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GENDER, POWER AND THE STATE: SAME AS IT EVER WAS?

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Women have undoubtedly benefited from greater economic, civil and political freedom since the late 1960s, yet discrimination persists in systemically maintained gender inequalities such as segregation in employment and unequal pay. Thus, against some of the ungrounded naïve claims of social theory, many feminists would insist that changes within gender relations are indicative of the emergence of new forms of oppression as well as new types of freedom. (McNay, 2004: 171)

The colossal impact that *Policing the Crisis* had on social science scholars interested in developing critical perspectives on the relationship between the state and civil society, is beyond dispute. The book also offered a radical departure from traditional positivist functionalism which had dominated the social sciences thus far. Crucially, however, it followed in the footsteps of traditional criminology in one respect, by focusing its analysis on events within the *public* sphere. Without wishing to detract from the importance of the book's arguments, it is nevertheless important to note that the year 1978 also saw the publication of other – equally influential books – as far as the private sphere – and therefore the subject of gender, power and the state is concerned. Carol Smart's *Women, Crime and Criminology* (originally published in 1976, but first published in paperback in 1978) offered the first comprehensive feminist critique of traditional criminology and included an analysis of criminal activities such as rape, a violent crime which thus far had 'failed to arouse much interest within the discipline of criminology' (1978: 93).

The year 1978 also saw the publication of *Women, Sexuality and Social Control*, an edited collection by Smart and Smart which played a key role in ensuring that henceforth, crime within the private sphere would become a permanent fixture on the criminological agenda. These books, and others published soon afterwards such as Hutter and Williams' edited collection *Controlling Women* (1981), established analytical concepts which were to become the cornerstones of feminist challenges to traditional criminology for decades to come, and which helped to expand the criminological agenda by emphasizing the gender-specific social control experienced by women in both the public and

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private spheres. Such authors drew a distinction between formal and informal social control, and through detailed analysis were able to demonstrate the role such patriarchal controls play in constructing 'normal' versus 'deviant' womanhood.

However, three decades after the publication of these pioneering works, there is much evidence which indicates that, first, formal inequality between the sexes remains a serious issue within the public sphere, and second, that violence against women within the private sphere is as prevalent as ever. For example, in terms of formal inequality, despite the introduction of legislation designed to ensure equal pay, a 17% gap in women's pay is still evident (*Guardian*, 6 April 2007). Similarly, the Chartered Management Institute found that women directors earn an average of £22,144 less than male directors (*Guardian*, 19 September 2005), and the Fawcett Society has estimated that at the present rate of change, it will take 140 years before women achieve equal pay (*Guardian*, 14 June 2007). Moreover, in 2007 the Equalities Review Report noted the existence of 'an array of "entrenched" inequalities' so extensive that 'in some areas "we have stopped the clock"; in others, "it is starting to turn backwards"' (*Guardian*, 1 March 2007).

In terms of violence against women, the most recent statistics available at the time of writing indicate that an estimated 50,000 rapes occur annually in Britain. Of those, approximately one-fifth are reported and the conviction rate for this fraction currently stands at 5.3%. This means that if all estimated cases are taken into account, 'a rapist has about a 1% chance of being convicted' (*New Statesman*, 18 June 2007). The conviction rate for rape which stood at 33% in 1977, has thus reached its lowest level ever (*Guardian*, 18 June 2007). While 13,247 cases of rape were reported in 2004, it has been estimated that on average, '1 in 6 had experienced rape and 1 in 3 had been sexually assaulted at some point in their lives [with] one in 7 women experiencing rape in marriage' (Phoenix and Oerton, 2005: 31).

National statistics concerned with domestic violence have consistently indicated that on average, two women are killed a week 'by a current or former partner' which 'constitutes 42% of all female victims of homicide' (*Guardian*, 19 April 2006; Edwards, 1989: 126; Boyle, 2005: 85). Additionally, the Council of Europe found 'that domestic violence is the biggest cause of death and disability for all women under the age of 44' (*Guardian*, 19 April 2006), and the journal *Emergency Medicine* published statistics indicating that approximately 80% of all domestic abuse victims are women and 'around one in three women who arrive at inner-city accident and emergency hospital departments have suffered domestic abuse' (*Guardian*, 20 June 2007). Furthermore, 25% of women have 'experienced at least one physical assault from a partner ... and one incident of domestic violence is reported to the police every minute' (*Guardian*, 9 August 2006). Domestic violence accounts for a quarter 'of all violent crime' (Itzin, 2000: 357), and 30% of it 'starts or is exacerbated during pregnancy' (*Guardian*, 2 September 2004). According to Mooney (2000: 38), only 37% of men would reject the possibility of using violence against their partner, a finding which helps to explain the above statistics.

Such statistics provide firm evidence that the clock has indeed stopped, not only with regard to formal equality between men and women, but also as far as eliminating

domestic violence is concerned, and has 'started to turn backwards' on the subject of rape conviction rates (Lees, 1996: 264; *Guardian*, 18 June 2007). In an era of women enjoying unprecedented levels of personal and economic freedom and opportunities, and where formal equality has received another boost via the Gender Equality Duty legislation, enforced in April 2007 – why have statistics concerning domestic violence-related female deaths remained virtually unaltered while cases of reported rape increased 165% during the 1990s (Itzin, 2000: 357) – and what are the reasons for the massive drop in successful convictions for reported rape during the past thirty years? At a time when accepted wisdom states 'we are living in a post-feminist, post-sexist era, in which women have never had it so good' (*New Statesman*, 18 June 2007) – why is this level of violence against women allowed to go largely unpunished? Why has there been such massive failure on the part of the state to ensure women's safety? Why is it that, where women are concerned, 'modern democratic states with all their might and sophistication are not capable of implementing ... basic human rights, proclaimed and upheld by all democratic constitutions, particularly the right to the inviolability and integrity of one's body ...'? (Mies, 1991: 26).

In this chapter I shall argue that we cannot understand this apparent contradiction between, on the one hand, formal, (supposedly) legal equality in the public sphere, and, on the other hand, informal inequality through (supposedly) illegal violence within the private sphere, without placing the state's role in maintaining the dominant heteropatriarchal social order at the forefront of analysis. The sheer volume of violent crimes committed against women annually arguably justifies this focus in its own right; however, it is further justified theoretically since, contrary to the initial optimism of the women's movement, it soon became clear that greater participation in the public sphere, for example through wage-employment, had not solved 'the basic problem of the patriarchal man–woman relationship' which, for many women, continued to be based on violence:

Although the modern state as the general patriarch had assumed the monopoly over all direct violence, it had left some of it to the individual patriarch in his family ... women began to understand that rape, wife-beating, harassment ..., were not just expressions of deviant behaviour on the part of some men, but were part and parcel of a whole system of ... patriarchal, dominance over women. (Mies, 1991: 26, 27)

It is to a consideration of male violence and state power to which the chapter now turns.

A New 'Crisis of Legitimacy'? The State's Response to Rape

While the state could be seen to be 'doing' 'race' in relation to the issue of the black mugger of the 1970s as outlined in *Policing the Crisis* (Hall et al., 1978), it can also be seen to be 'doing' gender (Connell, 1994: 155) in relation to violence against women. Connell argues that the state is 'an active player in gender politics' and, 'at the very

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least a significant vehicle of sexual and gender oppression and regulation' (1994: 147). However, he also stresses that its role in that oppression 'is usually indirect' and 'embedded in procedure, in its way of functioning: 'This perception is extremely important. It allows us to acknowledge the patriarchal character of the state without falling into a conspiracy theory of making futile searches for Patriarch Headquarters' (Connell, 1994: 143, 146). Employing Connell's analysis of the state's patriarchal tendencies being exercised *indirectly*, through *procedures* and self-defined '*objective structures*', I shall now analyse how the state upholds the dominant heteropatriarchal social order through 'doing' gender in its response to violence against women.

First, Connell explains how patriarchal structures and procedures operate with regard to rape, which historically has been constructed from the perspective of men:

The legal system translates this interested point of view into impersonal procedural norms, defining ... what must be proven and what is acceptable or convincing evidence. The courts are not patriarchal because they are improperly biased against women, rather they are patriarchal through the way the whole structure of rape law operates. The more objective they are in procedure the more effectively patriarchal they are. The norm of 'legal objectivity' thus becomes an institutionalisation of men's interests. (1994: 145)

Connell is thus in agreement with those feminist critiques which identified the androcentric and patriarchal nature of law. Yet, at the same time such critiques have undoubtedly had a fundamental impact on the state during the past thirty years. Franzway et al. (1989: 11) note the scope for 'interaction between feminism and the state' grew during the 1970s and 1980s, resulting in practical reforms such as 'specially trained police officers and rape suites' (Phoenix and Oerton, 2005: 32–3). Nonetheless, just as the authors of *Policing the Crisis* argued that a crisis of legitimacy was generated with regard to law and order during the 1970s, so Phoenix and Oerton argue that a crisis of legitimacy arose with regard to rape and sexual assault during the late 1990s, as a result of issues relating to stranger versus familiar rape and reporting and attrition rates, which put the government under increasing pressure to also consider legal reforms. Within this context the Sexual Offences Act 2003 (SOA 2003) can be understood as the state's response to this crisis of legitimacy, which – in turn – allowed it to be seen as having taken critiques and concerns 'seriously' by 'doing' something about sexual violence.

Yet, as indicated by the statistics above, the SOA 2003 has done nothing to reduce the amount of sexual violence, or increase the rate of successful rape convictions. This is because conceptualizing the solution to this 'legitimacy deficit' in simplistic legal and technical terms – the law is faulty and in need of reform, such reforms will lead to the correct legal procedures for reducing incidents of sexual violence and increasing the rape conviction rate – removes them altogether from the *structural* context of the heteropatriarchal social order which feminists have identified as being responsible for gendered violence in the first place. The legal changes contained within the SOA 2003 have therefore done nothing to change 'the wider social

relationships and material realities which condition men's sexual violence and women's sexual victimization. In short, the power of law remains unchallenged, as does the social context that makes sexual violation routine' (Phoenix and Oerton, 2005: 39).

Here it is important to return to Connell's point about the law operating *indirectly, through procedures*, rather than in an overt or conspiratorial manner, for, undeniably, official discourse within the SOA is willing – eager even – to take sexual violence *seriously*. According to Phoenix and Oerton it does this by presenting all victims as suffering a fate worse than death through 'extreme trauma brought on by their sexual violations...' (2005: 39).

While this portrayal appears sympathetic to victims, such generalization of victimhood also silences those who do not fit this mould. In particular, those who insist that the state's treatment of them was as traumatic as the offence – and who therefore also insist on including structural issues connected to androcentric law – are silenced. Only those who are understood as having had their entire lives destroyed by their violation gain prominence in this all-encompassing, suffering model of victimhood (Phoenix and Oerton, 2005: 41). Official discourse is therefore also reinforcing traditional views of the weak, vulnerable, disempowered victim who needs *protection*, which, in turn, sets up the conditions for legitimizing harsher punishment to give victims confidence in the system and encourage reporting (2005: 44). Again, this strategy allows the state to be seen to be taking sexual assaults *seriously* and *doing* something about them, while simultaneously ignoring the complex social relations within heteropatriarchy where such violence has its roots. Thus, according to Phoenix and Oerton, it is a strategy which generates favourable conditions for the creation of 'a new sexual enterprise of moral authoritarianism' (2005: 53) within which harsher punishment is presented as the *only* solution to ensuring 'justice for victims'.

In sum, by providing legal responses to the problem of rape, the state can be understood to have 'done' gender by eliminating those feminist discourses which identified the law and criminal justice system as part of the problem rather than the solution, and thereby leaving the structures that create and support hegemonic masculinity unexplored and the heteropatriarchal social order undisturbed (Ballinger, 2007: 477). This is unsurprising since the state and its major institutions, such as the legal system, have been identified as being 'grounded in patriarchy' (Smart, 1989: 88). The solution to rape (or domestic violence) can therefore not be found within the law since both rape and law are 'exercises in power ... they are both exercised in the masculine mode, so one is not the solution to the other' (1989: 88). Put another way, 'the state is not an objective, neutral arbiter of the "facts"' (Walklate, 2007: 49), but has gender deeply embedded within it. Maintenance of its own interests therefore includes activities which encourage the production and reproduction of the gendered subject which in turn supports the existing social order (Smart, 1995: 79). Thus, to look towards the state to solve problems stemming from its own structure of heteropatriarchy is to ask for it to work against its own interests and self-maintenance. It is within this context that the state is drawn towards technical, legal solutions

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from within its own repertoire which identify individuals rather than structures, as the problem: 'This orientation towards events and people produces accounts of crime which mystify the social and historical roots of crime by suggesting that wicked or bothersome individuals are at fault rather than unjust and inequitable social structures' (Morrissey, 2003: 19). In short, while recognizing that the state is far from impervious to gendered violence, its strategy in dealing with it nonetheless plays an important role in ensuring that things are indeed likely to remain much the same as they ever were, since 'legal reform, without a fundamental overhaul of the interpretative background, amounts to little more than tinkering with the edges of systematic and structural injustice' (Jackson, cited in Chan, 2001: 169).

'Doing' Gender through Domestic Violence

The second example of the state 'doing' gender can be observed in its response to domestic violence. As with the issue of rape, feminist work relating to domestic violence has had a substantial impact on official discourse over the past three decades. In particular, the poor policing of this offence created legitimacy problems for the state during the 1980s, to the point where demands for action could not be ignored. While state discourses insisted that domestic violence was rooted in individual pathology, 'problem' families and poor housing, feminists placed its inadequate policing within the context of the patriarchal state and social order:

... the police are defenders of the existing order while men's violence plays a central role in upholding male supremacy within that order. There is no way the police or other agents of the state, the courts, or judiciary, can truly treat men's violence as a serious crime without undermining the social order it serves so well. (Hanmer, Radford and Stanko, cited in Kantola, 2005: 85)

The 1990s consequently witnessed a struggle between these two competing discourses. The state attempted to reduce its responsibility by 'marginalising political debates' (McKie, 2005: 48) and structural issues, and instead emphasized the role of the individual (Kantola, 2005: 80), while feminists continued to emphasize the social and structural context of domestic violence. Moreover, high-profile cases such as those of Sara Thornton, Emma Humphrys and Kiranjit Ahluwalia – all given life sentences for killing their abusive partners – caused 'a public-realm scandal' which created a crisis of legitimacy for the state (Connell, 1994: 156), as a direct result of protest campaigns by feminist activists and academics (Ballinger, 1996, 2000). The women were eventually released which, on the one hand, can be characterized as a victory for feminist discourses in relation to domestic violence. However, on the other hand, can also be seen as evidence of the state's 'capacity to regulate the power relations of gender' (Connell, 1994: 156; see also Ballinger, 2005: 79). That is, the state was 'doing' gender by ignoring complex structural issues around the heteropatriarchal social order, and instead focused on individual retaliating victims of domestic

abuse, by reducing their sentences: 'The effect of this routine of management is to construct the issue as one of a deviant minority of violent husbands, and to deflect criticisms of marriage as an institution that generates violence' (Connell, 1994: 156; also Morrissey, 2003). Rather than a victory for feminism, the release of these retaliating women can therefore be understood as a conservative strategy which helped preserve the institution of marriage in particular, as well as the wider gendered social order generally (Ballinger, 2007: 475). Yet, their eventual release also demonstrates that the patriarchal state can be brought to the point of a crisis of legitimacy to which it must respond, and 'whilst recognising that "feminist discourses lack the social power to realise their versions of knowledge in institutional practices"' (Weedon, cited in Ballinger, 2005: 79), their influence nonetheless became apparent in official discourse during the 1990s, for example in the 1993 Home Affairs Committee Report which recognized the universal nature of domestic violence and recommended that 'the government should take swift action in providing funding for refuges and in creating a coherent national strategy to tackle domestic violence' (Kantola, 2005: 93).

The response to these recommendations, however, once again reflected the state's ability to 'do' gender and manage power relations to preserve the dominant heteropatriarchal social order, for it continued to emphasize individual responsibility at the expense of social structures in its explanations of, and response to, domestic violence. Thus, in 1994 'it launched a public awareness campaign ... with the slogan "Domestic Violence is a Crime – Don't Stand for It"', and the following year the Home Office produced guidelines for voluntary organizations dealing with domestic violence (Kantola, 2005: 97), gestures which ensured the state was able to portray itself as responding to the legitimacy deficit and to be 'doing' something about this violence, while simultaneously ignoring the structural issue of national funding for refuges. Campaigns and guidelines, however well intentioned, do not provide refuge for victims of violence; on the contrary, the Dash Report indicated that 'campaigns to highlight domestic violence have failed' (*Guardian*, 9 August 2006). Hence, on the issue *most* likely to bring structural improvements to the lives of domestic violence victims by providing them with safe, alternative accommodation, the government's response was virtually non-existent – in Kantola's words – 'disappointingly bleak' (2005: 97). As Connell (1994: 156) notes, the state's non-intervention within this context provides tacit support for domestic violence and, ultimately, can be understood as a refusal to engage with strategies which threaten heteropatriarchal family life, at the expense of women's safety and well-being. For, compared to leaflets and guidelines, offering women a way out of a violent relationship carries a much greater potential to undermine and threaten the idealistic image of the private sphere as a 'safe haven' and instead exposes the family as 'the most violent group to which ... women and children are likely to belong' (Dobash and Dobash, 1979: 7).

In sum, the state does gender by defining domestic violence as an individual problem which could be eliminated through greater awareness. This strategy left structural issues within the heteropatriarchal social order unexplored by silencing feminist discourses, and consequently, just as the SOA 2003 has done little to reduce the volume of sexual violence or increase the rate of successful rape convictions, so the

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state-sponsored awareness campaign against domestic violence has done nothing to reduce the number of women killed by a current or former partner.

'Doing Gender': Financing the Social Order

The final example of the state 'doing' gender concerns the subject of funding for rape crisis centres and refuges. The financial cost of rape and other forms of sexual violence is impossible to quantify due to its hidden nature and lack of reporting. Yet, shelters, refuges and rape crisis centres suffer chronic under-funding and perpetual financial crises. In 1984 England and Wales had 68 rape crisis centres (RCCs) and helplines. In 2007 only 32 remained as a result of lack of funds, while the government scored 'just two out of ten' for its efforts in ending violence against women. The Northern Ireland Office scored one out of ten (*Amnesty Magazine*, Jan./Feb. 2007). Why, at a time when the status of the victim is experiencing unprecedented attention from the state, media and academic research, is funding for those who provide specialist knowledge and expertise in their dealings with rape and domestic abuse victims perpetually dwindling?

As discussed above, feminists have identified the state as heteropatriarchal and hence deeply implicated in upholding a social order within which women's subordination – and therefore also their victimization – is maintained. It is therefore unsurprising that women's organizations dealing with the aftermath of such victimization have fought hard to remain independent of the state and its masculinist values. Thus, since their inception in 1976, RCCs have worked according to the feminist ethos of, first, providing a service 'by and for women' (Gillespie, 1994: 16), which entails an emphasis on equality, empowerment and self-help, rather than the traditional client–professional relationship, and second, providing direct access, which means supporting those who have identified *themselves* as victims, and ultimately as survivors, and always believing their accounts, rather than relying on state-identified victims through police referrals. Finally, woman-centred organizations have focused on social structures and power relationships rather than individual violent men, and have involved themselves in campaigns for social change rather than presenting themselves as 'neutral'. For example, Women Against Rape 'won the legal recognition of rape within marriage in 1991 after a 15-year campaign' (*Amnesty Magazine*, Jan./Feb. 2007).

It is precisely these principles which challenge official discourse and the *modus operandi* of state-sponsored organizations and charities, and which have subsequently resulted in RCCs being identified as "extreme" feminist organizations, anti-police, anti-men, and more concerned with "radical feminist politics" than providing effective support services for women who have been raped and sexually abused' (cited in Gillespie, 1994: 19). Further evidence that feminist service provision is at odds with the goals of the 'efficient and effective' service delivery ethos dominating state-sponsored organizations is apparent when compared to Victim Support, which has maintained a more traditional client–expert relationship and works in close partnership with state servants such as the police, and which 'receive[s] generous

funding from the Home Office' (Gillespie, 1994: 18, 24). Its funding increased from £12.7 million in 1997/98 to £25 million in 2001/02 (*Independent*, 23 October 2002), the same year that 'half of Britain's remaining rape crisis groups exist[ed] on less than £20,000, raised entirely from donations ... one in five continues to function with less than £5,000' (*Sunday Observer*, 24 November 2002).

A similar history can be traced in the development for services for domestic abuse victims. Domestic violence costs employers in the UK £3 billion annually due to employees being unable to work as a result of injuries. It costs the criminal justice system £1 billion annually, and the NHS and social services more than £1.5 billion per year (*Guardian*, 2 September 2004, 20 June 2007). Altogether, it is estimated that domestic violence costs a total of £23 billion a year in England and Wales (*Guardian*, 18 June 2004). Beyond the financial cost lies the emotional cost, not least of which is the effect on the 750,000 children who witness it annually, 'around half of whom have themselves been badly hit or beaten' (*Guardian*, 20 June 2007). Furthermore, the British Crime Survey 2004 'found that domestic violence is the single most cited reason for becoming homeless' (*Guardian*, 18 June 2004).

Within this context, 'shelters formed an essential part of the wider political struggle against the structural oppression of women, emphasising "the goal of changing the socio-political conditions that fostered violence' (cited in Lupton, 1994: 57). Thus, like RCCs, shelter workers identified themselves as part of a 'wider social movement' and hence were committed to instigating social change and to operating in 'non-hierarchical, collectivist ways'. They also emphasized self-help and self-determination as well as 'working with women, rather than for them' (Lupton, 1994: 56, 57; Kantola, 2005). As such, shelters too, have formed a contrast to 'traditional "social provision" agencies' (Lupton, 1994: 55), and challenge official discourse and ultimately, the heteropatriarchal social order. As with RCCs, maintaining this level of autonomy has had financial consequences with most shelters surviving on uncertain grant funding and fundraising. In 1980 'over one-third received no grants at all and existing sources of funding ... were inherently insecure', a situation which worsened during the 1990s (Lupton, 1994: 60). For example, in 1998, under 'half of the refuge spaces recommended by the Government Select Committee on Violence in Marriage 25 years ago' were in place (Harwin and Barron, 2000: 207). Miller notes that shelters have been 'under enormous pressure to de-emphasise their feminist politics' in exchange for funding because state 'entities were uncomfortable with the movement's position that battering resulted from a patriarchal society' (2005: 6), and Maguire has suggested that government pressure on Victim Support to extend its services to victims of domestic abuse and sexual assault 'is a deliberate attempt to circumvent the work of feminist-inspired groups' (cited in Lupton, 1994: 69).

Thus, increasingly, funding has become subject to a willingness to follow the American model where the feminist principles of self-help, self-determination and emphasis on women as survivors have been replaced with a more traditional 'social provision' ethos, within which violence against women becomes de-politicized and redefined as 'family violence', and the battered wife becomes 'a domestic violence programme client' (Lupton, 1994: 59). This process of redefining violence against

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women to an individual, gender-neutral problem which can be responded to by experts and 'cured' through 'therapeutic assistance' and treatment (Miller, 2005: 6), also serves to render male violence invisible (Itzin, 2000: 376). In this way, the state is 'doing gender' by undermining the structural arguments put forward by feminist-inspired groups, who, in order to attract funding, are under increasing pressure to compromise their politics and 'reframe their basic aims and objectives' towards a more traditional social provision model (Lupton, 1994: 63).

In sum, the shrinking numbers of RCCs and shelters, and the dire financial straits they have been forced to operate in during the last three decades, provide a powerful example of the state's ability to 'do gender' by directing funding towards 'more politically acquiescent services such as Victims Support' (Lupton, 1994: 72), while simultaneously marginalizing feminist organizations resisting incorporation 'into existing state structures' (Foley, 1994: 47). These organizations – and ultimately all the victims seeking their services – have thus paid a heavy price for maintaining their independence and challenging the gendered social order. Indeed, apart from the financial cost outlined above, there is the human cost in terms of victims being unable to access the support and advice they need. With RCCs and helplines 'closing at a rate of two per month', there is a waiting list of seven months for counselling, and victims from outside catchment areas where no provision exists, are regularly turned away (Women's Resource Centre, October 2006).

The apparent contradiction between such statistics and the unprecedented increase in politicians claiming their support for the implementation of legislation concerned with 'victims rights' (Spalek, 2006: 17) is explained by Cochrane as 'proof of an institutionalised misogyny that cuts to the heart of British society, a national disgrace magnified by the apparent lack of public or political will to really tackle the issue' (*New Statesman*, 18 June 2007). It is also an example of the state's continued ability to manage gender relationships through a process of 'regressive modernisation' (Hall, 1988: 164) – that is, implementing new measures which appear to take the concerns of individual victims seriously, and thus pay lip service to 'doing' something about violence against women, while simultaneously ensuring that the social structure within which that violence continues to thrive, remains 'the same as it ever was'.

Hegemony, Resistance and Patriarchal Power

Franzway et al. note that much of the state's involvement with sexual politics is organized around efforts 'to construct, impose and sustain a particular patriarchal family form, and to provide an ideological defence of this form' (1989: 12). However, state institutions do not do this in a simplistic or conspiratorial way. On the contrary:

... the state's role in women's oppression is subtle to the point where it appears to be gender-neutral – or even protective towards women – by seemingly regulating the system to prevent further oppression, for example through law's enforcement of 'equal opportunity' or 'equal pay' legislation. (Ballinger, 2007: 474)

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Furthermore, through the process of redefinition and gender-neutralization, the state is able to present itself as *more* inclusive than feminists, who by comparison appear outdated in their insistence on focusing on heteropatriarchy. Thus, apart from the gender-neutralization described above in relation to domestic violence arguments, the state has also had a measure of success in gender-neutralizing the arguments around rape by equating equality with sameness, a definition which has facilitated a construction of official discourse built on the idea that women commit the *same* crimes as men, and consequently, they should also be treated the same. This line of reasoning further supports and reinforces the state's desire to offer a technical solution: since the problem is out-dated laws, *legal adjustments* will provide a remedy:

Our law is cast in terms of men committing certain offences and women committing others. ... This leads to anomalies and inconsistencies in the way offenders are dealt with for what is *essentially similar behaviour* ... this kind of differential treatment was not justified unless there was a specific reason, offences should be couched in gender-neutral terms. (Home Office, cited in Phoenix and Oerton, 2005: 46, emphasis in the original)

While this reasoning appears to expand the state's concern for victims of sexual violence by including men, it also forecloses the space 'in which the law can be capable of understanding and dealing with the gendered material social relations of sexual violence' (Phoenix and Oerton, 2005: 46), and, in particular, the different contexts within which men and women commit violence. Moreover, this 'contemporary search for equivalence' (Worrall, 2002: 48) is ultimately a conservative strategy, depoliticizing the nature of such violence and ensuring the preservation of the social order by ignoring the structural issue of male violence:

If women are no longer victims of gender-specific oppressions, such as domestic violence, rape and sexual abuse, because men are also victims of these things, then there is no need for gender-specific ways of dealing with offenders. (Worrall, 2002: 49)

This point is reinforced by Connell who, as noted above, maintains that the legal system is patriarchal, not because it is 'improperly biased against women', but through structures and procedures, allowing it to define 'what must be proven and what is acceptable or convincing evidence'. In short, the very 'appearance of technical neutrality' by the state in its quest for gender equality, is already in itself embedding 'patriarchal points of view' and as such, is inherently heteropatriarchal in nature (Connell, 1994: 145). In that sense, 'formal politics may be seen as a dynamic factor in maintaining and strengthening the gender order: the state acts to reinforce masculine norms' (Tosh, 2004: 41).

Yet, as this chapter also indicates, the state does not operate as a simplistic patriarchal tool; On the contrary, it is concerned with the maintenance of legitimacy as well as the social order, and as such, can be understood as working in the interests of

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individual women at particular moments (Ballinger, 2007: 475). As Connell has observed, 'the fact that the state will restrain some manifestations of private-sphere patriarchy is significant' (1994: 156). However, I have also demonstrated that the contested ground between feminist challenges to state institutions and the state's response to, and redefinition of, such challenges during the past three decades has not been a battle between equals. While feminists have emphasized the need to challenge heteropatriarchal structures, the state has responded by redefining key issues concerning violence against women, and continues to do so. Thus, when the state is 'doing gender', it is encouraging gender relationships to remain 'the same as they ever were', ultimately preserving the social order. This process involves underplaying the role of masculinity in the continual reproduction of gendered violence. Furthermore, a focus on *individuals* rather than structural issues, such as power relations within marriage, remain evident. This is exemplified by the funding of 'panic rooms' for domestic violence victims within their homes, which involves installing solid doors, 'mortice locks, steel hinges, bolts and a spy glass to transform a bedroom into a "sanctuary"' (*Guardian*, 22 February 2006). Rather than tackling the abuser or root causes of violence, this solution curtails the victim's personal freedom and civil liberties, while reinforcing traditional ideologies concerning women's confinement to the private sphere.

A second example concerns the Freedom Programme, a course for domestic abuse victims which 'aims to help women come to terms with traumatic experiences ... build confidence and self-esteem, and ... avoid harmful relationships in the future' by teaching them 'to recognise signs of abusive behaviour and how to break free from the cycle of abuse' (*MerseyMart*, 16 March 2006). This exemplifies that 'things are indeed the same as they ever were' – or at least since 1992, when Dobash and Dobash wrote that 'a narrow therapeutic focus means that ... violence against women is ... not linked to the ... wider oppression and experiences of all women' (1992: 229).

Similarly, the discourses identified by feminists during the past three decades, which constructed victims rather than perpetrators as being responsible for rape, are still active in the twenty-first century. For example, in response to a 2004 rape study, the Association of Chief Police Officers argued that 'in most cases, the alleged victims had consumed alcohol voluntarily ... in some cases, to dangerous levels' (*Independent*, 17 November 2006), thus presenting 'sexual crime prevention' as being of no concern to men, but 'the sole responsibility of women'. As such, official discourse is still focused on potential female victims who must teach themselves the self-surveillance of 'sensible drinking' while questions about 'what kind of man' would desire sexual intercourse with a comatose woman remain unasked and unanswered (*Guardian*, 5 August 2005).

More widely, despite the state's continued active involvement in promoting formal equality for women, for example via the aforementioned Gender Equality Duty legislation, state servants nevertheless continue to adhere to an agenda reflecting traditional constructions of femininity, particularly those linked to reproduction and motherhood. Thus, Bennett notes the prioritizing of women's right to breastfeed

in public in the 2007 *Framework for Fairness* consultation paper. Within the context of the pay gap between men and women, Bennett asks:

Is breast-feeding really the worst problem that women have to deal with today? ... [What about] what is going to happen when I go back to work? Will someone have taken my job? Will there be flexible working? ... Why do women MPs care more about breast-feeding than about equality? (*Guardian*, 14 June 2007)

The continuing social control of women through 'the reproduction cycle' identified by Smart and Smart in 1978, is also evident from advice given to pregnant women regarding the consumption of alcohol. Only 5% of babies 'born to *alcoholic* women have FAS' (Armstrong, 2003: 7, emphasis added), and the Royal College of Obstetricians and Gynaecologists maintains 'there is no conclusive evidence of adverse effects in either growth or IQ at levels of ... 15 units a week'. Yet, the government advised pregnant women to avoid alcohol altogether 'just in case' (*Guardian*, 21 March 2007). Within the context that pregnant women are much more likely to suffer domestic violence 'than to drink excessively during pregnancy' (Armstrong, 2003: 3), that there has been a '21% rise in maternal deaths over the past three years', and that 17,000 women 'have suffered harm on labour wards', Williams concludes that such advice 'is an outrage against women [and] against the relationship between the state and the individual' (*Guardian*, 21 March 2007). This insistence on foregrounding traditional discourses of femininity, at the expense of those associated with substantial equality, also demonstrates the continuing validity of Connell's thesis discussed above, that the state is 'the main organiser of the power relations of gender', but that its role in women's oppression is subtle to the point where it may even appear 'protective towards women by seemingly regulating the system to prevent further oppression' (Connell, 1994: 148; see also Ballinger, 2007: 474). Moreover, the state's eagerness to police private-sphere activities such as pregnant women's alcohol consumption, is particularly noteworthy within the context of its failure to police private-sphere violence, as outlined in this chapter.

Meanwhile, women continue to pay the price for the state's emphasis on maintaining law and order in the public sphere at the expense of protecting women's lives within the private sphere, as can be seen from the case of Banaz Mahmood, who was murdered by her family after having 'told police at least four times that threats had been made on her life' (*Guardian*, 13 June 2007). After reporting one such threat, police 'dismissed her as being manipulative and melodramatic' and 'failed to record the murder allegation and instead ... considered charging Ms Mahmood for a broken window that she smashed to escape' from her family (*Guardian*, 12 June 2007).

The above examples suggest that despite the state's willingness to legislate in favour of women's *formal* equality, this has done little to shift dominant ideologies and discourses around traditional femininity or the power relationship between gender and the public/private sphere. Such legislation has therefore been unable to

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deliver *substantial* equality. On the contrary, the changes within technical and legal procedures discussed above, have *reinforced* existing state priorities and official discourses flowing from such priorities, which subsequently have remained largely 'the same as they ever were' – that is, they have been constructed and reconstructed to enable the preservation of the heteropatriarchal social order. The centrality of the state in constructing gender relationships, as well as its ability to define and redefine the gendered subject, thus becomes visible in what it prioritizes, but equally in *what it fails to prioritize*. Within this context:

Material feminists tend to offer ... cautious accounts of change asserting that, if gender relations are transforming at all, ... it is in a gradual and complex fashion where the emergence of new forms of autonomy coincides with new forms of dependency and subordination. (McNay, 2004: 174)

Conclusion

In 1978 the authors of *Policing the Crisis* concluded:

When we confront, not crime, but the economic, political and ideological conditions producing crime, as the basis of a possible political strategy, the issues become necessarily more complex. They bring together the most difficult matters of strategy, analysis and practice. (Hall et al., 1978: 396)

Gendering this analysis three decades later, it may be concluded that when we confront, not crime, but the economic, political, ideological *and* heteropatriarchal conditions which produce women's subordination, the issues become necessarily more complex, and the current generation of feminists doubtless face difficult matters of strategy, analysis and practice. Yet, there are signs that this generation is well equipped to tackle this task, not least through the numerous third-wave feminist groups based throughout the UK, who in response to the 'mainstreaming of the porn and sex industries', have become activists to the point where 'there's a mini-revolution going on' (*Guardian*, 9 February 2007). Moreover, six new feminist publications were established between March and September 2007, and when combined with the establishment of a host of organizations such as Rights for Women and FEM Conferences (*Observer Women*, September 2007), there is much evidence that a new generation of twenty-first-century feminists have no intention of allowing relations between gender, power and the state to remain 'the same as they ever were'. Instead, they can be understood as being engaged in forming a new 'historical bloc' which aims to 'propagate itself throughout society ... posing all the questions around which the [gender] struggle rages ...' (Gramsci, cited in Hall et al., 1978: 203). This hegemonic strategy will ensure that the state's role as educator and organizer of gender relationships will continue to be challenged until full gender equality, and by extension, the elimination of male violence, is achieved.

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Key Reading

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