

# Motivating Questions and Partial Answers: A Response to Prosecuting Domestic Violence by Michelle Madden Dempsey

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**Abstract** Michelle Madden Dempsey's compelling book sets out a normative feminist argument as to why and when prosecutors should continue to pursue prosecutions in domestic violence cases where the victim refuses to participate in or has withdrawn their support for the prosecution. This paper will explore two of the key aspects of her argument—the centrality and definition of the concept of patriarchy, and the definition of domestic violence—before concluding with some final thoughts as to the appropriate parameters of feminist prosecutorial decision-making. The paper argues that Madden Dempsey could offer a more detailed and nuanced argument about the role that patriarchy plays, particularly its relevance in marking out appropriate cases for pursuit; and that her thesis requires a more convincing exposition of the precise reasons for offering such a narrow account of domestic violence.

**Keywords** Domestic violence · Patriarchy · Prosecution · Victim participation · Domestic abuse

## Introduction

Michelle Madden Dempsey's excellent book does not provide a step-by-step 'prosecuting domestic violence handbook' for prosecutors, but what it does offer is a normative argument addressing some of the pressing issues that feminists and others have struggled to agree on with respect to prosecuting domestic violence cases. While Madden Dempsey occasionally draws on some of her (illuminating) experiences as a domestic violence prosecutor, she undertakes, as the subtitle of her book suggests, a more philosophical treatment of her subject. The early part of the book sets out the role of prosecutors as well as the actions and values that they should aim to realize, and their reasons for action. We journey with Madden Dempsey through a very careful and close analysis of the factors that should guide a prosecutor faced by her motivating question—'what should public

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