It is well established that victims of crime are often measured against an idealised standard of victimhood, typically to the detriment of those who are seen to depart in significant ways from notions of the ideal. However, as Paul Rock noted (2002, p. 17), we need to give more attention to the ways in which various framing discourses are deployed and give shape to our understandings of victimisation. There is ‘interpretative work done at every level in bringing the categories victim and offender into play’ (Rock 2002, p. 21). Laws and legal practices are significant in how matters are framed and in constituting the subjects and objects of law. In this chapter we examine this further by reference to the multiple and competing conceptions of the victim of domestic violence that emerge in different domains of legal practice. We focus on victims of domestic violence who as mother are more likely to be subjected to particular scrutiny and to competing, and often conflicting, requirements and obligations (Douglas and Walsh 2010; Hester 2010; Jaffe et al. 2003; Kaye et al. 2003).

We move from law as a single entity to examine multiple sites in which women victims seek a response to the gendered harm of domestic violence. How do women make sense of the differing constructs and demands placed upon them by these different and often competing discourses presented by each area of law? In so doing we are not suggesting that there is, or should be, some ‘static or singular’ identity for women victims of domestic violence (Comack and Brickey 2007, p. 26); rather, we recognise that there is a ‘diversity of subject positions’ within and across these legal domains (Comack and Brickey 2007, p. 26). Positioning women’s lives ‘at the centre’ rather than in terms...
of legal categories (Graycar and Morgan 2002, p. 1) allows us to focus on the ways in which the same harms and the same parties are subject to different questions, legal requirements, positioning and constructions. At the same time, it is difficult to find a way to effectively discuss these constructions and their contradictions without also deploying legal categories. This presents a continuing limitation on how to speak about domestic violence within the language of law. Like Hester (2011), we examine three particular legal sites that demonstrate that the battered woman of legal discourse is subject to multiple renderings that reconfigure, reinterpret and revalue her experiences in different legal domains: (1) child protection, (2) family law and (3) criminal law and civil protection order proceedings. Further complexity is added to these multiple conflicting (legal) renderings through the recognition of the ways in which women experiencing domestic violence are also socially located (in terms of race, age, disability, culture, sexuality, poverty and immigration status) (Laing 2013). In this chapter we raise particular concerns about the experiences of Indigenous women victims of domestic violence in their engagement with, or absence from, these legal domains. Not only do discourses and practices within these different domains reshape a woman’s experiences of violence, but they also demand that she ‘perform her self’ differently in different forums to gain entitlement to legal redress intended to secure safety for herself and her children (Merry 2003).

Why focus on law?

For some time critical feminist scholars have problematised the emphasis on law as a way of dealing with violence against women. Diane Martin (1998), Laureen Snider (1998) and others cautioned against feminist engagement with criminal law on the basis that it empowers the state and not women. We have also seen the negative consequences of criminalisation strategies, such as zero tolerance policing and mandatory arrest in the increased arrest of women victims of domestic violence, and an apparent net widening in which minor offences by juveniles within families are becoming criminalised, resulting in more young people being brought within the criminal justice system (on the growth in arrest of girls related to domestic violence assault, see contributors to Zahn 2009 on the United States and Holmes 2010 on New South Wales (NSW)). Bumiller (2008) and Richie (2012) each offer a compelling analysis of how progressive feminist programmes for dealing with violence against women have been re-shaped and appropriated within