telegraph
The Nation
The New York Herald
The New York Times
Omaha Daily-World Herald
Richmond Examiner
The Southwest Reporter
The State
The Sunday State
The Telegraph and Messenger
The Washington Bee
The Washington Post
Weekly Champion and Press
The Weekly Times-Herald
Wheeling Register
The Woman's Column

Court Cases

36 La. Ann. 583, 1884 WL 8065 (La.).
Alexander v. Alexander 165 N.C. 45 (1914).
Bailey v. Bailey, 21 Gratt., (62 Virginia), 43 (1871).
Commonwealth v. McAfee 108 Mass. 458 (1871).

Commonwealth v. Sapp 12 Ky.L.Rptr. 484 (1890).

Drake v. Drake 177 N.W. 624, 625 (Minn. 1920).

Fightmaster v. Fightmaster 22 Ky.L.Rptr. 1512 (1901).

Fulgham v. the State 46 Ala. 143 (1871).

Joyner v Joyner 52 N.C. 322 (1862).

Mack v. Handy, 39 (La.) Ann. 491, 2 So. 181 (1887).

Ratliff v. Beale 20 So. 865, 868 (Miss. 1896).

Scott v. Georgia 39 Ga. 321, 323 (1869).

State v. Dennis Henderson (1880) CRDC#366.

State v. James Kenney (1881) CRDC# 1243.

State v. Alfred Basile (1881) CRDC# 1272.

State v. George Williams (1881) CRDC# 1304.

State v. William Coyle (1881) CRDC# 1447.

State v. Charles (Chas) Fletcher (1881) CRDC# 1770.

State v. William Teal (1881) CRDC# 1786.

State v. Andrew Williams (1881) CRDC# 1805.

State v. James Gillen (1882) CRDC# 2911.

State v. James Davis (1882) CRDC# 3050.

State v. Herman Busch (1883) CRDC# 4192.

State v. Augustus Richards (1884) CRDC# 4703.

State v. Sarah Hodges (1884) CRDC# 5051.

State v. A. Bax (1884) CRDC# 5062.

State v. Louis Mayfield (1884) CRDC# 5149.

State v. Ben Lee (1884) CRDC# 5151.

State v. Thomas Coffey (1884) CRDC# 5211 .

State v. George Blancque (1884) CRDC# 5251.

State v. Ben Lee (1884) CRDC# 5421.

State v. Sylvester Conlon (1884) CRDC# 5573.

State v. John Green (1884) CRDC# 5627.

State v. William Green (1885) CRDC# 7194.

State v. John Heir (1885) CRDC# 7410.

State v. Jeffery Hill (1885) CRDC#7593.

State v. William Joyce (1885) CRDC# 7825.

State v. Major Anderson (1886) CRDC# 8059.

State v. Martin Johnson (1886) CRDC# 8562.

State v. George Samuels and John Schnieder (1886) CRDC# 8592.

State v. Gaston Blondeau (1886) CRDC# 8757.

State v. John Traylor (1886) CRDC# 8758.

State v. Richard Sheldon (1886) CRDC# 8776.

State v. William Hines (1886) CRDC# 8841.

State v. Henry Gibbons (1886) CRDC# 8845.

State v. Nicholas Seldner (1886) CRDC# 8916.

State v. Henry Gasper (1887) CRDC# 9114.

State v. George Gill (1887) CRDC# 9741.

State v. Louis Mayfield (1887) CRDC# 9643.

State v. Will Bassinger (1887) CRDC# 9764.

State v. G.C. Shields (1887) CRDC# 9767.
State v. James Wilson (1887) CRDC# 9856.
State v. Sam Carney (1887) CRDC# 9873.
State v. Mat Lombardo (1887) CRDC# 9901.
State v. George Clark (1887) CRDC# 9946.
State v. Willie Hennessey (1887) CRDC# 9950.
State v. William Brooks (1887) CRDC# 10013.
State v. Edward Robinson (1887) CRDC# 10064.
State v. Henry Marks (1887) CRDC# 10180.
State v. Morris Hamilton (1887) CRDC# 10182.
State v. Gust Hannewinckle (1887) CRDC# 10128.
State v. William Anderson (1888) CRDC# 10255.
State v. George Cognovitch (1888) CRDC# 10377.
State v. James Williams (1888) CRDC# 10382.
State v. Warren Powell (1888) CRDC# 10406.
State v. Warren Powell (1888) CRDC# 10434.
State v. Ike Carter (1888) CRDC# 10995.
State v. William Meyers (1887) CRDC# 10179.
State v. Martin Carson (1888) CRDC# 11037.
State v. Joseph Duprey (1888) CRDC# 11062.
State v. J.O.C. Wallis (1888) CRDC# 11094.
State v. Jennie Robinson (1888) CRDC# 11236.
State v. William Dreux (1888) CRDC# 11291.

State v. Louis Sejour (1896) CRDC# 24534.

State v. John Williams (1897) CRDC# 26831.

State v. Jesse Black 1 Winston 266.

State v. Hussey 44 N.C. (Busb.) 123 (1852).

Taylor v. Swett 3 La. 33 (1831).

Thompson v. Thompson 218 U.S. 611 (1910).

Thurman v. City of Torrington 595 F.Supp. 1521 (1984).

United States v. Cruikshank 92 U.S. 542 (1875).

Williams v. Mississippi 170 U.S. 213 (1898).

Manuscript and Archival Collections

American Song Sheets, Wolf C116, Duke Digital Collections.

Cross Keys Plantation records, Manuscripts Collection 918, Tulane University, New Orleans, Louisiana 70118.

Daniel Trotter Papers, Manuscript Collection 990, Hill Memorial Library, Louisiana State University, Baton Rouge, Louisiana, 70803.

John R. Ficklen Papers, Manuscript Collection 144, 209, Louisiana and Lower Mississippi Valley Collections, Louisiana State University, Baton Rouge, Louisiana 70803.

Grisham-Kellogg-Faust Papers, Manuscript Collection 5048, Hill Memorial Library, Louisiana State University, Baton Rouge, Louisiana, 70803.

James Knapp Papers, Manuscript Collection 880, Hill Memorial Library, Louisiana State University, Baton Rouge, Louisiana, 70803.

McKowen-Lilley-Stirling Family Papers, Manuscript Collection 4356, Hill Memorial Library, Louisiana State University, Baton Rouge, Louisiana 70803.

Micajah Wilkinson Papers, Manuscript Collection 707, Hill Memorial Library, Louisiana State University, Baton Rouge, Louisiana, 70803.

Secondary Sources

Books

- Abel, Emily K. Hearts of Wisdom: American Women Caring for Kin, 1850-1940. Cambridge, Mass: Harvard University Press, 2000.
- Alexander, Eleanor. Lyrics of Sunshine and Shadow: The Tragic Courtship and Marriage of Paul Laurence Dunbar and Alice Ruth Moore : a History of Love and Violence Among the African American Elite. New York: New York University Press, 2001.
- Allen, Robert C. Horrible Prettiness: Burlesque and American Culture. Chapel Hill: University of North Carolina Press, 1991.
- Allured, Janet, and Judith F. Gentry. Louisiana Women: Their Lives and Times. Athens, Ga: University of Georgia Press, 2009.
- Ayers, Edward L. The Promise of the New South: Life After Reconstruction. New York: Oxford University Press, 1992.
- Bailey, Beth L. From Front Porch to Back Seat: Courtship in Twentieth-Century America. Baltimore: Johns Hopkins University Press, 1988.
- Bardaglio, Peter W. Reconstructing the Household: Families, Sex, and the Law in the Nineteenth-Century South. Chapel Hill: University of North Carolina Press, 1995.
- Barker-Benfield, G J. The Horrors of the Half-Known Life: Male Attitudes Toward Women and Sexuality in Nineteenth-Century America. New York: Harper & Row, 1976.
- Bederman, Gail. Manliness & Civilization: A Cultural History of Gender and Race in the United States, 1880-1917. Chicago: University of Chicago Press, 1995.
- Bellesiles, Michael A. Lethal Imagination: Violence and Brutality in American History. New York: New York University Press, 1999.
- Beauvoir, Simone. The Second Sex. New York: Knopf, 1953.
- Bercaw, Nancy. Gendered Freedoms: Race, Rights, and the Politics of Household in the Delta, 1861-1875. Gainesville: University Press of Florida, 2003.
- Blight, David W. Race and Reunion: The Civil War in American Memory. Cambridge, Mass: Belknap Press of Harvard University Press, 2001.
- Blum, Edward J. and W. Scott Poole, eds. Vale of Tears: New Essays on Religion and Reconstruction. Macon, Georgia: Mercer University Press, 2005.

- Bordin, Ruth B. A. Woman and Temperance: The Quest for Power and Liberty, 1873-1900. Philadelphia: Temple University Press, 1981.
- Bordo, Susan. The Male Body: A New Look at Men in Public and in Private. New York: Farrar, Straus and Giroux, 1999.
- Boydston, Jeanne. Home and Work: Housework, Wages, and the Ideology of Labor in the Early Republic. New York: Oxford University Press, 1990.
- Brandt, Allan M. No Magic Bullet: A Social History of Venereal Disease in the United States Since 1880. New York: Oxford University Press, 1985.
- Brundage, W F. Lynching in the New South: Georgia and Virginia, 1880-1930. Urbana: University of Illinois Press, 1993.
- Butler, Judith, and Sara Salih. The Judith Butler Reader. Malden, MA: Blackwell Pub, 2003.
- Bynum, Victoria E. Unruly Women: The Politics of Social and Sexual Control in the Old South. Chapel Hill: University of North Carolina Press, 1992.
- Carnes, Mark. and Clyde Griffen, Meanings of Manhood. Chicago: University of Chicago Press, 1980.
- Ceello, Kristin. Making Marriage Work: A History of Marriage and Divorce in the Twentieth-Century United States. Chapel Hill: University of North Carolina Press, 2009.
- Clayton, Bruce, and John A. Salmond. "Lives Full of Struggle and Triumph": Southern Women, Their Institutions, and Their Communities. Gainesville, Fla: University Press of Florida, 2003.
- Clement, Elizabeth. Love for Sale: Courting, Treating, and Prostitution in New York City, 1900-1945. Chapel Hill: University of North Carolina Press, 2006.
- Clinton, Catherine. Half Sisters of History: Southern Women and the American Past. Durham: Duke University Press, 1994.
- Clinton, Catherine, and Nina Silber. Divided Houses: Gender and the Civil War. New York: Oxford University Press, 1992.
- Crane, Elaine F. Witches, Wife Beaters, and Whores: Common Law and Common Folk in Early America. Ithaca: Cornell University Press, 2011.
- Cohen, Patricia C. The Murder of Helen Jewett: The Life and Death of a Prostitute in Nineteenth-Century New York. New York: Alfred A. Knopf, 1998.
- Coleman, Kenneth. A History of Georgia. Athens: University of Georgia Press, 1977.

- Connelly, Mark T. The Response to Prostitution in the Progressive Era. Chapel Hill: University of North Carolina Press, 1980.
- Coontz, Stephanie. Marriage, a History: How Love Conquered Marriage. New York: Penguin Books, 2006.
-
- . A Strange Stirring: The Feminine Mystique and American Women at the Dawn of the 1960s. Philadelphia: Basic Books, 2011.
- Cott, Nancy. Public Vows: A History of Marriage and the Nation. Cambridge: Harvard University Press, 2001.
- Crane, Elaine Foreman. Witches, Wife Beaters, and Whores: Common Law and Common Folk in Early America. Ithaca: Cornell University Press, 2011.
- Culpepper, Marilyn M. All Things Altered: Women in the Wake of Civil War and Reconstruction. Jefferson, N.C: McFarland & Co, 2002.
- Daniels, Christine and Michael V. Kennedy, eds. Over the Threshold: Intimate Violence in Early America. New York: Routledge, 1999.
- Davis, Rebecca L. More Perfect Unions: The American Search for Marital Bliss. Cambridge, Mass: Harvard University Press, 2010.
- Davis, Richard L. Domestic Violence: Facts and Fallacies. Westport, CT: Praeger Publishers, 1998.
- D'Emilio, John, and Estelle B. Freedman. Intimate Matters: A History of Sexuality in America. Chicago: University of Chicago Press, 1997.
- Dean, Jr., Eric. Shook Over Hell: Post-Traumatic Stress, Vietnam, and the Civil War. Cambridge, Massachusetts: Harvard University Press, 1997.
- Degler, Carl N. At Odds: Women and the Family in America from the Revolution to the Present. New York: Oxford University Press, 1980.
- Kevles, Daniel. In the Name of Eugenics: Genetics and the Uses of Human Heredity. New York: Knopf, 1985.
- Diamond, Irene. Families, Politics, and Public Policy: A Feminist Dialogue on Women and the State. New York: Longman, 1983.
- Dolnick, Edward. Madness on the Couch: Blaming the Victim in the Heyday of Psychoanalysis. New York: Simon & Schuster, 1998.

- Donzelot, Jacques, and Robert Hurley. The Policing of Families. Baltimore: Johns Hopkins University Press, 1997.
- Duggan, Lisa. Sapphic Slashers: Sex, Violence, and American Modernity. Durham, NC: Duke University Press, 2000.
- Dumenil, Lynn. The Modern Temper: American Culture and Society in the 1920s. New York: Hill and Wang, 1995.
- Edwards, Laura F. Gendered Strife & Confusion: The Political Culture of Reconstruction. Urbana: University of Illinois Press, 1997.
- _____. Scarlett Doesn't Live Here Anymore: Southern Women in the Civil War Era. Urbana: University of Illinois Press, 2000.
- Engs, Ruth C. Clean Living Movements: American Cycles of Health Reform. Westport, Conn: Praeger, 2001.
- Enstad, Nan. Ladies of Labor, Girls of Adventure: Working Women, Popular Culture, and Labor Politics at the Turn of the Twentieth Century. New York: Columbia University Press, 1999.
- Epstein, Barbara L. The Politics of Domesticity: Women, Evangelism, and Temperance in Nineteenth-Century America. Middletown, Conn: Wesleyan University Press, 1981.
- Escott, Paul D. North Carolinians in the Era of the Civil War and Reconstruction. Chapel Hill: University of North Carolina Press, 2008.
- Farmer-Kaiser, Mary. Freedwomen and the Freedmen's Bureau: Race, Gender, and Public Policy in the Age of Emancipation. New York: Fordham University Press, 2010.
- Faust, Drew G. Mothers of Invention: Women of the Slaveholding South in the American Civil War. Chapel Hill: University of North Carolina Press, 1996.
- _____. This Republic of Suffering: Death and the American Civil War. New York: Vintage Books, 2008.
- Feimster, Crystal N. Southern Horrors. Cambridge, Mass: Harvard University Press, 2009.
- Foner, Eric. Reconstruction: America's Unfinished Revolution, 1863-1877. New York: Harper & Row, 1988.
- Ford, Lacy K. Deliver Us from Evil: The Slavery Question in the Old South. Oxford, England: Oxford University Press, 2009.

- Foster, Gaines M. Moral Reconstruction: Christian Lobbyists and the Federal Legislation of Morality, 1865-1920. Chapel Hill: University of North Carolina Press, 2002.
- _____. Ghosts of the Confederacy: Defeat, the Lost Cause, and the Emergence of the New South, 1865 to 1913. New York: Oxford University Press, 1987.
- Foucault, Michel. Discipline and Punish: The Birth of the Prison. New York: Pantheon Books, 1977.
- Fox-Genovese, Elizabeth. Within the Plantation Household: Black and White Women of the Old South. Chapel Hill: University of North Carolina Press, 1988.
- Frank, Stephen M. Life with Father: Parenthood and Masculinity in the Nineteenth-Century American North. Baltimore: Johns Hopkins University Press, 1998.
- Freedman, Estelle B. No Turning Back: The History of Feminism and the Future of Women. New York: Ballantine Books, 2002.
- Friend, Craig T. Southern Masculinity: Perspectives on Manhood in the South Since Reconstruction. Athens: University of Georgia Press, 2009.
- Friend, Craig T, and Lorri Glover. Southern Manhood: Perspectives on Masculinity in the Old South. Athens: University of Georgia Press, 2004.
- Friskin, Amanda. Victoria Woodhull's Sexual Revolution: Political Theater and the Popular Press in Nineteenth-Century America. Philadelphia: University of Pennsylvania Press, 2004.
- Giesberg, Judith A. Civil War Sisterhood: The U.s. Sanitary Commission and Women's Politics in Transition. Boston: Northeastern University Press, 2000.
- Gill, James. Lords of Misrule: Mardi Gras and the Politics of Race in New Orleans. Jackson: University Press of Mississippi, 1997.
- Gilmore, Glenda Elizabeth. Gender and Jim Crow: Women and the Politics of White Supremacy in North Carolina, 1896-1920. Chapel Hill: University of North Carolina Press, 1996.
- Ginzberg, Lori D. Women and the Work of Benevolence: Morality, Politics, and Class in the Nineteenth-Century United States. New Haven: Yale University Press, 1990.
- _____. Elizabeth Cady Stanton: An American Life. New York: Hill and Wang, 2009.
- Goodwyn, Lawrence. The Populist Moment: A Short History of the Agrarian Revolt in America. Oxford: Oxford University Press, 1978.

- Gordon, Linda. Heroes of Their Own Lives: The Politics and History of Family Violence: Boston, 1880-1960. New York, N.Y., U.S.A: Viking, 1988.
- Grantham, Dewey W. Southern Progressivism: The Reconciliation of Progress and Tradition. Knoxville: The University of Tennessee Press, 1983.
- Griswold, Robert L. Fatherhood in America: A History. New York: BasicBooks, 1993.
- Grossberg, Michael. Governing the Hearth: Law and the Family in Nineteenth-Century America. Chapel Hill: University of North Carolina Press, 1985.
- Hale, Nathan G. The Rise and Crisis of Psychoanalysis in the United States: Freud and the Americans, 1917-1985. New York: Oxford University Press, 1995.
- Hall, Jacquelyn D. Revolt against Chivalry: Jessie Daniel Ames and the Women's Campaign against Lynching. New York: Columbia University Press, 1979.
- Haraway, Donna J. Primate Visions: Gender, Race, and Nature in the World of Modern Science. New York: Routledge, 1989.
- Hartog, Hendrik. Man and Wife in America: A History. Cambridge, Mass: Harvard University Press, 2000.
- Hess, Karen Matison and Kristine Hess Orthmann. Police Operations: Theory and Practice, Fifth Edition. Delmar: Cengage Learning, 2011.
- Hewitt, Nancy A, and Suzanne Lebsock. Visible Women: New Essays on American Activism. Urbana, Ill: University of Illinois Press, 1993.
- Hewitt, Nancy A. No Permanent Waves: Recasting Histories of U.S. Feminism. New Brunswick, N.J: Rutgers University Press, 2010.
- Higginbotham, Evelyn B. Righteous Discontent: The Women's Movement in the Black Baptist Church, 1880-1920. Cambridge, Mass: Harvard University Press, 1993.
- Hine, Darlene Clark and Kathleen Thompson. A Shining Thread of Hope: The History of Black Women in America. New York: Broadway Books, 1998.
- Hobson, Barbara M. Uneasy Virtue: The Politics of Prostitution and the American Reform Tradition. New York: Basic Books, 1987.
- Hodes, Martha E. White Women, Black Men: Illicit Sex in the Nineteenth-Century South. New Haven, CT: Yale University Press, 1997.
- Hoff, Joan. Law, Gender, and Injustice: A Legal History of U.S. Women. New York: New York University Press, 1991.

- Hoffert, Sylvia D. When Hens Crow: The Woman's Rights Movement in Antebellum America. Bloomington: Indiana University Press, 1995.
- Hofstadter, Richard. The Age of Reform: From Bryan to F.D.R. New York: Knopf, 1955.
- Horowitz, Helen L. Rereading Sex: Battles Over Sexual Knowledge and Suppression in Nineteenth-Century America. New York: Knopf, 2002.
- Hunter, Tera W. To 'joy My Freedom: Southern Black Women's Lives and Labors After the Civil War. Cambridge, Mass: Harvard University Press, 1997.
- Isenberg, Nancy. Sex and Citizenship in Antebellum America. Chapel Hill, N.C: University of North Carolina Press, 1998.
- Janeway, Elizabeth. Powers of the Weak. New York: Knopf, 1980.
- Jenkins, Keith. The Postmodern History Reader. London: Routledge, 1997.
- Johansen, Shawn. Family Men: Middle-Class Fatherhood in Industrializing America. New York: Routledge, 2001.
- Kasson, John F. Houdini, Tarzan, and the Perfect Man: The White Male Body and the Challenge of Modernity in America. New York: Hill and Wang, 2001.
- _____. Rudeness & Civility: Manners in Nineteenth-Century Urban America. New York: Hill and Wang, 1990.
- Keith, Leanna. The Colfax Massacre: The Untold Story of Black Power, White Terror, and the Death of Reconstruction. Oxford: Oxford University Press, 2008.
- Kennedy, David M. Freedom from Fear: The American People in Depression and War, 1929-1945. New York: Oxford University Press, 1999.
- _____, Over Here: The First World War and American Society. New York: Oxford University Press, 1980.
- Kennedy, Leslie W, and Vincent Sacco. Crime Victims in Context. Los Angeles, Calif: Roxbury Pub, 1998.
- Kerber, Linda K. No Constitutional Right to Be Ladies: Women and the Obligations of Citizenship. New York: Hill and Wang, 1998.
- Kerr, Andrea Moore. Lucy Stone: Speaking Out for Equality. New Jersey: Rutgers University Press, 1992.

- Kessler-Harris, Alice. Out to Work: A History of Wage-Earning Women in the United States. New York: Oxford University Press, 1982.
- _____, In Pursuit of Equity: Women, Men, and the Quest for Economic Citizenship in 20th Century America. Oxford: Oxford University Press, 2001.
- Kimmel, Michael S. Manhood in America: A Cultural History. New York: Free Press, 1996.
- Kitch, Kitch. The Specter of Sex: Gendered Foundations of Racial Formation in the United States. Albany: State University of New York Press, 2009.
- Klasson, John F. Rudeness & Civility: Manners in Nineteenth-Century Urban America. New York: Hill and Wang, 1990.
- Klein, Ethel. Ending Domestic Violence: Changing Public Perceptions/halting the Epidemic. Thousand Oaks, Calif: Sage Publications, 1997.
- Kline, Wendy. Building a Better Race: Gender, Sexuality, and Eugenics from the Turn of the Century to the Baby Boom. Berkeley: University of California Press, 2001.
- Landes, Alison, Nancy R. Jacobs, and Mark A. Siegel. Violent Relationships. Wylie, Tex: Information Plus, 1995.
- LaRossa, Ralph. The Modernization of Fatherhood: A Social and Political History. Chicago: University of Chicago Press, 1997.
- Lawson, Kate, and Lynn Shakinovsky. The Marked Body: Domestic Violence in Mid-Nineteenth-Century Literature. Albany: State University of New York Press, 2002.
- Leach, William. True Love and Perfect Union: The Feminist Reform of Sex and Society. New York: Basic Books, 1980.
- Lears, T J. J. Rebirth of a Nation: The Making of Modern America, 1877-1920. New York: HarperCollins, 2009.
- Lloyd, Ann. Doubly Deviant, Doubly Damned: Society's Treatment of Violent Women. London: Penguin Books, 1995.
- Long, Alecia P. The Great Southern Babylon: Sex, Race, and Respectability in New Orleans, 1865-1920. Baton Rouge: Louisiana State University Press, 2005.
- Lerner, Gerda. The Creation of Patriarchy. New York: Oxford University Press, 1986.
- Leuchtenburg, William E. The Perils of Prosperity, 1914-1932. Chicago: University of Chicago Press, 1993.

- Link, William A. The Paradox of Southern Progressivism, 1880-1930. Chapel Hill: University of North Carolina Press, 1992.
- Lystra, Karen. Searching the Heart: Women, Men, and Romantic Love in Nineteenth-Century America. New York: Oxford University Press, 1989.
- Macleod, Jenny. Defeat and Memory: Cultural Histories of Military Defeat in the Modern Era. Basingstoke, England: Palgrave Macmillan, 2008.
- MacKinnon, Catharine A. Toward a Feminist Theory of the State. Cambridge, Mass: Harvard University Press, 1989.
- Martin, John P. Violence and the Family. Chichester: Wiley, 1978.
- Martin, Sara H. More Than Petticoats: Remarkable Georgia Women. Guilford, Conn: TwoDot, 2003.
- May, Elaine T. Great Expectations: Marriage and Divorce in Post-Victorian America. Chicago: University of Chicago Press, 1980.
- _____. Homeward Bound: American Families in the Cold War Era. New York: Basic Books, 1988.
- May, Larry and Jeff Brown, eds. Philosophy of Law: Classic and Contemporary Readings. Oxford: Blackwell Publishing Ltd., 2010.
- McBeth, Leon. Women in Baptist Life. Nashville: Broadman Press, 1979.
- McCaughey, Martha, and Neal King. Reel Knockouts: Violent Women in the Movies. Austin, TX: University of Texas Press, 2001.
- McCue, Margi L. Domestic Violence: A Reference Handbook. Santa Barbara, Calif: ABC-CLIO, 1995.
- McGerr, Michael E. A Fierce Discontent: The Rise and Fall of the Progressive Movement in America, 1870-1920. New York: Free Press, 2003.
- Melosh, Barbara. Gender and American History Since 1890. London: Routledge, 1993.
- Meloy, Michelle L, and Susan L. Miller. The Victimization of Women: Law, Policies, and Politics. Oxford: Oxford University Press, 2011.
- Miller, Susan L. Victims As Offenders: The Paradox of Women's Violence in Relationships. New Brunswick, N.J: Rutgers University Press, 2005.

- Mintz, Steven. Moralists and Modernizers: America's Pre-Civil War Reformers. Baltimore: Johns Hopkins University Press, 1995.
- Mintz, Steven, and Susan Kellogg. Domestic Revolutions: A Social History of American Family Life. New York: Free Press, 1988.
- Mitchell, Juliet. Psychoanalysis and Feminism. New York: Pantheon Books, 1974.
- Muncy, Robyn. Creating a Female Dominion in the Age of Reform, 1890-1935. New York: Oxford University Press, 1991.
- Norcross, John C, Gary R. VandenBos, and Donald K. Freedheim. History of Psychotherapy: Continuity and Change. Washington, DC: American Psychological Association, 2011.
- Norton, Mary B. Founding Mothers & Fathers: Gendered Power and the Forming of American Society. New York: A.A. Knopf, 1996.
- Ownby, Ted. Subduing Satan: Religion, Recreation, and Manhood in the Rural South, 1865-1920. Chapel Hill: University of North Carolina Press, 1990.
- Pascoe, Peggy. What Comes Naturally: Miscegenation Law and the Making of Race in America. Oxford, England: Oxford University Press, 2009.
- Paludan, Phillip Shaw. "A People's Contest": The Union and the Civil War, 1861-1865. New York: Harper & Row, Publishers.
- Peiss, Kathy L. Cheap Amusements: Working Women and Leisure in Turn-of-the-Century New York. Philadelphia: Temple University Press, 1986.
- Peterson, de M. D. Physically Violent Husbands of the 1890s and Their Resources. New York, N.Y.: Plenum Pub, 1991.
- Peterson del Mar, David. What Trouble I Have Seen: A History of Violence Against Wives. Cambridge: Harvard University Press, 1996.
- Pivar, David J. Purity Crusade: Sexual Morality and Social Control, 1868-1900. Westport, Conn: Greenwood Press, 1973.
- Pleck, Elizabeth H. Domestic Tyranny: The Making of Social Policy against Family Violence from Colonial Times to the Present. New York: Oxford University Press, 1987.
- Rambo, Kirsten S. "Trivial Complaints": The Role of Privacy in Domestic Violence Law and Activism in the U.S. New York: Columbia University Press, 2009.
- Reel, Guy. The National Police Gazette and the Making of the Modern American Man, 1879-1906. New York: Palgrave Macmillan, 2006.

- Reis, Elizabeth. Bodies in Doubt: An American History of Intersex. Baltimore: Johns Hopkins University Press, 2009.
- Rieker, Patricia P, and Elaine H. Carmen. The Gender Gap in Psychotherapy: Social Realities and Psychological Processes. New York: Plenum Press, 1984.
- Roberts, Albert R. Juvenile Justice Sourcebook: Past, Present, and Future. Oxford: Oxford University Press, 2004.
- Robinson, Paul A. The Modernization of Sex: Havelock Ellis, Alfred Kinsey, William Masters, and Virginia Johnson. New York: Harper & Row, 1976.
- Rosen, Hannah. Terror in the Heart of Freedom: Citizenship, Sexual Violence, and the Meaning of Race in the Postemancipation South. Chapel Hill: University of North Carolina Press, 2009.
- Rosen, Ruth. The Lost Sisterhood: Prostitution in America, 1900-1918. Baltimore: Johns Hopkins University Press, 1982.
- _____. The World Split Open: How the Modern Women's Movement Changed America. New York: Penguin Books, 2000.
- Rotskoff, Lori. Love on the Rocks: Men, Women, and Alcohol in Post-World War II America. Chapel Hill: University of North Carolina Press, 2002.
- Royster, Charles. The Destructive War: William Tecumseh Sherman, Stonewall Jackson, and the Americans. New York: Knopf, 1991.
- Salsi, Lynn and Margaret Sims. Columbia: History of a Southern Capital. Charleston, S.C: Arcadia, 2003.
- Schuster, David G. Neurasthenic Nation: America's Search for Health, Happiness, and Comfort, 1869-1920. New Brunswick, N.J: Rutgers University Press, 2011.
- Scott, Anne F. The Southern Lady: from Pedestal to Politics, 1830-1930. Chicago: University of Chicago Press, 1970.
- Scott, Joan W. Feminism and History. Oxford: Oxford University Press, 1996.
- _____, Gender and the Politics of History. New York: Columbia University Press, 1988.
- Sklar, Kathryn K. Catharine Beecher: A Study in American Domesticity. New Haven: Yale University Press, 1973.

- _____, Florence Kelley and the Nation's Work. New Haven: Yale University Press, 1995.
- Shaplen, Robert. Free Love and Heavenly Sinners: The Story of the Great Henry Ward Beecher Scandal. New York: Knopf, 1954.
- Shindo, Charles J. 1927 and the Rise of Modern America. Lawrence: University Press of Kansas, 2010.
- Shorter, Edward. The Making of the Modern Family. New York: Basic Books, 1975.
- Sims, Anastatia. The Power of Femininity in the New South: Women's Organizations and Politics in North Carolina, 1880-1930. Columbia, S.C: University of South Carolina Press, 1997.
- Springer, David W. and Albert R. Roberts. Juvenile Justice and Delinquency. Sudbury, Mass: Jones and Bartlett Publishers, 2011.
- Snyder, Tom, ed. 120 Years of American Education: A Statistical Portrait. Washington, D.C: U.S. Dept. of Education, Office of Educational Research and Improvement, National Center for Education Statistics, 1993.
- Slap, Andrew and Michael T. Smith. This Distracted and Anarchical People: New Answers for Old Questions About the Civil War-Era North. New York: Fordham University Press, 2013.
- Soderlund, Gretchen. Sex Trafficking, Scandal, and the Transformation of Journalism, 1885-1917. Chicago: The University of Chicago Press, 2013.
- Spruill, Marjorie J. New Women of the New South: The Leaders of the Woman Suffrage Movement in the Southern States. New York: Oxford University Press, 1993.
- Stansell, Christine. The Feminist Promise: 1792 to the Present. New York: Modern Library, 2010.
- Starr, Paul. The Social Transformation of American Medicine. New York: Basic Books, 1982.
- Sterling, Dorothy. We Are Your Sisters: Black Women in the Nineteenth Century. New York: W.W. Norton, 1984.
- Stern, Alexandra. Eugenic Nation: Faults and Frontiers of Better Breeding in Modern America. Berkeley: University of California Press, 2005.
- Straus, Murray A, Richard J. Gelles, and Christine Smith. Physical Violence in American Families: Risk Factors and Adaptations to Violence in 8,145 Families. New Brunswick [N.J.], U.S.A: Transaction Publishers, 1990.

- Susman, Warren. Culture As History: The Transformation of American Society in the Twentieth Century. New York: Pantheon Books, 1984.
- Sznaider, Natan. The Compassionate Temperament: Care and Cruelty in Modern Society. Lanham, Md: Rowman & Littlefield, 2001.
- Talmadge, John E. Rebecca Latimer Felton: Nine Stormy Decades. Athens, Georgia: University of Georgia Press, 1960.
- Taylor, Dianne and Karen Vintges. Feminism and the Final Foucault. Urbana: University of Illinois Press, 2004.
- Teller, Michael. The Tuberculosis Movement: A Public Health Campaign in the Progressive Era. New York: Greenwood Press, 1988.
- Thorne-Finch, Ron. Ending the Silence: The Origins and Treatment of Male Violence against Women. Toronto: University of Toronto Press, 1992.
- Tice, Karen. Tales of Wayward Girls and Immoral Women: Case Records and the Professionalization of Social Work. Urbana: University of Illinois Press, 1998.
- Trelease, Allen W. White Terror: The Ku Klux Klan Conspiracy and Southern Reconstruction. New York: Harper & Row, 1971.
- Tunnell, Ted. Crucible of Reconstruction: War, Radicalism, and Race in Louisiana, 1862-1877. Baton Rouge: Louisiana State University Press, 1984.
- Turner, Elizabeth H. Women and Gender in the New South: 1865-1945. Wheeling, Ill: Harlan Davidson, Inc, 2009.
- Tyrrell, Ian R. Sobering Up: From Temperance to Prohibition in Antebellum America, 1800-1860. Westport, Conn: Greenwood Press, 1979.
- Ulrich, Laurel. Good Wives: Image and Reality in the Lives of Women in Northern New England, 1650-1750. New York, N.Y: Knopf, 1982.
- Walker, Lenore. The Battered Woman. New York: Harper and Row, 1979.
- _____. The Battered Woman Syndrome. New York: Springer Pub. Co, 1984.
- Walkowitz, Judith R. Prostitution and Victorian Society: Women, Class, and the State. Cambridge: Cambridge University Press, 1980.
- Warder, Graham Donald. Selling Sobriety: How Temperance Reshaped Culture in Antebellum America. Boston: University of Massachusetts Press, 2000.

- Weiner, Marli F. Mistresses and Slaves: Plantation Women in South Carolina, 1830-80. Urbana: University of Illinois Press, 1997.
- Weiss, Jessica. To Have and to Hold: Marriage, the Baby Boom, and Social Change. Chicago: University of Chicago Press, 2000.
- White, Deborah G. Too Heavy a Load: Black Women in Defense of Themselves, 1894-1994. New York: W.W. Norton, 1999.
- White, Kevin. The First Sexual Revolution: The Emergence of Male Heterosexuality in Modern America. New York: New York University Press, 1993.
- Whites, LeeAnn. Gender Matters: Civil War, Reconstruction, and the Making of the New South. New York: Palgrave Macmillan, 2005.
- Whites, LeeAnn, and Alecia P. Long. Occupied Women: Gender, Military Occupation, and the American Civil War. Baton Rouge: Louisiana State University Press, 2009.
- Wiebe, Robert H. The Search for Order, 1877-1920. New York: Hill and Wang, 1967.
- Wiener, Jonathan M. Social Origins of the New South: Alabama, 1860-1885. Baton Rouge: Louisiana State University Press, 1978.
- Weiner, Marli F. Mistresses and Slaves: Plantation Women in South Carolina, 1830-80. Urbana: University of Illinois Press, 1997.
- White, Deborah G. Ar'n't I a Woman?: Female Slaves in the Plantation South. New York: Norton, 1985.
- Williams, Kidada E. They Left Great Marks on Me: African American Testimonies of Racial Violence from Emancipation to World War I. New York: New York University Press, 2012.
- Woodward, C V. The Strange Career of Jim Crow. New York: Oxford University Press, 1974.
- Wong, Edlie L. Neither Fugitive nor Free: Atlantic Slavery, Freedom Suits, and the Legal Culture of Travel. New York: New York University Press, 2009.
- Wyatt-Brown, Bertram. Southern Honor: Ethics and Behavior in the Old South. New York: Oxford University Press, 1982.

Articles

Babcock, Julia C., Jennifer Waltz, Neil S. Jacobson, and John M. Gottman, "Power and Violence: The Relation Between Communication Patterns, Power Discrepancies, and Domestic Violence," *Journal of Consulting and Clinical Psychology* 1993, Vol. 61, No. 1, 40-50.

The Centers for Disease Control and Prevention and The National Institute of Justice. *Extent, Nature, and Consequences of Intimate Partner Violence*, July 2000. The Commonwealth Fund, *Health Concerns Across a Woman's Lifespan: 1998 Survey of Women's Health*, 1999.

Cott, Nancy. "What's in a Name? The Limits of 'Social Feminism;' Or, Expanding the Vocabulary of Women's History." *The Journal of American History*. 76.3 (1989): 809-829.

Davis, Rebecca L. "Not Marriage at All, but Simple Harlotry": The Companionate Marriage Controversy, *The Journal of American History*, (March 2008): 1137-1163.

Elliot, Pam. "Shattering Illusions," *Journal of Gay & Lesbian Social Services* Vol. 4, Iss. 1, 1996.

Hacker, J. David, Libra Hilde, and James Holland Jones. "The Effect of the Civil War on Marriage Patterns," *Journal of Southern History*, 2010 February; 76 (1): 39-70.

_____. "A Census-Based Count of the Civil War Dead," *Civil War History*, Volume 57 No. 4, (December 2011): 306-347.

Hennessey, Melinda Meek. "Racial Violence during Reconstruction: The 1876 Riots in Charleston and Cainhoy," *The South Carolina Historical Magazine*, vol. 86, No. 2 (Apr., 1985): 100-112.

Higginbotham, Evelyn B. "African-American Women's History and the Metalanguage of Race." *Signs*, Vol. 17, No. 2 (Winter, 1992), pp. 251-274.

Hine, Darlene Clark. "Rape and the Inner Lives of Black Women in the Middle West." *Signs*, Vol. 14, No. 4, (Summer, 1989), pp. 912-920.

McClintock, Megan J. "Civil War Pensions and the Reconstruction of Union Families," *Journal of American History* 83 (2) September 1996: 456-480.

Meyerowitz, Joanne. "A History of "Gender"." *The American Historical Review* 113.

Moore, R. Lawrence. "Religion, Secularization, and the Shaping of the Culture of Industry in Antebellum America," *American Quarterly*, Vol. 41 no. 2 (June, 1989): 216-242.

- Neuhaus, Jessamyn. "The Way To a Man's Heart: Gender Roles, Domestic Ideology, and Cookbooks in the 1950s," *Journal of Social History* 32 (Spring 1999): 529-555.
- Pleck, Elizabeth. "Wife Beating in Nineteenth-Century America," *Victimology: An International Journal* 4 (1979): 60-74.
- Ramsey, Carolyn B. "A Diva Defends Herself: Gender and Domestic Violence in an Early Twentieth-Century Headline Trial," 55 *St. Louis University Law Journal* 1347 (2011) 1; University of Colorado Law Legal Studies Research Paper No. 12-12.
- Schall, Jason. "The Consistency of Felon Disenfranchisement with Citizenship Theory," *Harvard Blackletter Law Journal* Vol. 22 (2006): 58-59.
- Scott, Joan W. "Gender: A Useful Category of Historical Analysis," *American Historical Review* 91, no. 5 (December 1986): 1053-1075.
- Shapiro, Andrew L. "Challenging Criminal Disenfranchisement under the Voting Rights Act: A New Strategy," *The Yale Law Journal*, Vol. 103, No. 2 (Nov., 1993).
- Siegel, Reva B. "The Rule of Love": Wife Beating as Prerogative and Privacy, *Faculty Scholarship Series*, Paper 1092, 1996, http://digitalcommons.law.yale.edu/fss_paper/1092.
- Smith-Rosenberg, Carroll. "The Female World of Love and Ritual: Relations between Women in Nineteenth-Century America." *Signs*. 1.1 (1975): 1-29.
- Summers, Gertrude, and Nina Feldman. "Blaming the Victim vs. Blaming the Perpetrator: An Attributional Analysis of Spouse Abuse," *Journal of Social and Clinical Psychology* 2 (4) 1984: 339-47.
- Tyrrell, Ian R. "Drink and Temperance in the Antebellum South: An Overview and Interpretation," *The Journal of Southern History*, Vol. 48 no. 4 (Dec. 1988): 485-510.
- Waller, Altina L. "Community Class, and Race in the Memphis Race Riot of 1866," *Journal of Social History* 18 (Winter 1984): 233-246.
- Welter, Barbara. "The Cult of True Womanhood: 1820-1860." *American Quarterly*. 18.2 (1966): 151-174.
- White, Hallie Bongar and James G. White. "Testifying about Lethality Risk Factors," *Southwest Center for Law and Policy & Office on Violence Against Women*, U.S. Department of Justice, 2005.
- Whites, Leann. "Rebecca Latimer Felton and the Wife's Farm: The Class and Racial Politics of Gender Reform," *The Georgia Historical Quarterly* Vol. 76, No.2 (Summer 1992): 354-372.

Newspapers and Periodicals

- Catalano, Shannan M., Ph.D., "Intimate Partner Violence, 1993-2010," Bureau of Justice Statistics, November 27, 2012 <http://www.bjs.gov/index.cfm?ty=pbdetail&iid=4536> (accessed June 6, 2013).
- Kanin, Eugene J., Ph.D., "False Rape Allegations," *Archives of Sexual Behavior*, Vol. 23, No. 1, 1994.
- McNamara, James, M.S., and Jennifer Lawrence, M.A., "False Allegations of Adult Crimes," *FBI Law Enforcement Bulletin* September 2012 <http://www.fbi.gov/stats-services/publications/law-enforcement-bulletin/september-2012/false-allegations-of-adult-crimes> (accessed June 6, 2013).
- Peterson, David. "Wife Beating: An American Tradition," *The Journal of Interdisciplinary History*, vol. 23, No.1 (Summer 1992): 97-118.
- Pickert, Kate. "What's Wrong with the Violence Against Women Act?" *Time* February 27, 2013 <http://nation.time.com/2013/02/27/whats-wrong-with-the-violence-against-women-act/> (accessed June 6, 2013).

Theses/Dissertations

- Roberts, Kodi. "Voodoo and the Promise of Power: The Racial, Gender, and Economic Politics of Religion in New Orleans, 1881-1940." PhD Dissertation, The University of Chicago: 2012.
- Schwartzberg, Beverly. "Grass Widows, Barbarians, and Bigamists: Fluid Marriage in Late Nineteenth-Century America." Ph.D. Dissertation, University of California, Santa Barbara, 2001.

APPENDIX

Table A.1 Orleans Parish Cases of Intimate-Partner Violence by Year, 1870-1900

Year	Number of Cases
1870	3
1871	4
1872	4
1873	4
1874	1
1875	3
1876	3
1877	1
1878	1
1879	2
1880	1
1881	14
1882	15
1883	8
1884	17
1885	19
1886	32
1887	33
1888	25
1889	1
1890	0
1891	0
1892	0
1893	2
1894	1
1895	0
1896	0
1897	6
1898	0
1899	0
1900	0

VITA

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