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ISBN 0-315-54882-7

Canada

Feminism and the State:  
The Politics of Wife Abuse Reform

by  
DAWN FAROUGH

A Thesis  
Submitted to the Faculty of Graduate Studies  
in Partial Fulfillment of the Requirement for the Degree  
Master of Arts

Department of Sociology  
University of Manitoba  
August, 1989

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THE POLITICS OF WIFE ABUSE REFORM

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DAWN FAROUGH

A thesis submitted to the Faculty of Graduate Studies of  
the University of Manitoba in partial fulfillment of the requirements  
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MASTER OF ARTS

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Abstract

Feminism as an ideology and a social movement seeks to challenge and transform the state. Yet, feminists find themselves in the ironic position of involving and working with the state on the issues which concern them. This thesis examines the working relationship between the state and the women's movement over the issue of wife abuse. Any strategy regarding the state and its usefulness in effecting social change must consider the nature of the state. In Chapter One, the work of neo-Marxist and feminist scholars considers questions of state autonomy, capacity, unity and conflict. This chapter also examines the merits of metatheory and comparative-historical research and the dialectic between feminist ideology and strategy. Chapters Two and Three trace the evolving relationship between the state and the women's movement in their response to wife abuse. Two periods of wife abuse reform are discussed: the English, American and Canadian campaigns during the nineteenth and early twentieth centuries and the contemporary period beginning in the late 1960s. In both periods, the women's movement and the state compete to define and manage the issue according to their own ideologies and strategic styles. Chapter Four profiles the battered women's movement in Manitoba in order to provide an understanding of how feminists perceive the state, its usefulness to them and the political strategies used in working with and/or challenging the state. The thesis argues

that feminists need to explore the social and historical character of state apparatuses and relations. It concludes that the limits of state autonomy, power and reform are unknown and that feminists who wish to struggle with the state must push the state to its limits, acknowledging its complexities while taking advantage of its contradictions and vulnerabilities.

Acknowledgements

I wish to acknowledge my thesis advisor Rick Linden and committee members Denis Bracken, John Hofley and Julia Kwong. I thank Jane Ursel and Don Forgay for some initial inspiration, Steve Brickey for helpful comments on sections of the manuscript, and Catrina Brown and Sonya Roslycky for their support and friendship. I am grateful to Doug and Alison Farough for the use of their computer (and house) at crucial periods during the writing process. Lastly, I am especially indebted to the twenty-four women who agreed to take time out of their busy schedules to be interviewed for this thesis.

## Introduction

This thesis deals with the politically important question of how feminist analysis and practice should approach the state. I examine the state both theoretically -- what is the state and what are the limits of state power -- and in more concrete terms -- what does state involvement mean for feminists, especially state involvement in "feminist concerns"? The relationship between the state and the feminist movement in western democratic societies inevitably involves conflict, contradiction and compromise. I propose to illustrate this relationship by analyzing the struggles between the state and feminists around the social problem of wife abuse. Specifically, I propose to examine the positions of the state and the feminist movement in terms of the historical emergence of wife abuse as a public issue and the current legal and social issues which surround it.

Chapter One examines the theoretical debate around the state. The work of neo-Marxist and feminist scholars deals with the character, structure and determination of the state and more specifically, the role of the state in contributing to and constructing oppression. The discussion centers on questions of state autonomy and capacity: does the state have autonomy from patriarchy and/or capitalism? Is the state capable of and willing to respond to social protest? This chapter will also address the usefulness of metatheory and comparative-historical analysis to state research.

Chapters Two and Three trace the evolving relationship between the state and the women's movement in their response to the problem of wife abuse. Chapter Two looks at how the state and the emerging women's movement handled (or did not handle) wife abuse in nineteenth and early twentieth century England, America and Canada. The chapter examines state legislation as well as the feminist activities and philosophies of the time.

Chapter Three deals with the contemporary relationship between the state and the women's movement over wife abuse. It looks at the discovery of the problem by feminists, the building of a social movement called the battered women's movement and the state response to that movement. This chapter also looks at feminist concerns regarding the "institutionalization of women's issues" -- a term used by some feminists to describe the process by which the state takes on women's issues and redefines them according to its own agenda.

Chapter Four uses Manitoba as a case study of the feminist/state struggle over wife abuse. I focus on a particular issue which illustrates this struggle -- the directive to charge and its consequences<sup>1</sup>. Twenty-four women working in the battered women's movement were interviewed for this chapter. Their interviews were meant to provide an understanding of how feminists perceive the state, its usefulness to them and the

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<sup>1</sup> In 1983 the Attorney General of Manitoba, under pressure from women's groups, issued a directive ordering police to lay charges in all wife abuse cases where there was a reasonable or probable cause that an assault had occurred.

political strategies used in working with and/or challenging the state.

Chapter Five attempts to come to some conclusions to questions raised by the preceding chapters: what can theory tell us about the nature of the state and its potential for insurgency? How has the state evolved in its handling of wife abuse? How has the feminist movement evolved? What historical differences exist between the time periods? What concept do contemporary feminists have of the "state"? How do they believe the state can help their cause? What do they perceive as the consequences of state involvement? What kinds of divisions exist in the women's movement in terms of these questions? And finally, what does the thesis tell us about the transference of feminism into society and the state?

## Chapter One: The Theoretical Debate

During the 1960s and 70s, state theory was dominated by the work of neo-Marxists. More recently, feminist theorists have started to construct theoretical understandings of the state and state power. My focus in reviewing this literature is to look at the implications of state theory vis-a-vis the potential of the state to respond to social protest and its potential as an agent for social change. I will also examine the critique of comparative-historical scholars who argue that "metatheory" is a "deadend" in terms of the future understanding of the state.

### Marxist-Oriented Theories of the State

Although Marx did not develop a systematic theory of state power, neo-Marxists have sought to formulate an understanding of the state using Marxist analysis. Much of this work serves as a rebuttal to classical liberal theory (Rousseau, Locke), pluralism (Dahl, 1961; Polsby, 1962; Truman, 1951) and elite theory (Mills, 1956). While neo-Marxists differ in their interpretations of the state, they can be easily distinguished from status quo liberal analyses which see the state as a neutral apparatus removed from societal conflict, concerned with mediating various interest groups and protecting the democratic rights of all citizens. For Marxists, the state is part of a class-structured society where

one class is disadvantaged economically and politically because of its relation to the capitalist mode of production.

Amongst neo-Marxists, debate on the nature of the state is influenced by two different philosophies: instrumentalism and structuralism.<sup>2</sup> Large conceptual questions have been the focus of these debates: what is the state? Should it be defined in terms of its institutions or its social relations? Can it be located in the private as well as the public sphere? Is the state autonomous and if so, to what degree? Does it have autonomy from capital or the capitalist class? Is the state determined by structure? By human actors? By political struggle?

### Instrumentalism

The view that the state is an instrument of the ruling class is fundamental in the work of Marx and Engels. In The German Ideology (1845), Marx and Engels declare that the state in capitalist society is "nothing more than the form of organization which the bourgeois necessarily adopt both for internal and external purposes, for the mutual guarantee of their property and interests" (Tucker, 1978:187). This viewpoint reappears in the

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<sup>2</sup> Instrumentalist and structuralist theories of the state vary greatly in terms of their sophistication. Some theorists use elements of both. I have categorized theorists in terms of the tendencies which dominate their analyses.

Communist Manifesto (1848) and in Engel's Origin of the Family (1894).

Instrumentalism views the state as a thing to be used rather than a subject or an actor independent in its own right. Instrumentalism implies that there is no separation of the state from the economically dominant class or from capital itself. Why and how the state becomes and remains a "thing" is explained by two instrumentalist approaches: in the first, the state is defined through the relations of the ruling class; in the second, through the relations of capital.

The first approach, characterized by the work of Domhoff (1967) and Miliband (1969) disputes the pluralist claim that no one group dominates the state. Domhoff and Miliband argue that the capitalist class owns and controls most major societal institutions and a disproportionate share of societal wealth, thereby owning and occupying key positions within the state. What the capitalist class does not own, it is able to influence. The state functions through the exercise of power by the capitalist class. This approach argues that although there may be some disagreement and conflict among members of the capitalist class, there will also be ideological congruence on major goals which seek to protect the private property system and perpetuate class relations.

The second approach stems from the work of neo-Ricardian and "state monopoly capitalism" theorists. Here the state is controlled by capital not by capitalists. State policies must

ensure the accumulation and reproduction of capital. The state may intervene to establish profit at the expense of wages (Boddy and Crotty, 1974; Glyn and Sutcliffe, 1972; Glough, 1975) or it may "fuse" with monopoly capital in the attempt to promote the political conditions necessary for capital accumulation and economic conditions which cannot be secured through operating market forces (Jessop, 1982:14).

The instrumentalist state is without a social context in the Marxist sense of the word. It does not have a history of its own because its history is the history of the capitalist class. State relations are entirely the product of class relations structured by the mode of production. This is a state void of its own logic, initiation and power. Clearly, the instrumentalist state cannot respond independently to social protest and can not respond even as the voice of the capitalist class or capital to feminist protest which is outside of the productive process. Any change put forward by the state would only be ideological in nature in order to dupe subordinates into thinking that real change, i.e., change in productive relations had occurred.

#### Structuralism

The most complete structuralist-Marxist theory of the state is presented by Poulantzas (1968). For Poulantzas, the state is determined by structure. The state will maintain social cohesiveness and will reproduce the conditions of production

regardless of the individuals in "charge". This is a complete rejection of Miliband's thesis that the state functions through the exercise of power by capitalist actors who must obtain privileged positions both inside and outside of the state. Poulantzas argues that first of all, individual actors are determined by structure and cannot be the subject of history or social change.<sup>3</sup> Secondly, the capitalist class is too divided and short-sighted to make decisions necessary for the long term interests of the capitalist system.

In examining the structure of capitalist society, Poulantzas looks at how the state is able to counteract the fundamental contradiction within the mode of production, i.e., the separation of the producer (worker) from his product does not individualize and isolate him, but rather serves to socialize his work and thus provide the possibility of uniting him with other workers; at the same time the capitalist class is threatened by a lack of unity because of the competition between capitalists for the appropriation of surplus.

What must the state do to preserve the capitalist system? First of all, the state must "individualize" workers into private citizens thereby promoting competition amongst workers and preventing class struggle. At the same time, the state controls workers by allowing them to participate in various democratic institutions i.e., voting, interest groups. Competition does not

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<sup>3</sup> Poulantzas is following the work of Althusser (1969, 1970).

develop between classes because class relations are concealed and the state appears to be representing the "general interest".

Secondly, the state must organize the unity of the capitalist class. It is able to do so because of its "relative autonomy" -- its ability to transcend "the parochial, individualized interests of specific capitalists and capitalist class fractions" (Gold et al., 1975:38).

For Poulantzas then, the state is not a "thing". It is not a mere reflection of the economic mode of production or an instrument of the capitalist class. Poulantzas's state is active -- it "organizes", "mediates", and "transforms". However, the state is not a "subject". It is only "relatively autonomous" with limits set by the capitalist mode of production.

At first glance, the structuralist approach seems to have an advantage over instrumentalism. A "relatively autonomous" state may be able to account for historical instances when the state seems to contradict particular capitalist interests or when the state seems to favour workers or minorities -- when the state seems to have responded to social protest. However, the concept of relative autonomy is extremely problematic. In spite of numerous debates, Poulantzas and other structuralists have never been able to specify the degree of state autonomy. How relative is relatively? If the state is more autonomous than not, perhaps it makes sense to view the state in a more independent manner than structuralism allows. In fact, critics argue that in the end, Poulantzas's model is as deterministic as

its instrumentalist counterpart. This determinism can be seen in Poulantzas's "functionalist" account of a state dedicated to performing the functions necessary for the maintenance and reproduction of the capitalist system. Oblivious to historical event and circumstance, this state "is basically a vehicle of system maintenance" with guaranteed "functional outcomes" (Skocpol, 1980:171).

Furthermore, critics argue against the structuralist claim that individuals are irrelevant in state theory. Miliband states that there is certainly a difference between a state ruled ... by bourgeois constitutionalists, whether conservative or social-democrat, and one ruled by ... fascists" (Blackburn, 1972:259). Bottomore adds that any Marxist theory must account for "the conscious value preferences, choices and decisions of men, both individually and collectively, in the given historical situations that confront them" (1984:85).

In his later work ([1978] 1980), Poulantzas attempts to abandon the structural/functionalist state for one shaped by class struggle. The state (which Poulantzas redefines as a "relationship of forces") becomes a part of the conflicts and contradictions of class struggle and thus is formed by the struggles within the state as well as by the contradictions within the mode of production. Just how this happens is unclear as this theory is even more abstract than Poulantzas's earlier work. The questions surrounding the relative autonomy of the state remain unanswered and although I agree that class struggle

can shape the state, the abstract nature of this work denies any opportunity for an historically grounded discussion of the state and its relationship to political struggle and social movements.

### The Comparative-Historical Critique

Clearly, the time has come to move beyond highly speculative theoretical debates about whether the "modern state" or the "state in capitalism" has an independent impact on the course of social change. Heuristically, at least, it is fruitful to assume both that states are potentially autonomous and, conversely, that socioeconomic relations influence and limit state structures and activities...Glib overgeneralizations from partial evidence, along with what may be called "fallacies of misplaced abstraction" that obscure temporal and comparative variations, have all too often plagued macroscopic social science. It may in the end prove more theoretically fruitful to lay the groundwork for sound generalizations through the rewarding complexities of comparative-historical research (Evans et al., 1985:viii, ix).

How is it possible to find a way past the problems of neo-Marxist theory and other metatheoretical discussions of the state? The American Social Science Research Council Committee on States and Social Structures released a volume in 1985 entitled: Bringing the State Back In. The authors of the book's articles, touched by the neo-Marxist debates of the 1970s had become extremely dissatisfied with the abstract "society-centered" explanations of the state. The authors, all dedicated to comparative-historical method, argued that although Marxism is an historically-grounded theory, contemporary Marxists have not

looked to history to test and modify the explanations offered by the theory. Furthermore, when historical cases have been considered, important historical details have been overlooked because they contradict certain "truisms" within Marxism.<sup>4</sup>

Comparative historians argue that rather than society-centered explanations which constantly reduce the state to an instrumentalist or deterministic role, further studies on the state must be "state-centered". The possibility that the state may be an autonomous structure and a powerful actor in shaping history must be considered. I want to stress here that first of all, comparative historians don't mean to section off the state and study it independent of its social relations. Comparative historians constantly stress the "need to analyze states in relation to socioeconomic and sociocultural contexts" (Skocpol, 1985:20). Secondly, "state-centered" analyses are different from the Hegelian notion of the omnipotent state. Comparative-historical scholars stress that there are limits to state autonomy but the theory has never been able to agree on what these limits are and the limits vary from state to state and from time period to time period. Historical cases<sup>5</sup> show that the autonomy of any state is not a fixed characteristic. This is due to crisis situations that may arise and historical changes within

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<sup>4</sup> The major complaints seem to centre around the "absolute causal primacy of socioeconomic processes" in neo-Marxist work on the state (Evans et al., 1985:347). See also p. 13 of this thesis.

<sup>5</sup> For example, see Heclo's 1974 study of Britain and Sweden and Skocpol and Finegold's 1982 article on the New Deal.

"the very structural potentials for autonomous state action" (Skocpol, 1985:14).

History seems to show a less well-ordered universe than that predicted by neo-Marxist theory. States do pursue goals that are not feasible and state policies do have unintended as well as intended consequences (Skocpol, 1980, 1985). Sharpening contradictions are brewing between capital and state managers (Block, 1980). Telling variations in state structures and capacities often occur among states that appear to belong to the same type for example, within "advanced", "monopoly" or "dependent" capitalist states (Evans et al., 1985).

I want to use Nora Hamilton's study of Mexico (1982) as an example of the difficulties of generalizing about state autonomy and capacity. Hamilton gives a careful, detailed historical account of the Mexican revolution. She argues that the attack on capitalism -- the autonomy of the state in that country -- lasted for only three years. She then accounts for certain conditions that limit state autonomy not only in Mexico but in other capitalist countries as well. However, comparative historians upon reading Hamilton's work have argued that although her generalizations may apply to countries a,b,c, they certainly do not apply to x,y,z.<sup>6</sup> Neo-Marxists faced with these criticisms like to argue that the states which do not fit the mold are historical "exceptions" to the rule. I have a problem with that argument. "Exception" means atypical, unusual, out of the

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<sup>6</sup> For example see the discussion of Hodges and Gandy (1986).

ordinary -- how many exceptions are needed before it becomes clear that the theory is inadequate on its own?

I think that the comparative-historical method is a good one but I also believe that the large conceptual questions raised in neo-Marxist state theory are important. I am not assuming that comparative historians want to dismiss these questions, indeed they address this issue and claim that the theory will come after the historical investigations.<sup>7</sup> However, the focus of comparative-historical research certainly isn't on conceptual questions of the state and that may present a problem if the questions are unconsciously dismissed. George Ross in a review of Bringing the State Back In expresses a concern that assuming the possibility of state autonomy may bias research toward a vision combining elite and organization theory (1986:815). I am not sure that this has to be the case but it is an important consideration.

I see the issues raised by the comparative historians and the comparative-historical method as expressing a sensitivity to the ever present tension between theoretical generalization and historical specificity and reiterating the importance of historicity (it is after all, an epistemology within Marxist

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<sup>7</sup> Comparative historians distinguish between theoretical propositions or hypotheses and grand theorizing or metatheory. They argue that the former is the best route: to "draw research questions, concepts and causal hypotheses from a variety of existing theoretical debates" and explore these ideas through comparative and historical research (Evans et al., 1985: 348). They argue that the new theoretical understandings that will emerge will be solidly grounded with the historical depth that is lacking in current metatheory on the state.

method). In this thesis, I use this method<sup>8</sup> to examine phenomenon ignored by both the neo-Marxists and their comparative-historical critics: the gendered structure of society and the necessity of the state to deal with the needs of patriarchy and the demands of reproduction.

### Feminism and the State

Feminism certainly has not developed a comparative-historical approach in its examination of the state. And in terms of attempting theoretical answers to questions concerning the nature of the state, feminists lag far behind the neo-Marxists. However, feminism by its very nature raises important questions that neo-Marxists ignore: what is happening with social protest outside of the productive process? How does the state contribute to women's oppression? Does the state have autonomy from patriarchy? Can the state and will the state serve the needs of women?

There are ideological and political differences within feminism as there are in Marxism.<sup>9</sup> The difference being that

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<sup>8</sup> This thesis will be more historical than comparative-historical simply because I've had to put some limits on my analysis. The historical sections will allude to Britain and the U.S. occasionally but the focus will be on Canada.

<sup>9</sup> Briefly: liberal feminists are those interested in equality of opportunity for women within the system rather than being critical of the system, radical feminists see the oppression of women as being the most fundamental of all oppressions and believe that male dominance can explain that oppression and others, marxist feminists believe that women's

feminists, unlike neo-Marxists, have developed few formal theories on the state. However, within each "feminist framework" there is a definite vision of the state if not a developed analysis. For example, liberal feminists share a classically liberal notion of the state as being separate and above the rest of society and representing the "general will" by means of established democratic procedures. Liberal feminists do understand that the "general will" excludes women but reason that women are excluded because they are under-represented in the public sphere. Therefore, liberal feminists focus on getting women into the public sphere -- on making women a powerful interest group within society. Liberal feminists use liberal theories of the state (which are the theories most commonly understood and accepted within our society) without analyzing those theories and because they accept the possibility of a neutral and objective state, strategies which emphasize legislative and judicial change make sense to them.

Radical feminists, on the other hand, have a very instrumentalist view of the state. The state is an instrument of patriarchy -- the class "men". Radical feminists have for the most part avoided detailed analysis of the state because of a logic that said: if you understood that power in society was male

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oppression is class-based and that sexism is a secondary oppression which will disappear with the elimination of capitalism, and socialist feminists argue that women in class societies are oppressed by both capitalism and patriarchy and that reproduction and production co-determine the base of society. Note that these classifications are unstable and interactive.

and if you understood that male dominance took the form of controlling women's bodies, then you understood the politics of the state. The instrumentalist perspective is very clear in the work of Catherine MacKinnon (an exceptional example of a radical feminist who has written on the state). MacKinnon's state is not autonomous in any way from patriarchy -- it is not even relatively autonomous. The "state is male in the feminist sense" says MacKinnon because "the law sees and treats women the way men see and treat women" (1983:644). The "task of legal interpretation becomes 'to perfect the state as a mirror of the society'" (645) and "however autonomous of class the liberal state may appear, it is not autonomous of sex" (658).

Violence is an integral part of the radical feminist's conscious or unconscious position on the state.<sup>10</sup> Neo-Marxists do not really pay a lot of attention to the violent aspects of state control but it is interesting to note that monopoly over the means of violence is at the heart of state power according to Weber. Of course Weber did not connect violence to masculinity and male sexuality as do radical feminists.

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<sup>10</sup> Anne Edwards (1987) documents the evolution of radical feminist thought from the early analyses where violence was not seen as central to patriarchal control and where violent acts were classified and studied as distinctive types to the later view which emphasized violence as a unitary phenomenon and the key to male dominance. Current radical feminist writing focuses on what it sees as the close interconnections between sexuality, aggression and violence as the primary components of masculinity. Writers such as Kathleen Barry, Mary Daly, Andrea Dworkin, Susan Griffin and Catherine MacKinnon argue that the difference between rape and 'normal' heterosexual intercourse is a difference in degree only, not in quality.

It is tempting to generalize that radical feminist philosophy dictates a strategy for feminism that does not include working with the state. For some radical feminists that generalization is true -- women are advised to withdraw from institutions that perpetuate male domination and to devise feminist alternatives. However, this generalization does not hold when one considers the Dworkin/MacKinnon strategy on pornography for example.<sup>11</sup> Explains MacKinnon: "The question then becomes not whether one trusts law to behave in a feminist way...If women are to restrict our demands for change to spheres we already control, there will not be any" (1987:228). Still, the instrumentalist nature of radical feminism makes it difficult to imagine just how the state could possibly respond to feminist demands in a meaningful way.

Many Marxist feminists also hold a very instrumentalist view of the state -- accepting a neo-Marxist version of the state as an instrument of the bourgeoisie. It is predominately within the socialist feminist tradition that feminist theories of the state are being developed -- writers such as Barrett (1980), Burstyn (1985), Eisenstein (1981, 1984a), Findlay (1987), McIntosh (1978), Ursel (1986) and Wilson (1977). The theoretical construction of patriarchy as a sex-gender system rather than one of male dominance, the rejection of status-quo liberalism, the

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<sup>11</sup> Dworkin and MacKinnon drafted the 1983 Minneapolis Ordinance which would have allowed individuals to sue via civil law, the makers, sellers, distributors or exhibitors of pornography. The ordinance was passed by the Minneapolis City Council but vetoed by the mayor.

dissatisfaction with much of Marxism and the use of political strategies emphasizing confrontation in the public domain, combine to make the state a more important theoretical and political issue for socialist feminists than for other types of feminists. Even with these writers, however, the state is usually not the focal point of the analysis.

Socialist feminists have borrowed heavily from Poulantzas in their formulation of the state as: "a set of social relations" (Morgan, 1981:17) which "condenses the relations of power in society" (Eisenstein, 1984a:90), an organizer and mediator, and a site of political struggle (Burstyn, 1985; Eisenstein, 1981, 1984a; Ursel, 1986). Socialist feminists argue that the patriarchal structuring of the state lies in its distinction between and enforcement of the public and private. The state "appears" to be divorced from the private realm but the reality is that the state actually constructs and protects this division. Post-war patriarchal control has become increasingly state defined and dominated. Wilson points to social welfare policies as "the state organization of domestic life" (1977:9). Because of their vulnerable position both economically and politically, women especially, find themselves dependent "clients" of the state.

I want to take a more detailed look at the work of Ursel and Eisenstein because I think they represent two distinctive but related theoretical positions within socialist feminism: the first concentrates on the relationship between production and

reproduction while the second focuses on the linkages between capitalism, patriarchy (and to a lesser extent: racism and institutionalized heterosexuality) and liberalism. Ursel situates her work historically while Eisenstein re-addresses the neo-Marxist questions of state capacity and autonomy.

For Ursel, the capitalist state plays a crucial role in mediating reproductive and productive relations. She argues that the capitalist state must balance the short-term needs of surplus production for the capitalist class with the reproduction of the labour supply for the long-term interests of society as a whole. Integral to Ursel's analysis is the socialist feminist argument that Marxism has ignored the importance of reproduction and reproductive labour. Humans are not only forced to enter in to relations of production to satisfy their needs of food, clothing and shelter, they must also enter into reproductive relations--they must organize the needs of sexuality, procreation, raising children and domestic tasks. Therefore, both production and reproduction co-determine (in dialectic fashion) the base of society. The social relations controlling reproduction and production vary historically but all reproductive relations include some sort of division of labour and compulsory heterosexuality. In class-based societies (as in most pre-class societies) reproductive relations are patriarchal meaning that the subordination of women becomes fundamental, ensured through the systemic control and restriction of women's reproductive and productive labour. Ursel suggests three distinctive modes of

reproduction: communal patriarchy, family patriarchy and social patriarchy.

The state's role in maintaining patriarchy becomes extremely important during the shift from feudalism to capitalism and from familial to social patriarchy.<sup>12</sup> The centralization of production under industrial capitalism and creation of wage earners meant that control over labour power was lost to the husband/father. In fact, he now found his wife and children in direct competition with him for wages and job security. The individual and contractual nature of wage labour meant that labour power became of value solely in terms of the market: "class interests under capitalism were now structurally incompatible with patriarchal interests" (1986:157). Since the employer is chiefly interested in maximizing the extraction of surplus, the task of preserving patriarchy falls to the state. The pro-natalist state "stands alone as the only entity which has an interest in preserving patriarchy and the material resources to do so" (157).

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<sup>12</sup> Ursel defines familial patriarchy as that where "power and authority over women is decentralized, operates at the household level and is based upon the patriarchs' exclusive control of women's access to necessary (survival) resources. Within this system social patriarchal rules are facilitative, empowering the patriarch with such control through marriage, property and inheritance laws" (1986:154). Under social patriarchy, "the power and authority to control women's access to resources is increasingly vested in the state through the promulgation of labour, welfare and family law. Within this mode, familial patriarchy is essential in providing the structural unit for reproduction in the nuclear family, but is secondary as the source of power over women" (154, 155).

Under social patriarchy, the state is forced to take on many of the family's previous supportive and regulative functions as it attempts to prevent capitalism's erosion of the familial unit of reproduction. Therefore, historically, the capitalist state has controlled reproduction not only through measures which appear to restrict and subordinate women such as the criminalization of or limited access to contraception and abortion, protective legislation and regulatory clauses in the welfare law; but also through measures which appear to liberate women -- the liberalization of family law and legislated rights for women and children. Thus Ursel concludes that legal reforms in women's favour (during this particular time period) do not signify the demise of patriarchy, rather, they mark the restructuring of patriarchy: the emergence of social patriarchy.

While Ursel's analysis demonstrates the importance of the state in controlling reproduction and structuring patriarchy, it presents all kinds of questions with respect to the nature of the state. First of all, how autonomous is the state? Ursel describes the state only in functional terms: the state as the system's guardian must mediate reproductive and productive relations to ensure that a balance is maintained. However, even within these structural constraints it is possible to suggest that the state may have some autonomy in the way in which it performs this role. Ursel states that her conceptualization of the state's mediating role replaces the autonomy of the state concept. However, we are no farther ahead as one concept is as

vague as the other. Secondly, who makes the decisions within the state? Do state managers matter? Does their gender matter? Ursel rejects the argument of radical feminists and some socialist feminists that male privilege is always fundamental to patriarchy. She argues that "the 'bottom line' of patriarchy is not male privilege *per se* but control of reproduction through control of women" (177). Male privilege will be restricted wherever it threatens the control of reproduction. What are we to make of this? Would a state comprised of female managers make the same decisions as a state managed predominately by men? Thirdly, how unified is the state? Is there conflict between or within the various state apparatuses and does that have an effect on state management and decision-making? Are certain parts of the state more susceptible to public pressure? And lastly, what is the potential of the state to promote substantial and meaningful change?

I think two interpretations can be made from Ursel's analysis. The first being that the state can encompass feminist demands as long as those demands do not disrupt the balance of reproduction and production. These kinds of reforms are often short-term and usually countered by restrictive legislation in other areas. They do not signify any real change in productive or reproductive relations. At this point the question arises as to whether restructured patriarchy is an improvement for women. Are women less oppressed under social patriarchy than under familial patriarchy? Are women better off dependent on the state

than on individual men? And of course, it matters whether "better off" is defined in terms of welfare or the ability to shape and influence one's own status. Ursel's analysis suggests that under social patriarchy, women are better off in terms of the former but not the latter.

A second interpretation regarding state potential for social change can also be made. Because Ursel does not tell us why patriarchy has emerged as a way of controlling reproduction, female subordination appears as more of an unintended than intended outcome. In other words, the state may not have any autonomy from controlling reproduction but it may conceivably have autonomy from patriarchy. This interpretation suggests more radical possibilities for feminist strategy than does the former.

Eisenstein agrees with Ursel that the base of society is determined by reproduction as well as production, that there has been a shift in state responsibilities to the private sphere with the transformation of familial to social patriarchy and that there are present day contradictions between the relations of production and reproduction or between capitalism and patriarchy. However, Eisenstein is more concerned than is Ursel with re-addressing the large conceptual questions posed by the neo-Marxists regarding state autonomy and capacity. She is also more concerned with the role of social protest in state struggle. For Eisenstein, the dynamic of patriarchy is the differentiation of male and female in a hierarchical way. A process which "transforms biological sex into political gender, giving men

priority while making women 'different' (i.e., unequal) or 'less', or the 'other'" (1984b:331). This dynamic endures despite historical shifts of patriarchal control from father to husband to state and despite transformations within patriarchy which appear to benefit women. This dynamic means that male dominance or supremacy will always be an integral part of patriarchy. The appropriation of women's sexuality, reproductive capacities, productive and reproductive labour benefit individual men and men as a class as well as society as a whole. The degree to which men benefit and the ways in which they control women may vary historically and cross-culturally but the fact that they benefit remains constant.

I think that it is clearer in Eisenstein's work than in Ursel's that patriarchy should never be equated simply with the need to control reproduction. Patriarchy has emerged as a way of controlling reproduction (in the broadest sense of the word) but patriarchal reproductive relations are necessary for the preservation of patriarchal societies whether they be feudal, agrarian, capitalist, socialist etc., -- they are not necessary for the continuation of human life. They have been made necessary because of the ways in which biological reproduction has been translated into political and material realities. They have been made necessary because of the "mutually reinforcing" relationships with productive relations and men as a class. Says Eisenstein: "the reason patriarchy exists is because a

nonpatriarchal sex-gender system could exist if allowed to" (1981:21).

Patriarchy as a system of oppression seeks to control the consciousness of women as well as limit their material life options. Eisenstein argues that the state institutionalizes patriarchy through a real separation of public (male) and private (female) life and through an ideological separation differentiating women from men with symbols, signs and language. The state legitimates patriarchy. It also mystifies its own patriarchal base. Part of the power of patriarchy at the state level is that it is invisible and unnamed. It is difficult to see and therefore difficult to challenge.

The state "condenses the relations of power in society"-- those of gender, class and race. The relationship between the relations of power is dialectical -- it is "mutually reinforcing" and at the same time, full of conflict and contradiction.<sup>13</sup> The activity of the state is concerned with: (1) mediating conflicting needs arising from the relations of power, (2) state representation of those needs and (3) state apparatus (eg., government) interpretation of those needs and of state needs. Eisenstein argues that in contemporary society, the primary conflicts are between "the capitalist need for wage laborers, the patriarchal needs for the institution of motherhood...and the

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<sup>13</sup> Although Eisenstein mentions race, her work really revolves around the relationship between the relations of class and gender which are expressed in our society as capitalism and patriarchy.

ideology of liberalism" with its premise of equal rights (1984a:96).

How does the state mediate the relations of power? How autonomous is the state in terms of patriarchy and capitalism? In asking these questions, I am not only interested in how Eisenstein introduces the concept of patriarchy to state theory, but also in whether she avoids the pitfalls previously discussed in the neo-Marxist theory and whether she can address the issues raised by the comparative-historians.

The struggle with determinism is apparent in Eisenstein's work. Quoting Ernesto Laclau (and reminiscent of the comparative historians), she claims that the state has many forms even within a specific mode of production and therefore, "a theory of the state is something we cannot formulate. We can, however, formulate theories about the degree and forms of concentration of power in, let's say, advanced capitalist societies" (1984a:91). She also agrees with Theda Skocpol that state autonomy is not a "fixed" quality in any given governmental system. However, Eisenstein argues that Skocpol attributes too much autonomy to the state. The state is an actor but an actor within a determined framework. The bottom line is that the state must protect the capitalist patriarchal system as a whole and therefore, its choices for action are limited. This leads Eisenstein to argue that the state is "relatively autonomous" with respect to both capitalism and patriarchy. She uses Poulantzas's concept (expanding it to include patriarchy) with

all of its inherent problems. She sees the relative autonomy of the state vis-a-vis capitalism in Poulantzas's terms: that the state can transcend the interests of individual capitalists and capitalist class fractions and that the interests of the capitalist class are best served when its members are not direct participants in state management. She argues that the state is also relatively autonomous with respect to patriarchy but in a different way. While the relative autonomy of the state is actualized through the differentiation of the capitalist class from the state, there is no such distinction between patriarchy and the state: "the governing or ruling class is made up of men who represent the sexual-class needs of men" (1984a:92). Furthermore, Eisenstein argues that patriarchy is inherent in state formation i.e., the structure and content of the state are patriarchal but only the content of the state is bourgeois. However, the state is relatively autonomous in terms of patriarchy in that various fractions within the bourgeois class which is also the sexual class will differ on how best to protect, reorganize and reproduce patriarchy. Conflict is possible on three levels: bourgeois, sex-class and individual. For example, there have been and will continue to be differences of opinion between and sometimes among the far right, neo-conservatives, moderates and liberals within the American state on issues such as abortion, the ERA and pornography.

The lack of unity within the state makes it vulnerable to pressure from social movements. And, the importance of feminist

struggle should not be underestimated in dealing with a system which must constantly alter itself (or parts of itself) in order to survive. Eisenstein argues that the state should be pushed to its limits and that while reform is not revolution, it is a necessary part of feminist struggle. There is always the danger that limited gains provided by the state may deradicalize feminism. However, feminist demands for reform can expose the sex-class position of women and the patriarchal nature of the state and can challenge women to see themselves as persons with certain rights.

The strategy of feminists has not been to "overthrow" the state but instead to fight for the transformation and expansion of services that the state provides. Even radical feminists sometimes agree to struggle with the state when that strategy clearly conflicts with their theoretical beliefs. While neo-Marxists believe that the state can only respond in deceptive ways, feminists are not so negative. There is an expectancy that the state can and must respond to feminist pressure. This is so because feminists are primarily concerned about women and realize that women are more dependent on the state than are men and that state welfare care is central to women's lives. McIntosh argues that feminists are not attracted to anti-statist positions because "such utopian individualism (or even small-scale collectivism) is a possible dream for men who can envisage a world of self-supporting able-bodied people. But women are usually concerned with how the other three-quarters live. They

have argued for new forms of interdependence based on the community and not in the family, and these necessarily involve the state at one level or another" (1981:34). Thus the state is central to almost every feminist demand that exists: access to abortion, improved contraception, universal day-care, equal pay, equality of education and job opportunity, legal rights for lesbians, services and facilities for rape victims and battered women. Combined with this acknowledgment of state dependence is the belief that women have a right to state services and that women can use the state for their own needs.

Why would feminists believe that a patriarchal state would respond to their interests? Some of the reasoning is illustrated in the theory previously discussed: the state is having problems balancing the demands of patriarchal capitalism with liberal democracy and is therefore vulnerable to public pressure and there is a lack of unity within the state with state institutions often an unstable product of several conflicting needs. Theorists such as Findlay (1987), argue that feminists should play their most active role with the state when it is at its most vulnerable because of conflict and/or a special need for legitimation ( for eg., before an election, during a minority government or during a 'crisis'). The resulting reforms may not be permanent but they will weaken the hegemony on patriarchal power.

Another reason for arguing that women can use the state for their own needs has to do with the increasing attention by

feminist historians to the power of the human actor. Radical theorists have often assumed (and this is especially true of analyses dealing with women) that actors have little influence over their own lives and their collective histories. However, feminist historians have documented the often successful efforts of women in controlling their lives in spite of the obstacles against them: "after a decade of research...we have moved beyond a one-dimensional emphasis upon oppression and victimization of women and have also come to recognize and explore the lines along which women have shaped their own history and that of men" (Newton et al., 1983:1-2). A recent study by Gordon (1986) for example, has documented the use of social control agencies by women for their own interests, reminding us that social control is invented and structured out of interaction.

An increasing number of feminists are suggesting strategies that combine the politics of "disengagement" with the politics of "mainstreaming".<sup>14</sup> Disengagement means working outside of the mainstream, contributing a vision of what "should be" with a commitment to long-term struggle. Mainstreaming refers to working within established institutions, dealing with concrete problems and trying to educate or politicize the public. Disengagement as a lone strategy means the feminists and feminist goals and ideals become marginalized. Mainstreaming by itself leads to co-optation and institutionalization.

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<sup>14</sup> See for example, Adamson et al., 1987; Barnsley, 1985 and Findlay, 1987.

Feminist demands on the state are not homogeneous and this is an important concern when discussing strategy. I think that whatever the theoretical perspective, the degree of homogeneity varies according to issue. I would argue for example, that feminists are more likely to agree on what the state should do about rape than about pornography. I examine the degree of homogeneity amongst feminists working with wife abuse in Chapter Four.

As a final word on strategy and reform, I think that it is important to comment on the legal arm of the state. This apparatus is important to feminists in both theory and praxis because the relationship between feminists and the state has relied and relies so heavily on the legal system. Reforms offered by the state have usually taken the form of legal reform.

Feminist legal theory has come a long way from arguments such as Polan (1982) that it is not law but rather patriarchy that must be changed. Recent scholarship shows that there is plenty that is patriarchal in both the structure as well as the content of law. Inequalities are perpetuated in our legal system not only because of prejudices carried by judges who interpret the law but also because all laws have been developed and continue to be developed in cultures of inequality. Therefore the social character of law reflects those inequalities.<sup>15</sup>

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<sup>15</sup> This is not to say that some laws are not better than others or that today's laws are not improvements over those in the past. Thompson (1975) reminds us that legalism was a great human achievement and that class struggle was expressed and mediated through law.

Radical and socialist feminist scholars have begun to look at the inequalities inherent in the "objective" and liberal nature of legal form and content. This means a rejection of the "rule of law" doctrine (and thus of liberalism) with its claims that all citizens are equal before the law and that the law is neutral and separate from societal interests.<sup>16</sup> It means the realization that the dichotomies and hierarchies of patriarchy -- of public and private spheres, male and female worlds -- are built into the form of law itself. The realization that the notion of formal equality actually reinforces inequality because if all citizens are considered equal (read the same) than the unequal circumstances of people's lives -- the structural inequalities-- are considered irrelevant. Furthermore, feminists since De Beauvoir have known that "objectivity" translates into status-quo and equals male.

The application of "objective" "rational" and "abstract" legal rules combined with notions of formal equality only exacerbates the situation to the detriment of women and minorities. This should be kept in mind when analyzing laws that were created to protect women and minorities. Kathleen Lahey, for example, points to the Fourteenth Amendment in the United States which was designed specifically to protect American Blacks from further discrimination. Lahey notes that during the

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<sup>16</sup> The critique of liberal legalism and the "rule of law" doctrine is not confined to feminists. For a neo-Marxist analysis see Brickey and Comack (1985) and for a discussion of the C.L.S (Critical Legal Studies) approach see Greschner (1987).

period from 1868 to 1911, the U.S. Supreme Court heard 604 cases with respect to the Fourteenth Amendment but only 28 cases involved Blacks and Blacks lost 22 of those 28 cases (1987:74). Ongoing research on the equality rights guarantee, section 15 of the Canadian Charter of Rights and Freedoms, suggests a similar pattern with respect to men and women: "male complainants are making and winning 10 times as many equality claims as women" (Lahey, 1987:82).

In all areas of law, "gender neutral" or "equal treatment" laws (often provoked by liberal feminists who have challenged laws for not being objective, rational and principled) have, not surprisingly, created quite a backlash for women. In the area of family law, women are finding that the sex-neutral standard is beneficial to most fathers in custody cases. For example, a study cited by McBean<sup>17</sup> found that when a custody dispute occurred, fathers had a much higher success rate than mothers because the court favoured the parent who could provide the most economic security (usually the father) over the parent who was the primary caretaker of the children during the marriage (usually the mother). In fact, a father who had spent little time with his children was often at an advantage because he did not have "the opportunity to make any childrearing mistakes which could be used against him in court" (1987: 190). In divorce

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<sup>17</sup> See Chesler, Mothers on Trial (1986). The study of Canadian and American custody fights found that although the mothers in all of the cases were found to be "good enough" by the courts, only 18% retained custody of their children after two years.

cases, the decision to treat the spouses equally often means that women do not get the financial support that they really need, the reality being that most women are not as secure as men in the job market. The issue of pregnancy continues to be problematic. The Supreme Court of Canada decision in *Bliss v. A.G. Canada* ([1979] 1 S.C.R. 183.) has been consistently cited to argue that discrimination on the basis of pregnancy does not constitute discrimination on the basis of sex.<sup>18</sup> The Canadian Court used the distinction between "pregnant and non-pregnant people" to reason "that as the 'non-pregnant' category included both male and female persons, any resulting discrimination against persons in the pregnant category was not on the basis of sex, but resulted from the inherent biological difference between men and women" (Martin, 1987:198). And, in criminal law, the move towards "sexual assault" in lieu of rape has raised troubling issues for feminists. For example, in *R v Chase* (1984), the New Brunswick Court of Appeal argued that the forcible touching of the complainant's breast was not a sexual assault since breasts were only a secondary sexual characteristic and not a primary sexual organ. The court reasoned that if breasts were sexual then so were men's beards. In ignoring the fact that beard pulling is not considered sexual behavior, the court delivered a decision that does not correspond in any way to

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<sup>18</sup> There have been some legislative amendments to the *Bliss* decision. In three jurisdictions: Canada, Saskatchewan and Quebec, discrimination on the ground of sex includes pregnancy-based discrimination.

how men and women experience reality. In her discussion of this case and of the new sexual assault law, Christine Boyle notes that abstraction to the point where gender is neutral is the "antithesis of feminist analysis" because it refuses to recognize that gender is a material fact in sexual assault (1985:100).<sup>19</sup>

On the other hand, sex-specific "protective" or "special treatment" legislation reinforces stereotypes about women and is dangerous to women who don't conform to those stereotypes.<sup>20</sup> The question becomes: how to produce law which does not ignore the material realities of both genders but also does not reinforce the differences and the disadvantages of women. The dichotomies in law must be addressed. Feminists such as Miles (1985), suggest that the way to break down the sexual divisions is to incorporate female values into legal institutions, giving value to female activities and redistributing social resources to women in recognition of the centrality of reproduction. Certainly there must be an acknowledgment that patriarchy is dynamic and complex and if explanations of domination aren't one-dimensional than neither are the solutions. In struggling with the law (as with other state apparatuses) feminists need to explore its social and historical character. Feminists must determine how to

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<sup>19</sup> R v Chase was appealed. I am not using this example to suggest that all future cases will be judged in this manner. Rather, this case is a good example of Boyle's argument.

<sup>20</sup> See for example, Lahey (1985) for a discussion of the battered-wife-syndrome as self-defence.

use the dynamic nature of law with all of its ambiguities and complexities to their best advantage.

### Summary

I have not chosen any one "theory" of the state to use in the remainder of this thesis. This is because of the abstract and unformulated nature of state theory and because I do not believe that any of the theories are **dynamic** enough to adequately describe or explain the nature of any particular state. Current state theories are more sophisticated variations on the conventional functionalist and instrumental approaches. States, on the other hand, are constantly reproducing themselves within a milieu of dynamic social, historical and economic forces. An historically grounded discussion of the state and its relationship to political struggle is needed. However, I am not going into an historical analysis cold. There are certain concepts and assumptions that I have chosen from the various theories discussed and in this regard, my approach in examining the state is in the socialist feminist tradition.

In defining the state, it may be important to distinguish between institutions which are a part of the state vis-a-vis those that are distinct from but clearly influence and are influenced by the state. This varies from society to society. Some institutions such as government and the apparatuses of the criminal justice system are obviously part of the state while

others, such as the mass media, the educational system, and organized religion may be considered state apparatuses in some countries but not in others. These distinctions matter (as Miliband suggests) in terms of the degree of autonomy an institution may have from the overall system.

Institutions however, are only the means through which the state acts. It is more important to understand the state in terms of its social relations. All parts of our lives are structured and influenced by state relations. In this sense, the private sphere is not "private". I agree with socialist feminists that western democratic state relations are patriarchal, capitalist and racist. However, in socialist feminist (as in neo-Marxist) theory, the state takes a backseat to explanations of patriarchy and capitalism. This conflates the state with society when in reality, the state reflects and constructs the relations of society but the state is not society. Furthermore, state relations are not reducible to either bourgeois class power or sex-class power. The relations of power shape and are shaped by each state in a particular way. Each state has its own history.

In terms of state autonomy, we know that socioeconomic relations influence and limit state structures and activities but we do not know the degree to which these relations influence and limit the state. We also know that a range of state forms can coexist within a specific mode of production. I agree with

comparative historians that state autonomy varies in terms of the state and time period.

I also agree with those who argue that the state is not a homogeneous block. There is conflict as well as unity within and between state apparatuses. The state is actively engaged in struggle all of the time from both inside and outside of the state. The state is vulnerable to social pressure. Feminists who wish to struggle with the state must push the state to its limits (at only this point will we know what the limits are)--acknowledging its complexities while taking advantage of its dynamic nature, its contradictions and vulnerabilities.

## Chapter Two: The Historical Legacy

It is fair to say that contemporary sociological literature on wife abuse almost always ignores the historical context of the problem.<sup>21</sup> Anthropologists and ethnologists have documented wife beating traditions among African, Indian and Caucasian nomads and hunting tribes, and historians have begun to examine the pervasiveness of wife abuse in earlier centuries.<sup>22</sup> However, most sociologists continue to explain wife abuse primarily in terms of the stresses and problems of contemporary life (sometimes emphasizing male confusion and anger over feminist expectations).

Even more pertinent to this chapter are assumptions within the literature that wife abuse suddenly appeared, i.e., was defined as a social problem in the early 1970s. In fact, it is possible to analyze the evolution of state and feminist responses to wife abuse because certain behaviors of husbands toward their wives were labelled "abusive" and because "wife abuse" was seen

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<sup>21</sup> The work of the leading sociologists on wife abuse: Gelles (1974, 1976, 1979, 1983, 1980), Steinmetz (1974, 1977, 1977-78) and Straus (1973, 1974, 1980a, 1980b, 1980c, 1983) is ahistorical. Their work is, however, an improvement on earlier theories which blamed the victim. For an exceptional example of a sociological and historical analysis, see Dobash and Dobash (1979).

<sup>22</sup> See Janseen-Jurreit (1982) for an account of the anthropological literature. Historical examples include: Bauer and Ritt (1983a and 1983b), Breault (1986), Gordon (1988), May (1978), Pleck (1979 and 1987) and Tomes (1978).

as a threatening social problem requiring the attention of the state in other historical periods.

I use the term "wife abuse" throughout this thesis in reference to the physical violence committed against women by their husbands. I understand that psychological abuse can be as devastating as physical abuse and that not all women who are beaten by the men with whom they share intimate relations are "wives." However, I use the term "wife abuse" because historically, legally and socially, a husband's physical violence against his wife has been treated differently from other forms of violence against women.

Like other social problems, public concern over wife abuse was intermittent and the historical evidence suggests that it had little to do with actual increases in incidents of wife beating. Rather, reformism on the part of the state and feminists was a response to social and political conditions and various social movements (Gordon, 1988:3; Pleck, 1988:4,5).

This chapter will examine English, American and Canadian campaigns against wife abuse during the nineteenth and early twentieth centuries. What is commonly called the "first wave" of feminism occurred during this time period. How did the early feminists view wife abuse? How central was the state to their strategies to rectify the problem? How homogeneous were they with regards to their analysis of the issue and their demands on the state? What differences existed between the three countries?

In the nineteenth century, the state became more important as a mechanism of social control because the informal networks of community rule and sanction had weakened. While there is no doubt that feminist scholars are correct in their insistence that the state in past and present forms has always condoned and often abetted violence against wives, the state did play a role in wife abuse reform during the nineteenth and early twentieth centuries as it has in the later part of the twentieth century. There is also no doubt that state attempts at wife abuse reform were largely ineffective during the Victorian period (and one could argue the same of current reform efforts). However, the reasons for and the strategies behind state actions are as interesting as the question of effectiveness. Ineffective or inadequate attempts at reform are as significant as successful efforts to understanding the nature of the state, its relationship to social movements and its potential as an agent for social change.

#### Toward Law and Order: The State Tackles Wife Abuse

In nineteenth century England, wife abuse reform was not initiated by feminists. The state, or more precisely the law enforcement and legislative arms of the state, began the campaign to publicize the issue and called for measures to reduce the incidents of wife beating. This was a major change in a country where a husband's right of "reasonable chastisement" or "moderate correction" toward his wife was sanctioned by the church, courts,

legislators, social commentators and (so it appeared) the general public. However, the Victorian period was one of tremendous economic, social and political upheaval. Industrialization, urbanization and immigration created many social problems as people left their rural communities seeking jobs in a market which could not accommodate all of them. Although North America experienced economic and social concerns, poverty and unrest was greatest in England where the unfortunate in congested cities were labelled the "underclass" and blamed for increasing crime rates and social disorder. This social climate was the major factor in emerging concerns over wife abuse. Legislators and law enforcement officials reasoned that men who were violent in the home may transfer that aggression to the streets (May, 1978:143). The perceived need for law and order began to erode notions of family privacy and the husband's conjugal rights. Newly established police forces, reporting frequent incidents of wife beatings, helped develop the public perception of wife abuse as a "crime" (Breault, 1986:13). This does not mean, however, that the English were previously unaware of the problem. Police reports probably helped increase public awareness among the middle-class where domestic violence tended to be more isolated and private but this would not be true of the "crowded working-class districts" where "a beating was rarely a private act" (Tomes, 1978:328-329).

In 1852, law enforcement officials and legislators were given statistical backing to their concerns about wife abuse.

London magistrate Thomas Phinn published statistics on the number of assaults by men on women and children in London. His data showed that about one in six of all assaults occurred within the family. Horrified by the data and convinced that the statistics underestimated the problem due to lack of reporting by the victims, Phinn advocated punishing wife beaters by flogging. Parliament did not act upon his suggestion but they did pass another bill designed to alleviate the problem: **The Act for the Better Prevention of Aggravated Assaults Upon Women and Children.** The "Good Wives' Rod" as it was more popularly known, was presented to parliament by member Henry Fitzroy and passed in 1853. The new legislation punished aggravated assault on women or males under the age of fourteen with up to six months in prison, a fine, and an order to keep the peace for six months.

The "Good Wives' Rod" was seldom used because it provided neither protection nor economic support for abused wives. Legislators did not question a system which eventually returned the wife "to a convicted husband or drove her to the workhouse while the breadwinner was in prison" (May:144). Instead some frustrated legislators decided that a greater punishment was needed for male perpetrators and flogging bills were once again introduced into the legislature in the late 1850s and again in the 1860s and 1872.

The debates around flogging which took place in the media as well as in the legislature, are revealing of Victorian attitudes toward family violence, the roles of women and men and issues of

class and race. Most supporters and opponents of flogging believed that wife abuse was primarily a lower class phenomenon of which immigrants were especially suspect. Drunkenness on the part of the husband, domestic negligence on the part of the wife and ignorance of proper proprieties on both their parts were thought to be at the root of the problem. Although a few commentators referred to middle-class women who suffered "cruelty" and one noted that "the revelations of the Divorce Court" proved that "brutal assaults were by no means confined to women of the lower classes" (May:144), middle-class domestic violence was rarely discussed. Flogging supporters argued that working-class "brutes" and "drunkards" could only understand and be deterred by severe physical punishment. Further, flogging would raise the moral standards of "low neighborhoods". Opponents of flogging felt that such brutal punishment would deter wives from reporting assaults. They also hesitated to punish the husband for an offence which they believed the wife was also to blame. Others referred to Scottish experiments which advocated domestic training for wives and improved housing as the solution to wife beating (May:145). Opponents of flogging were eventually successful in the debates as all flogging bills went down to defeat. Men were more likely to support flogging than women with few exceptions. Female reformers were more concerned with the fate of the female victim and therefore concentrated on measures such as separation and divorce which they believed would provide wives with personal safety and economic independence.

In America, laws against wife abuse were initiated as early as 1641 when the Puritans outlawed wife beating in the Massachusetts Body of Liberties: "Everie married woeman shall be free from bodilie correction or stripes from her husband, unlesse it be in his owne defence upon her assault" (Pleck, 1987:21-22). However in nineteenth century America, wife abuse reform was introduced by the temperance movement rather than the state and would not become a law and order issue until the later part of the decade. Pleck (1987) reports that the state of Tennessee passed a law punishing wife beating as a misdemeanour as early as 1850 and Georgia followed with a similar law in 1857. However, there is no information on the sponsors of the legislation. It does not seem to be connected to feminist activity. Feminists began to speak out against wife abuse after the Tennessee law had already passed and very rarely considered criminal law as a possible solution.

One could argue that expanding the grounds for divorce to include cruelty is indicative of concern for abused wives. Nineteen American states granted divorce by cruelty by 1850 (most in the South or the Midwest) although in reality, divorces were rarely granted on grounds of cruelty. These laws appear to have been passed in isolation from the wife abuse reform movement contrary to the English situation where wife abuse reformers demanded changes in divorce and separation acts. Usually, early progressive laws in the American South or Midwest are attributed to the frontier nature of these states and their willingness to

depart from English precedent. However, this reasoning does not hold for wife abuse reform as the English were far ahead of the Americans both in terms of concern for the issue and passing laws to deal with it.

In Canada, the state did not deal with wife abuse until the early twentieth century. Divorce for any reason, could only be obtained by a special act of parliament. Nova Scotia, in 1761, became the only province to allow divorce on the basis of cruelty until the Canada-wide Divorce Act of 1968 (Dranoff, 1977:63). Women in Ontario had some recourse in 1897 when the Ontario Deserted Wives' Maintenance Act was amended so that married women could claim desertion if forced to leave the family home due to repeated assaults or cruelty by their husbands (Breault, 1986:22). Similar acts appeared in British Columbia in 1901 and Manitoba in 1902. Of course, women who committed adultery were not eligible for any protection. The reasons for the protective legislation are unclear. Breault speculates that the Ontario legislators might have been influenced by British legislation, enacted in 1895, expanding the grounds for separation to include persistent cruelty and wilful neglect. It is also possible that Ontario legislators enlarged the grounds for separation to fall in line with the new Children's Protection Act of 1893 (Breault:23). Wife beating in Canada would not be considered a criminal offence until 1909 and feminists would not be involved until that point.

Early Feminism and the Politics of "Wife Torture"

In the Victorian period, women had come into the public sphere. Improved transportation and more leisure time among the middle-class made female gatherings more common but more importantly, traditional Christian and humanitarian notions of charity had come with the ideals of progress and efficiency. The Victorian belief in the purity and goodness of women made them ideal candidates for certain reform movements.

The women who pressed for wife abuse reform were rarely single issue reformers. In all three countries, the majority of these women were involved in temperance, social purity and suffrage movements. In England, many were also involved in the animal anti-cruelty campaigns and in America, many had ties to abolitionism.

Feminist agitation for wife abuse reform began in England. In the early 1850s, John Stuart Mill and Harriet Taylor responded to the state's publicization of the issue with a series of newspaper articles expressing shock at the prevalence of wife beating and pointing out the similarities between men who beat their wives and owners who cruelly treated their animals (Pleck, 1987:64-65). Prior to the 1850s, statutes against cruelty to horses, cattle, dogs and against cock baiting were enacted (Pleck, 1987:63). The fact that animals were given protection under law before wives certainly illuminates the patriarchal structure of early industrial England. But animal anti-cruelty

laws became very useful to those concerned with the plight of battered wives as they were able to urge that parliament extend "the same protection to defenceless women as they had already extended to poodle dogs and donkeys" (May, 1978:144).

After the "Good Wives' Rod" of 1853 had passed without any feminist agitation, woman's rights activists took advantage of it to found The Society for the Protection of Women and Children in 1857. The Society provided legal advice, court monitoring and lodging for victims of assault. It was the first shelter of its kind in Western Europe and North America.

A second wave of public concern in the 1860s was led by feminists particularly suffragists. In 1866, John Stuart Mill presented the first petition for women's suffrage and the following year delivered a speech to the House of Commons in which he argued that suffrage was absolutely necessary in eliminating the wife beating problem. Mill and other suffragists blamed the male parliament for inadequate protective measures which had done little to stem the tide of abuse. They compared the harshness of punishment for property offences with the leniency of the law in regards to wife beating. Said Mill in his speech to the House of Commons:

I should like to have a return laid before this House of the number of women who are annually beaten to death, kicked to death, or trampled to death by their male protectors: and, in an opposite column, the amount of the sentences passed, in those cases in which the dastardly criminals did not get off altogether. I should also like to have, in a third column, the amount of property, the unlawful taking of which was,

at the same sessions or assizes, by the same judge, thought worthy of the same amount of punishment. We would then have an arithmetical estimate of the value set by a male legislature and male tribunals on the murder of a woman, often by torture continued through the years, which, if there is any shame in us, would make us hang our heads (1867:14-15).

Mill and other suffragists believed that suffrage would lead to more progressive laws resulting in changed social behavior.

In 1878, Frances Power Cobbe, a career reformer and ardent defender of women's rights, published "Wife Torture in England" in response to parliament's lack of action and ineffectiveness. Cobbe estimated the number of brutal assaults on women to be fifteen hundred a year, most by husbands on wives (May:148). She argued that a variety of complex factors led to the numerous incidents of wife abuse: the squalid homes and hideous work conditions of the working-class (she believed that working-class assaults "were tenfold as numerous and twenty times more cruel" than those in the upper class), drunkenness, jealousy (often precipitated by prostitution), the acceptance of abuse by the wives, 'heteropathy' (an impulse to hurt partly aroused by the helplessness of the victim) and most importantly: the "common idea of the inferiority of women" and social and legal traditions which sanctioned the belief that wives were their husband's "things". Wrote Cobbe in 1878:

The notion that a man's wife is his **property**, in the sense in which a horse is his property...is the fatal root of incalculable evil and misery. Every brutal-minded man, and many a man who in other relations in life is not brutal, entertains more or less vaguely the

notion that his wife is his thing, and is ready to ask with indignation (as we read again and again in the police reports), of anyone who interferes with his treatment of her, 'May I not do what I will with my own?' It is even sometimes pleaded on behalf of poor men, that they possess nothing else but their wives, and that consequently, it seems doubly hard to meddle with the exercise of power in this narrow sphere! (quoted in Dobash and Dobash, 1979:73)

Cobbe was not in favor of flogging which she believed would only increase the reluctance of women to prosecute. Like most feminists, she favored measures which would provide abused women with some assurance of personal safety and economic stability. She preferred judicial separation to divorce, fearing that divorce might provoke additional assaults by the husband or provocation of one by the wife.

In America, wife abuse reform was so closely linked to the temperance campaign that Gordon remarks that drinking became "a veritable code word for male violence" (1988:254). The first formal American temperance society was organized as early as 1808 and in the early 1830s began to promote the image of the drunken and brutish wife beater. It was the men who did the promoting as women's activities in the early years of temperance were restricted to fundraising and listening to male lecturers. Male temperance leaders were very much against the idea of women participating in politics. But in 1852, influenced by the natural rights arguments used in the rhetoric of the revolution and abolitionism, women left the male-dominated temperance societies to form their own. Feminists such as: Sarah Grimke, Elizabeth Cady Stanton, Lucy Stone, Emily Collins, Angelina

Grimke Weld and Susan B. Anthony argued that women were oppressed in a similar fashion to Black slaves and were being denied rights of citizenship guaranteed to them by the constitution.

At the first convention of the New York State Women's Temperance Society in 1852, Elizabeth Cady Stanton and Amelia Bloomer questioned a husband's right to demand sexual intercourse from his wife and advocated divorce for women married to drunken, brutal husbands. Bloomer argued that women should not submit to a drunken husband's "blows and curses" and "brutish passions and lusts" and that women who remained married to drunkards were helping to perpetuate the problem. The law ought to compel the drunkard's wife to secure a divorce, said Bloomer, especially if she had children (Pleck, 1987:58).

Underlying the speeches given by Stanton and Bloomer were many middle-class "truisms". They believed that drunkards passed on defective genes to their children. They focused on the working-class where they thought the majority of drunkenness and abuse occurred. They viewed women as a separate "sexual class"<sup>23</sup> whose happiness was directly linked to a "sacred"<sup>24</sup> marriage

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<sup>23</sup> In the midst of these conventional middle-class views is the very radical notion that women formed a "sexual class" and were oppressed as such. This is the foundation of contemporary radical feminism.

<sup>24</sup> Stanton only spoke of "sacred" marriages when it was politically expedient for her to do so. In other speeches and in her writings, she often urged women not to marry as the institution of marriage meant that women had to give up everything -- their bodies and their labour were taken from them. In later speeches, she made the connection between wife battering

with a morally healthy husband and children. They also believed that the drunkard was protected by other males in the courts and the legislature. This belief was quite common especially among temperance workers and among suffragists who argued as Stanton did, that women needed suffrage so that they could use the vote to prohibit the sale of alcohol. But advocating divorce for any woman (even for one who had a dreaded drunkard for a husband) was extremely radical for the time. Temperance women were careful to disguise their criticisms of male behavior under the rhetoric of temperance and "to score points obliquely, without attacking marriage or men in general" (Gordon, 1988:254). Stanton, Bloomer and Susan B. Anthony (who shared their views on divorce) had gone too far, their ideas were not accepted by the Woman's State Temperance Society and Stanton lost her bid for reelection to the presidency.

Stanton and Anthony resigned from temperance and devoted themselves to the women's rights movement which they thought would be more hospitable to their views. However, even the woman's rights movement could not support their ideas on divorce. The disagreements were ideological and political. Politically, divorce was considered too controversial and there were fears that the movement would be associated with radical free-love theories. Ideologically, divorce was thought to be un-Christian, to promote adultery and to free women from their responsibility

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and a husband's ownership of his wife as his property. Stanton did, however, believe that motherhood was sacred.

of rehabilitating their drunken and abusive husbands. In 1860, "women's victimization meant virtue more than weakness; women who submitted to abuse were more praised than those who left their husbands" while one hundred years later, such a woman would have her sincerity questioned and doubted by society (Gordon:257).

In the more conservative climate of the 1870s, a more conservative type of feminist championed the rights of battered women. Lucy Stone, a suffragist who (unlike Stanton and Anthony) opposed divorce and worked well with male reformers, began to publish in 1876, factual stories describing "crimes against women" in the Boston Women's Rights newspaper The Woman's Journal. Stone and her husband Henry Blackwell shared many of Stanton and Anthony's beliefs on wife abuse: the prevalence of abuse in the lower classes especially among immigrants ("women were held in low regard in [these] countries"), the presence of the "'hydra-headed monster' of intemperance and male licentiousness," "domestic tyranny" (a husband's ownership of his wife as property) and the ineffectiveness of laws which were lenient on abusers and unfair to the victim (Pleck, 1987:102-103).

Stone and Blackwell were the only American suffragists to assert that enfranchising women would reduce wife beating. They argued that the vote would give women political knowledge and power so that assaulted wives would take their cases to the police and to the courts, and judges and legislators, in respect

to the female electorate, would provide harsh penalties to male offenders (Pleck, 1987:106).

Canada is the one country where wife abuse was not seen as a problem requiring public concern by social reformers (feminist or otherwise) in the Victorian period. Breault (1986) notes only two exceptions to this in the early twentieth century: a request by the Nova Scotia Society for the Prevention of Cruelty in 1908 for legislation permitting employment for jailed wife beaters and diversion of their wages to their wives and the Women's Christian Temperance Union lobby in 1909 for Criminal Code amendments which would make wife beating punishable by flogging. My own research did not uncover any additional incidents.<sup>25</sup>

The disinterest in wife abuse during this time period may have something to do with the newness of the country -- the slower rate of industrialization and urbanization. The major feminine partnerships did not even begin until the 1870s. This

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<sup>25</sup> Breault (1986) is the only study which looks at wife abuse reform in Canada during this time period. She searched the following: the papers of Flora MacDonald Denison; radical newspapers such as Cotton's Weekly (Jan 21, 1909-Feb 23, 1909), The Lance (May and June 1908), The Labour Advocate (1880-1891); minutes of United and Presbyterian Church women's groups; the papers of the Ontario Attorney General's Office and A.B. Aylesworth, Canadian Minister of Justice. Breault's sample has an eastern bias which is understandable since woman's suffrage and woman's temperance activity began in Ontario. I supplemented her sample by searching through the writings of early western feminists Nellie McLung and Emily Murphy. I also looked at the following anthologies (containing primary and secondary material) of early Canadian feminism: Anderson (1972), Cook and Mitchinson (1976), Kealey (1979), Light and Parr (1983), Prentice et al. (1988), Rasmussen et al. (1976), Strong-Boag and Fellman (1986) and Trofinmenkoff and Prentice (1977).

was decades behind those in England and America and certainly, wife abuse was not the first issue tackled by female reformers in those countries and the enthusiasm for it remained minor in comparison to energies spent on other issues. The immaturity of Canadian female reformers may have been evident to feminists in other countries. At the 1893 meeting of the International Council of Women in Chicago, a Canadian delegate reported:

...a female shook her umbrella at me and bawled, (although I was very near her), "You Canadians are indifferent. You must be aroused. You must vote!"...The American woman's mind is made up on lots of questions that we are just beginning to tackle (Strong-boag, 1977:97).

It is also possible that wife abuse concerns were disguised in the rhetoric of temperance. As in America, temperance was Canada's most popular reform campaign among women. Certainly the Women's Christian Temperance Union preached the need to protect women and children: "How can Christian women sit still and be quiet while women's cries for help are in their ears?" (Mitchinson, 1979:155). The rhetoric of the WCTU concerned itself with the criminality and the immorality of liquor. In a direct sense, the arguments dealt with criminality in terms of crimes outside the family and immorality in the sense of familial neglect and uncontrollable "lusts". Wife abuse was not mentioned in direct terms and the need for reform was not promoted until 1909 but perhaps concerns around the issue were implied before that point.

It is likely that the type of feminism which developed in Canada's nation-building period, hindered a direct analysis of wife abuse. Historians of early feminism divide the ideology of the time into two categories: "maternal feminism" and "equal rights feminism". There is little evidence that the latter, based on the natural rights argument, ever existed in Canada. Maternal feminism, the belief that women should play an essential role in nation-building as mothers and nurturers and because they are mothers and nurturers, was the dominant ideology. Women were thought to have the superior moral qualities necessary to save the nation but they were never to question the institutions of marriage and the family or their roles as mothers and wives. As an ideology, maternal feminism was perfectly compatible with the social purity, temperance and suffrage movements,<sup>26</sup> but was it compatible with wife abuse reform? On the one hand, Pleck is correct in asserting that:

...reform against family violence is an implicit critique of each element of the Family Ideal. It inevitable asserts that family violence is a public matter, not a private issue. Public policy against domestic violence offers state intervention in the family as a major remedy for abuse, challenges the view that marriage and family should be preserved at all costs, and asserts that children and women are individuals whose liberties must be protected (1987:9).

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<sup>26</sup> Not all female reformers believed that suffrage was compatible with domesticity. In Canada, suffrage was a divisive issue in the 1870s. However, women soon decided that they would not have the power to carry out their chosen reforms without the vote. The turning point came in 1898 when the government refused women the vote in the national plebiscite on prohibition.

Even the more conservative feminists in England and America who did not advocate divorce were in fact critical of patriarchal marriage in that they understood a husband's ownership of his wife as property to be a major factor in wife beating. On the other hand, the history of the early English state shows us that feminist reasons are not needed to promote wife abuse reform. Perceived social problems such as the need for law and order can erode notions of family privacy and the husband's conjugal rights. In any case, Canada seems to have lacked the individual feminists who actively promoted wife abuse reform in England and America.

#### Feminists and the State: Partners in Wife Abuse Reform

In England, feminists continued in their strategy to alleviate wife abuse through easier access to separation and divorce. They teamed up with legislators for a successful campaign resulting in the 1857 **Divorce Reform Act**. The actual term "wife-beating" was devised during this campaign (Pleck, 1987:63). Section 16 of the new act provided for judicial separation on proof of cruelty. However, not all feminists were pleased with the new legislation. Frances Power Cobbe reminded the reformers that most women could not afford divorce and therefore legal protection was still virtually "unattainable," particularly for "ignorant, friendless, and penniless women, who"

she believed to be "the chief victims of wife-torture" (Bauer, 1983a:111). Victorian attitudes were still very evident in this legislation as women needed to prove adultery as well as cruelty. The 1857 Divorce Reform Act proved to be no more successful than the "Good Wives' Rod" of 1853.

Finally in 1878, fed up with the ineffectiveness of the legislation and angered by parliament's decision to do nothing with the results of its special investigative committee,<sup>27</sup> Cobbe prepared her own parliamentary bill with the aid of Alfred Hill. Cobbe proposed to make judicial separation more affordable for abused women by requiring the husband to pay maintenance upon separation. The wife would be provided with custody of her children. Cobbe's bill was attacked in parliament for making separation too easy for the wife and thus threatening the institution of marriage. Lord Penzance, a former head of Parliament's Divorce Court as well as a highly regarded M.P., saved the bill. Penzance took the substance of Cobbe's bill and attached it as an amendment to his own (he was in the process of introducing a noncontroversial divorce bill). While Cobbe's appeals to parliament conjured sympathy for the "helpless women" of England and chastised M.Ps for "the vain pretense that it

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<sup>27</sup> In 1874, Disraeli set up a special committee to collect testimony from various judges, recorders and police magistrates on the subject of assaults on women and children. The resulting "Reports to the Secretary of State for the Home Department on the State of the Law Relating to Brutal Assaults, 1875" expressed a surprising coherence of agreement as to the deficiency of the current laws. However, parliament (for whatever reason) did not act on the recommendations.

takes care of the interests of women," Penzance knew the strategy to use on his fellow members. He made the bill less controversial by denying any protection or maintenance to wives who had committed adultery and his presentations to parliament aroused the old fears of violent crime and "brutal" working-class men. The Matrimonial Causes Act passed on May 27, 1878. It provided wives with a judicial separation, custody of children under ten, and maintenance in cases where the husband was convicted of aggravated assault. Cobbe was very pleased with the legislation but did not consider it a panacea to the wife abuse problem. Rather, she hoped that it would encourage more wives to testify by removing the legal disparities between rich and poor. And, in reality, the number of women claiming separation remained small and feminists continued their agitation for more thorough protection well into the 1890s.

Finally, in 1891, the court in R.V. Jackson decided that the long enjoyed legal right of the English husband to restrain his wife by physical means had come to an end. Feminists and legislators continued to push for legislative changes and a piece of legislation passed that seemed to be as effective as it was symbolically meaningful. The 1895 **Summary Jurisdiction (Married Women) Act**, which expanded the grounds for separation to include persistent cruelty and wilful neglect, precipitated a flood of applications: "By the 1900s some 8000 matrimonial orders were annually made by the English and Welsh courts and, according to

one official, the pressure of claimants was such as to almost overwhelm the magistrates" (May:149).

Despite the number of claimants, some feminists expressed misgivings concerning the act and legal reform in general. Shortly after the passage of the Summary Jurisdiction Act, feminist Elizabeth C. Wolstenholm Elmy wrote:

The wife's relief is absolutely at the discretion of male magistrates only, whose sex-bias will frequently lead them in the future, as it has continually led them in the past, to refuse the sorely needed relief asked for, and thus to drive the wife back within the power of an exasperated tyrant (quoted in Bauer and Ritt, 1983b:203).

In America, far less legislation was passed to deal with wife abuse and more distant relationships existed between feminist and state workers. In 1861 Elizabeth Cady Stanton did testify before the judiciary committee of the New York state Senate on behalf of a new divorce bill. The campaign to reform New York's divorce laws came from a state senator under fire because of several cases of aggravated cruelty to daughters of the wealthy Dutch landholding aristocracy. He introduced a divorce bill to grant absolute divorce on grounds of desertion, cruelty and drunkenness (Pleck, 1987:60).<sup>28</sup>

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<sup>28</sup> In New York State, divorce reform bills were introduced in 1852 and subsequently in 1855, 1856 and 1860. All were defeated and New York's divorce law remained substantially unchanged until the 1950s.

Lucy Stone was the only American feminist to work closely with the state on wife abuse reform. In 1879, Stone, influenced by the work of Frances Power Cobbe, introduced a bill into the Massachusetts legislature which would give an assaulted wife the right to apply for a legal separation, custody of her children and support from her husband. However, unlike Cobbe, Stone lacked an ally in the legislature and the bill failed to pass in 1879, 1883 and again in 1891. After the second defeat of her protection bill, Stone began to consider alternative strategies. Choosing a tactic that Frances Power Cobbe was vehemently against, Stone joined forces with a Republican state legislator, the sponsor of a flogging bill in the Massachusetts state legislature in 1885. In her Woman's Journal, Stone argued that a whipping post law "should exist in every state" and she organized women to fight for the passage of the Massachusetts bill (Pleck, 1987:108). The Massachusetts bill passed in the House by a vote of 96 to 24, but lost by a wide margin in the state Senate (Pleck, 1987:108). However, the movement to punish wife-beaters with the lash was successful in three states: Maryland (1882), Delaware (1901) and Oregon (1905). Pleck notes that the campaign was not a great success but it was more successful than in England where all proposed flogging bills were defeated. With the exception of Stone's involvement in Massachusetts, the flogging movement between 1876 and 1906, was one led by men: mostly Republican lawyers, judges, district attorneys, and other law enforcement officials. This was not a

feminist campaign -- women's rights were rarely discussed. Wife beating had finally, in this time of national economic depression, become a law and order issue in America. In a campaign "which clearly expressed the desire to control the lower classes," flogging was promoted as the ultimate deterrent to wife beating and other crimes (Pleck, 1987:109). The campaign was opposed by some religious groups especially the Quakers who denounced flogging as barbaric. In the 1890s, the racist overtones of the flogging campaign became obvious as white Southern lawyers, judges, and police expressed fears of blacks raping white women and argued that "the whipping post was especially suited for black criminals, who they believed possessed innate criminal tendencies and whose inferior culture exhibited no respect for law and order" (Pleck, 1987:116).

In 1909, the largest women's organization in Canada: The Woman's Christian Temperance Union (WCTU), demanded that the federal government amend Section 292 of the Canadian Criminal Code to make wife beating punishable by flogging.<sup>29</sup> This amendment is interesting for several reasons. First of all, as previously discussed, it was introduced during a period when wife

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<sup>29</sup> The original section 292 in 1906 (Revised Statutes Canada 1906, Volume Three) reads: "Every one is guilty of an indictable offence and liable to two years' imprisonment, and to be whipped, who, -- (a) indecently assaults any female; or (b) does anything to any female by her consent which but for such consent is obtained by false and fraudulent representations as to the nature and quality of the act. 55-56 V., c. 29, s. 259". The 1909 amendment (Statutes of Canada 1909, Volumes 1-11) reads: "Section 292 -- By adding thereto the following paragraph:- '(c) assaults and beats his wife or any other female and thereby occasions her actual bodily harm.'"

abuse appears to have been absent from the agendas of social reformers.<sup>30</sup> Secondly, when the WCTU did take up the cause, the focus was on punishment for the male offender. This differs from feminist strategy in England and America which emphasized the plight of the female victim and concentrated on separation or divorce. Likely, the "maternal feminist" orientation of the WCTU did not lend itself to discussion on either of those options. Perhaps what is most surprising is the relative ease with which the amendment passed. There was the necessary debate in parliament where views similar to those in England and America were expressed: opponents argued that flogging was barbaric and did not acknowledge the role played by women in family violence while supporters argued that "wife beaters had violated the code which prohibited the strong from assaulting the weak and that this violation warranted severe punishment" (Breault, 1986:19). But the proposed flogging of wife beaters in England generated a national inquiry and repeated attempts to introduce bills which ultimately failed. Proposed flogging of wife beaters in America required a sustained campaign which was only relatively successful. Yet in Canada, flogging for wife beaters was passed on the first bill after only one debate! This amendment survived on the books until it was dropped in the 1953-54 Criminal Code,

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<sup>30</sup> Breault reports that commentators in two Ontario newspapers: the Canada Citizen and the Toronto World were critical of remarks made by a Canadian judge sanctioning wife abuse in 1883. It is difficult to know whether the attitudes of those particular commentators are reflective of either the media or the general public.

amended to 1965.<sup>31</sup> Not surprisingly, there is evidence that this amendment was rarely used. The conviction for "actual bodily harm" required by the amendment was a much higher standard than the normal "application of force to another by act or gesture" used for common assault on anyone else (Renison, 1986:215). It is also likely that fewer wives were willing to report their husbands when they knew they would be flogged. The WCTU and the police, on the other hand, viewed the decrease in reported wife abuse incidents as proof that the bill worked. A WCTU member interviewed the Morality Department of the Toronto police one year after the amendment passed and was told "that only two have received this punishment during the year, instead of there being two or three per month as formerly, so salutary had the dread of it proved" (Breault, 1986:24).

#### Summary

The Victorian period witnessed a tremendous growth in reform activities and organizations. Wife abuse was not a big reform issue but it was an issue, especially in England where campaigns to fight wife abuse were the most active.

Reform efforts in England, America and Canada were reflective of the various social, economic and political conditions of each country. The reaction of the English state to

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<sup>31</sup> Thanks to Maryellen Symons for some help in the law library.

the unrest caused by industrialization set the tone for wife abuse reform in that country. The English reformers' preoccupation with legislative change is understandable because they were dealing with a vulnerable state which was determined to control wife abuse and therefore open to the possibilities of reform. Abolitionism, revolution and temperance marked the style of reform in America. The Antebellum feminists who had inherited the ideals of the revolution and the abolitionist movement with the emphasis on "natural rights" arguments were more radical than their female successors. They were also ostracized for their criticisms of patriarchal marriage and their willingness to make divorce easier for women. The rhetoric of temperance in America and in Canada allowed for indirect criticisms of male supremacy. The disinterest of Canadian reformers in wife abuse per say can be attributed to the predominance of "maternal feminism" in Canada and the strong opposition to "women's rights" arguments.

In all three countries, feminist analysis of wife abuse was influenced by Victorian sexual attitudes concerning the "animal passions" of men and the "purity" of women, and middle-class perceptions of the "low" classes and immigrants. Alcohol was thought to be a major factor (and sometimes the sole factor) in wife beatings. In North America, much more than in Europe, alcohol became a scapegoat for almost every social ill that plagued the nineteenth and early twentieth centuries. Feminist ideology on wife abuse, as in other issues was not homogeneous. The more radical feminists in England and America moved beyond

the conventional answers and linked wife abuse with social notions of woman's inferiority and laws and traditions which allowed a husband to own his wife as property.

The state was central in feminist strategies against wife abuse. However, public education through lectures, books and articles was probably just as important. In historical research, legislation stands out because it is easily recorded while it is almost impossible to infer, for example, the number of times feminists lectured on wife abuse. Information is only available for some of the lectures of the better-known feminists. Fortunately, wife abuse reformers were quite prolific in their writing. John Stuart Mill, Harriet Taylor and Frances Power Cobbe wrote articles on wife abuse as did some of their lesser known successors: Matilda Blake, Mabel Sharman Crawford, Elizabeth C. Wolstenholme Elmy and Jeannie Lockett. American feminists used their own journals -- Amelia Bloomer was editor of Lily, Susan B. Anthony and Elizabeth Cady Stanton edited Revolution and Lucy Stone, the Woman's Journal -- to promote wife abuse reform.

Feminist attempts to promote wife abuse reform through legislation in England and Canada and to a lesser extent in America, did not mean that they were not critical of the state. In general, feminists were very critical of male legislators, judges, lawyers and police. But they had a liberal understanding of the state and believed in the importance of citizenship, of getting women into the public sphere and making women a powerful

interest group. This was a period in which many feminists believed that women's suffrage would solve everything. However, many other feminists understood that legislation would not solve wife abuse. Instead they believed that improved legislation may help some women.<sup>32</sup> Furthermore, these feminists argued that legislative change was symbolically important and necessary as part of a piecemeal strategy in attacking patriarchal rule.

The involvement of the state and male reformers in wife abuse reform had little to do with women's rights. Legislators and law enforcement officials were willing to allow state intervention in the family when they felt it was necessary for social control. For the most part, they focused on punishment for the male offender and very rarely concerned themselves with the needs or rights of the female victim. In England, legislators became involved in reforms concerning separation and divorce but always in response to feminist initiation and pressure.

There were always some male reformers and commentators who expressed anger at the "brutality" of the "stronger" sex toward the "weaker". This is evidence of a new masculinity which historians have identified among the middle-class in the mid-nineteenth century. The new masculinity was one of "self-control, containment (and) rule through authority." "Symbolic

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<sup>32</sup> Certainly, some battered women were appreciative of the feminists' efforts. Frances Power Cobbe, for example, received letters from abused women claiming that Cobbe had changed their lives for the better as a result of her work in altering legislation (Bauer, 1983b:195-196).

force" replaced physical force as "brutality against the weak" became "unmanly" and "cowardly" (Gordon, 1988:255). The new masculinity was very compatible with "maternal feminism" both of which are good examples of restructured patriarchal attitudes.

The Victorian period experienced the transition from familial to social patriarchy (Ursel, 1986) and the history of wife abuse reform in this period does show a shift in legal power over women from the husband to the state. However, the complexity of wife abuse as a social problem and the ineffectiveness of legislation designed to alleviate wife abuse meant that reform was symbolic in nature and the relations between husbands and wives remained basically unchanged.

### Chapter Three: The Contemporary Movement

This chapter continues to trace the evolving relationship between the state and the women's movement in their response to the problem of wife abuse in Canada. It looks at the rediscovery of wife abuse as a social issue by "second wave" feminists in the 1970s, the building of a social movement called the battered women's movement and the state response to that movement.

Chapter One examined the theoretical dilemma of feminists working with the state -- the insistence that the state respond to feminist pressure and promote the transformation and expansion of state services for women versus the danger that limited gains provided by the state may deradicalize feminism and the knowledge that the state may redefine women's issues according to its own agenda. This chapter looks at concrete examples of theory in practice. During the last ten years the relationship between the state and the battered women's movement has intensified, leading many feminists to reassess both the "correct" feminist position on wife abuse and the successes and failures of working with the state.

#### 1920-1970: Historical Influences

Between 1920 and 1970, interest in the problem of wife abuse was negligible in North America and Europe. There were no significant reform efforts on the part of battered women by

either the state or social reformers. Historians argue that the lack of interest in wife abuse must be placed in the context of a declining feminist movement (Pleck, 1987; Gordon, 1988). Former issues which had been the symbols of the Victorian feminist movement and attracted so much public attention were resolved--suffrage had been granted and in Canada, provincial laws controlling liquor distribution made temperance a relative non-issue. Although many women's organizations and individual feminists continued to work for reforms, they were unable to attract public attention (Prentice et al., 1988:217). The 1920s saw the organization of labour movements. Many women were active in labour, but the feminist movement had no role in these movements due to its largely middle-class orientation and the misogynist nature of organized labour. In addition to the decline of organized feminism, the manner in which wife abuse was handled during these fifty years largely reflects other social movements and conditions, namely, the transformation of social work, the Depression and the dominance of psychiatry.<sup>33</sup>

From 1910 to 1930, wife abuse and child abuse were delegated to the new "professional" and "scientific" organization of social work. Gordon (1988) notes that the voluntary efforts of reformers were replaced by "experts" who defined and prescribed the social problems of the time. Unlike the Victorian period

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<sup>33</sup> It is beyond the scope of this chapter to present a complete historical picture of these years. Therefore, I will give only a very brief synopsis of historical events which directly affect the manner in which wife abuse was viewed and handled during this period.

which focused on drunken, brutal husbands, the Progressive era played down familial violence. This was a period of blaming the victim. Incest and child abuse became "sexual delinquency" and wife battering became "marital violence" -- the realities of battered wives distorted by a question first posed in the 1920s which would remain for decades: "why do they stay?"

During the Depression, violence in the family and violence in general was deemphasized. Massive unemployment led to great advances in general welfare provisions but also to conservative social policy, as the "conventional" nuclear family was defended and upheld as the backbone of the nation (Gordon, 1988:22). Even child abuse, historically a less controversial issue than wife abuse, was viewed almost entirely as a matter of economic neglect.

The discipline of psychiatry dominated social service ideology throughout the 1940s, 1950s and early 1960s. The "roots of most interpersonal problems were sought in individual 'complexes,' not in cultural or structural arrangements" (Gordon, 1988:23). Victim blaming intensified during this period. Psychiatric categories were used in evaluating the failures of battered women to be suitable feminine and sexual companions for their husbands.

This influence is very apparent in the earliest theoretical work on wife abuse. Schultz (1960) and Snell et al. (1964) looked to individual psychopathology to explain the causes of wife abuse. Using extremely small samples, both studies

concluded that men who batter their wives were emasculated-- first by their mothers and then by their wives. The battered wife is described as the "controller" of family life. She is "aggressive," "manipulative," "sexually frigid," "castrating," "masculine," and "hostile" to men in general. She provokes the abuse which gives her "masochistic gratification" (Snell et al, 1964:111) and helps alleviate her feelings of guilt arising from her castrating behavior. Snell suggests that a true, i.e., feminine, woman would not take legal action against a husband who abused her:

Regret over taking legal action was expressed by all of the wives with the exception of one -- the most masculine of all -- who felt she had done the proper thing and stated she would do it again. Her husband was seen as the most classically passive, castrated male of them all (1964:111).

#### "Second Wave" Feminism and the Battered Women's Movement

As in the late nineteenth century, the second period of wife abuse reform began in England. The founding of Chiswick Women's Aid by Erin Pizzey in 1971 was the starting point in Europe and North America for shelters and services created specifically for battered women. There were some non-feminist services before 1971, run by religious organizations and interestingly enough, (considering the Victorian feminist's obsession with liquor)

there were shelters for battered wives of alcoholics.<sup>34</sup> However, these services were few and far between. There was no sheltering movement for battered women until feminists took up the cause in the early 1970s.

The second period of wife abuse reform also emerged from a climate of tremendous social, economic and demographic transformation. The lifestyles of women began to change dramatically as evidenced by a sharp drop in birth rates, rising divorce rates and the increased labour force participation of women. The late 1960s marked the beginnings of the contemporary women's movement which developed in Canada on two fronts. The first was composed of national and provincial groups such as the Federation des femmes du Quebec, the Association feminine d'education et d'action sociale, Voice of Women, and the Committee on Equality for Women (CEW). The CEW initiated the first Royal Commission on the Status of Women and later evolved into The National Action Committee on the Status of Women (NAC). These groups were formal in terms of their organizational style and traditional in their forms of political action.<sup>35</sup> Their main

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<sup>34</sup> Examples include Rainbow Retreat in Phoenix and Haven House in Pasadena. Both were closely associated with Al-Anon and provided shelter to wives of alcoholics in the 1960s.

<sup>35</sup> This is of course, a generalization. NAC did have a few groups such as Toronto New Feminists who opposed traditional power structures. Furthermore, many feminists involved in the more formal organizations later quit in disgust over endless government bureaucracy and lack of concrete reforms. For example, Laura Sabia who was the catalyst for CEW and the Royal Commission, resigned from the Ontario Advisory Committee, declaring in the Toronto Sun that "From 'Royal Commission' to 'Councils' we have been kept busy pushing paper. 'Do advise us,'

priority was to improve the situation of women within the existing social and economic structure. The second front, known as the Women's Liberation Movement, consisted of small, autonomous groups critical of formal power structures. Influenced by the black power struggle in the United States and by student and peace groups protesting the Vietnam war, many of the women within these groups were former members of the leftist Student Union for Peace Action (SUPA), having left in protest over sexism experienced in that organization. These groups maintained an ideology and practice which was strongly critical of professionalism, leadership and "elitism". They rejected "reformism" and cooperation with the government in general and stressed measures of "self-help" and "consciousness-raising". These groups served as the catalyst to the new battered women's movement.

Wife abuse did not appear on the agenda of the Canadian women's movement in its early days.<sup>36</sup> Feminism in the early seventies covered a broad scope of issues: sexuality, reproductive rights, childcare, sex-role socialization, the

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say the astute politicians, 'we're such numbskulls; tell us what to do.' And we fell for it, God help us, hook, line and sinker" (July 7, 1976. Quoted in Prentice et al., 1988:352).

36 None of the 468 briefs or 40 research reports of the 1970 Royal Commission on the Status of Women deal with wife abuse. It is not mentioned in the early published writings of the Canadian Women's Liberation Movement: Women Unite! Anthology of the Canadian Women's Movement (1972), The Lace Ghetto (1972). It is not considered in the earliest "women's studies" book: Women in Canada (1978) nor is it listed in this book's extensive bibliography of works dealing with Canadian women published between 1950 and 1975.

politics of marriage and housework, job training and working conditions. However, in Canada as in the United States, wife abuse would not become a feminist issue until an analysis of violence as "a particular form of domination based on social relationships of unequal power" and "one mechanism for female control" was developed (Schechter, 1982:34). Schechter notes that while "today this sounds obvious; ten years ago it was a revelation" (34). This analysis originated from branches of the Women's Liberation Movement (likely because these groups were most interested in male power and privilege in personal life) and was a significant contribution to radical feminist thought. The analysis led first to the anti-rape movement and later, motivated by the many women calling the crisis lines who had been beaten by the men with whom they lived, the battered women's movement. The anti-rape movement contributed to the emergence of the battered women's movement by laying the foundation to change public consciousness, building organizations and networks of politically sophisticated women and helping to separate shame from male violence (Schechter, 1982:43).

The chronology of the sheltering movement really depends on whether shelters are dated by their formal or informal beginnings. It was common for shelters to start as informal refuges. For example, Woman's Place in Vancouver, an early drop-in centre, began to shelter women in 1971 using an attic with a couple of beds. It did not become a formal shelter until 1974 when it became known as Transition House (Ridington, 1982:99).

Other early Canadian shelters include Oasis in Calgary (1972), Interval House in Toronto (1973) and Osbourne House in Winnipeg (1974). In America, the first shelter was established in St. Paul Minnesota in 1974. The same year, the shelter "Elsie" was organized in Australia and Blifj van m'n Lifj (Stay Away From My Body) in Amsterdam.

In certain aspects, the early battered women's movement was very successful. In America, the number of shelters grew from one or two in 1974 to over 400 in 1978, making it "one of the most rapidly expanding nationwide grassroots movements since the Vietnam War" (Morgan, 1981:24). The situation in Canada was similar but on a much smaller scale -- there were 71 shelters by 1979 and 264 by 1987 (MacLeod, 1987).

The movement was also successful in promoting wife abuse as a serious social problem to the state and the general public. After 1975, the media "discovered" wife abuse and it became a "hot" issue. Pleck reasons that the topic of wife abuse appealed to the American media in the 1970s because it was "new, controversial, and somewhat titillating in that it involved the staple of modern American culture -- sex and violence" (1987:188). The same can be said for Canada. The relationship between the media and the battered women's movement and the women's movement in general is important. One of the greatest differences between feminism in the Victorian period and the contemporary women's movement is the "rise of mass-media

feminism" in the 1970s, "of feminism as a saleable commodity on a vast scale" (Bassnett, 1986:43).

While mass media involvement signifies differences between the two "waves" of feminism, the centrality of the state in feminist strategy marks both periods. Like their Victorian counterparts, contemporary feminists working with wife abuse have made clear demands on the state for resources to address the problem: changes in the criminal justice system, funding for shelters and transition houses and public education. As early as 1976, an International Tribunal on Crimes Against Women held in Brussels and attended by two thousand women from thirty-three countries, called upon "all countries to combat the crime of woman-battering" and "demanded that governments recognize the existence and extent of this problem, and accept the need for refuges, financial aid, and effective legal protection for these women" (Russell, 1983:viii).

The involvement of government, academics and the legal and helping professions has resulted in increased services and a facilitation and legitimation of the issue that feminists could not have achieved on their own. However, many feminists argue that state involvement has also meant that battered women are not "empowered" and the root causes of wife abuse are ignored. What began as a grassroots movement of feminist collectives dedicated to providing safe refuge for battered women and building a political movement to end male violence is now a series of de-politicized, bureaucratized, individualized,

medicalized and professionalized social service agencies whose goals are to protect the family unit (Beaudry, 1985; Morgan, 1981; Schechter, 1982; Tierney, 1981-82). The second goal of the original movement -- to change the material conditions of women's lives and work to eradicate the origins of male dominance and violence has become a movement for legal reform.

This transformation has been surprisingly rapid. MacLeod estimates that in Canada, not more than half of the 71 houses existing in 1979 were collectives (the model prominent in early feminist-oriented houses) and that few houses started after 1980 began with a collective orientation (1987:56). An American study of 127 shelters in 1981 found that fewer than half developed out of a women's group or included a board of directors or staff members who defined themselves as feminists (Pleck, 1987:192).

In examining the process of this transformation, it is important to look at the ideological orientations of feminist and state institutions working with wife abuse and their preferred organizational styles.

#### The Import of Ideology: Defining the Issue

The ideological underpinnings of organizations (whether or not they are clearly formulated or articulated) always play a significant role in determining formal and informal strategies. I argue in this section that organizations within the state have adopted an ideological perspective on wife abuse which is in

keeping with the patriarchal/capitalist nature of the state and in direct conflict with a feminist analysis of the issue.

Although feminist explanations as to the causes of wife abuse and the role of violence in women's oppression vary, there is common ground. First of all, feminists use the terms "wife abuse" or "battered women" rather than neutral terms such as "spouse abuse" and "domestic violence" because of the ample empirical evidence that most violence is directed towards women not men and because historically society has legally and socially sanctioned the use of violence by husbands on their wives. Feminists argue that the behavior of the wife is incidental to her abuse and although factors such as alcohol abuse may exacerbate violent tendencies in individual men, they are not the cause of the problem. Rather, wife abuse reflects the laws and traditions of women as property of their husbands and the accepted use of violence by men as a means of social control. Wife abuse persists and will continue to persist as long as women are economically and socially dependent upon men. It follows that even though not all men are violent towards women and not all husbands beat their wives, all women are vulnerable to male violence.

The various tendencies within feminism discussed in Chapter One emphasize different elements of this analysis. Radical feminists focus on what they see as the interconnected nature of wife abuse, rape and pornography for an overall theory of male violence. Socialist feminists stress the relationship between

patriarchy and capitalism in constructing a social system which isolates the family and exploits women not only at home but also in the workforce, leaving them with few viable alternatives to escape from violence (Schechter, 1982:47).

In the last fifteen years, the feminist analysis has been challenged very effectively by a group of social scientists who uphold the "humanist" ideals of the battered women's movement (the immorality of wife battery and the need for active community intervention) but at the same time, undermine the political analysis (that women are the primary victims in a system of male dominance).

In 1976, the American government provided sociologists Murray Straus, Richard Gelles, and Suzanne Steinmetz with more than one million dollars in grants for research on "domestic abuse" (Pleck, 1987:193). It is of course significant that the money did not go to the feminist activists and researchers who had drawn government attention to the issue in the first place. The money went to professionals outside of the battered women's movement: those whom the early radical feminists had disdained as the formal agents and administrators of status quo structures and ideology and for whom "objectivity," defined as "'distanced, external...' (and) uncoloured by feelings or opinions'" was highly prized. Feminism, on the other hand, with its "subjectivity, involvement and declared point of view" represented "potential or real challenges to professionalism and dominant ideology" (Barnsley, 1985:12).

For feminists, the social system of patriarchy (and possibly capitalism) is the unit of analysis. Wife abuse is a symptom of that social system. For Straus, Gelles and Steinmetz, (whom I shall call the family violence theorists) violence "as an abstract, transhistorical social fact" is the unit of analysis (McGrath, 1979:17). Wife abuse is a symptom of a violent culture, seemingly separate from questions of class, race, and the relations of production and reproduction. Against the feminist analysis which looks at the "unique social, historical, and interpersonal characteristics" of wife abuse (Dobash and Dobash, 1979:9), the family violence theorists argue that:

It is important that we should not be misdirected by 'the politics of social problems,' which focus attention on issues such as wife abuse and child abuse...the larger problem we are facing is not one of a single class of people, sex, or age group in the family being the most victimized...the problem is one of family violence. Fathers and mothers hitting children, children hitting one another, and spouses physically battling each other are all part of the same topic -- violence in the American family (Straus, Gelles, Steinmetz, 1980:13).

Gelles, Straus and Steinmetz arrive at this conclusion by employing a methodology that removes violent acts from the settings in which they occurred -- models of abstractions presenting "relationships between words" and "ignoring the historical and interactive aspects of the family" (Dobash and Dobash, 1979:25). For example, The Conflict Tactics Scale, a measurement device used by all of the family violence theorists, looks at the means used to resolve conflicts and categorizes

them on a continuum from least to most severe. The CTS does not measure the intent of the perpetrator and it does not measure injuries. It also "assumes that all violent acts are comparable and can be ranked" and that "any pushing, hitting, or throwing is worse than any amount of verbal or emotional expression, no matter what pain the latter inflicts" (Breines and Gordon, 1983:511). In terms of men and women, it treats their acts as equal and "makes no allowance for the power context within which violence occurs" (Breines et al., 1983).

Straus's systems model, (also used by all three theorists) contains no less than 62 variables. Although gender or sexual inequality is considered "one of the most important causal factors in wife beating" it is still considered to be "only one part of the complex causal matrix of family violence" (Straus, 1980:35-36). Straus adds that even if true equality existed between the sexes, "all forms of family violence including wife-beating would continue to exist...elimination of wife-beating depends not only on eliminating sexual inequality, but also on altering the system of violence on which so much of American society depends" (1979:36).

Straus, Gelles and Steinmetz have been the dominant voices in social science circles, the experts on "domestic violence" for the last fifteen years and it is important to realize that their work was not confined to the classroom or academic circles. It was widely promoted in Canada as well as in the United States, within the media and within the state. The early history of the

battered women's movement shows that at least one of the family violence theorists was a principal speaker at almost every major conference in Canada and the U.S. Their work is the basis of the liberal status quo perspective on wife abuse taken by most institutions. And there have been material consequences.

The most harmful of the family violence theorist findings (in least in a way that can be empirically demonstrated) was the insistence that mutual combat ie., where both husband and wife use violence is the "most common situation" (Straus, 1980:36). Steinmetz went further and claimed that there is such a thing as a "battered husband syndrome" and that "the percentage of wives having used physical violence often exceeds that of husbands" (1977-78:499). Steinmetz's battered husband syndrome was picked up by T.V shows (most notably, the Today show), wire services and feature writers all across North America, leading to a rash of articles such as "Study Backs Up Suspicion Husband is More Battered Spouse" (Schechter, 1982:214; McGrath, 1979:17).

Despite the fact the Steinmetz's study was only based on forty seven couples, five of which had experienced mutual slapping and hitting and despite the fact that critics hotly disputed her methodology and findings (Pleck et al., 1977-78; Fields et al., 1978; Dobash et al., 1979) and a retraction from the Today show followed two weeks later -- the damage was done. The theory of mutual combat and the battered husband syndrome were both used in damaging ways. In Chicago, local officials withdrew funds from a shelter with the caveat that if women are

as violent as men, then why should women be provided with shelter when attacked (Dobash and Dobash, 1987:174). A feminist activist was told by a hospital social service department that requested a speaking engagement: "'violence is a family problem. We don't want to hear about social or political factors. Dr. Steinmetz showed that we must look at violent women and family-cycle pathology, not broader social factors'" (McGrath, 1979:18).

I don't mean to portray this as a planned conspiracy between the state and the family violence theorists. Rather, their theories supported traditional social science in terms of their "scientific" and "objective" pretensions and neither criticized nor threatened the foundations of a patriarchal and capitalist society. If a violent culture "caused" wife abuse, than really no one or group of people can be singled out for blame. If gender, class and race are unimportant (or relatively unimportant) to understanding wife abuse, then an "apolitical" approach is justified. If women are not the primary victims of familial violence, than neutral terms such as "domestic violence" and therapy focusing on the family or the marriage is appropriate. Furthermore, the family violence theories are more effective than the old theories of "deviant" husbands and wives because they allow the state to appear as though it cares about family violence and the need to provide solutions to it. In short, they allow the state to "care" about wife abuse in a manner that can be easily managed by current social services and state bureaucracy.

### Service Provision and Political Awareness

Early feminists believed that service delivery was political and that the organization of shelters must reflect the politics of the movement. As we approach the 1990s, it is clear that the political vision of the early battered women's movement has been replaced. Service delivery dominates the contemporary battered women's movement and shelters are run on the same tenets as the average social service organization. That is, they have an hierarchical order with a board of directors, a staff with well-defined duties, and an emphasis on professionalism and efficiency.

Beaudry (1985) notes that shelters are radical in and of themselves, because as symbols of permission for women to leave their homes, they are a direct challenge to the authority of the husband and the nuclear family. The very idea of sheltering battered women was in stark contrast to policies of traditional institutions that sent the battered woman back into the family home.

The first shelters were set up not only to provide protection, but also to "empower" battered women: "A shelter's purpose is to give women the strength to demand that they not have to live in fear of violence. To do this a woman must come to value herself, to grow in self-esteem, to understand her rights, to honor her individuality" (Grossholtz, 1983:66). MacLeod's study shows that only 47% of the current houses

included the empowerment of women as one of their three major goals (1987:54-55). One worker explained: "At one time it was politics, an ideology of empowerment and feminism that held us together and kept us going. Now we focus more on the service, the quality of the service, and how it meets the needs of the women. We haven't given up our feminist ideals, but we feel we have to provide a really professional service to gain the trust and support of battered women and of the community" (MacLeod, 1987:54).

The vision of the early shelter was one of a "supportive refuge" and "not an institution" (Barnsley, 1985:22). Therefore, shelters were organized collectively with few rules and regulations. Decisions were reached by consensus. There was minimal specialization of tasks, each staff member did a bit of everything. Staff were deliberately chosen on the basis of their "ability to empathize with women in crisis" and "relevant life experience" which included: "having been a single parent, and/or having been involved in working with women or children" (Barnsley, 1985:22). Today, shelters are institutions. The staff is hierarchal in organization with separate duties and most are hired on the basis of formal educational credentials and professional qualifications (MacLeod, 1987:56).

The transformation of the sheltering movement cannot be blamed entirely on state intervention and reliance on state funding. It also had to do with a multitude of other factors including: the overwhelming demand for services, personal

preferences of battered women regarding the kinds of services that they wanted, internal conflict within the battered women's movement itself and the need for community acceptance. However, the role of the state in the transformation is still very evident. Beaudry's discussion of the PQ involvement in the battered women's movement in Quebec is a perfect example of the manner in which the state has taken control of the issue--defining it and managing it on its own terms. In 1980, feminist organizations in Quebec demanded that the PQ address the problem of wife abuse. The government's first initiative was to hold a series of regional conferences for "professionals". Its second initiative was to target the sexual assault centres as "radical," and attempt to refuse all grants to crisis centres dealing with sexual assault of any kind. Faced with the anger of the feminist community, the PQ then withdrew its plan (publicly) and instead refused subsidies to many houses without clear explanations as to why they were not eligible. The government instituted training courses for the personnel, set up boards of directors for every house, insisted that statistical data must be available on every "client" on proper social service forms and that women be charged for using the shelters (Beaudry, 1985:27).

In other cases, governments have cut off funding to feminist-oriented organizations and awarded contracts to non-feminist organizations. An example of this is Transition House in Vancouver (one of Canada's earliest wife abuse shelters). In June of 1985, the Vanderzalm government stopped funding

Transition House and called for contractors to submit proposals for services. Two months later, they offered the contract to the Salvation Army (Van Loon, 1985:13; Parlee, 1986:6).

### Internal Conflict

Morgan (1981) argues that the contradictions existing within the movements themselves provide the greatest openings for cooptation by the state. Within the battered women's movement, there were contradictions and conflicts between the various organizations, between workers within organizations and between workers and battered women. Disagreements centered around rural/urban, class and race differences; ideological clashes and generation gaps. Although wife battering occurs in all classes, the reality is that most women who seek shelter are poor and working class and most shelter workers are white and middle-class (Morgan, 1981;25). Feminist shelter workers have often played the role of all-powerful mother in designing a program for, rather than with, battered women. Although shelters were supposed to be "free space" for battered women to consider their options, workers often stressed arrest and divorce in their writing and political work (McGrath, 1979:26). The distance between shelter workers and battered women is highlighted by MacLeod:

Battered women were not always prepared to support the simplistic "bad man-good woman" assumption at the basis

of most crisis responses. Battered women did not always want to support a service and crisis response network which gave support to her as an individual but did not offer support to the batterer, to their children or to their relationship. A surprising proportion of battered women kept returning to their husbands/partners, despite the brutality of the relationship. Battered women rarely blamed the batterer totally. Battered women wanted to talk about relationships. Battered women spoke of the illogic of relationships. Battered women wanted to talk about love...did not always see themselves as "battered women", did not always accept the idea that they are somehow different from other women or even that their experiences are so far apart from those of other women...(1987:4).

#### The Limits of Pragmatic Feminism

Perhaps the early ideals of the battered women's movement were unrealistic and unworkable. Certainly, they were unworkable in a movement which targeted state funding as the primary goal. Furthermore, there is evidence that battered women preferred the efficiency of professionally-run shelters to the confusion of feminist organizations and felt more comfortable in an environment which reinforced the personalized traditional view of the problem held by most battered women themselves (Morgan, 1981:33). There was and is the reality that feminist groups could not and cannot fulfill the overwhelming demand for shelters and services.

However, the existence of all shelters is constantly threatened by government cutbacks and reallocation of resources. What happens when wife abuse is no longer a "hot" issue? The

history of wife abuse reform is one of *intermittent*, not constant public concern.

Furthermore, the loss of a political movement dedicated to changing the material conditions of women's lives and challenging male dominance and violence is a serious loss. Even state-of-the-art shelters can not prevent wife abuse.

#### Chapter Four: Policy, Politics and Power

Chapter Four profiles the battered women's movement in Manitoba as an example of the feminist/state struggle over wife abuse. I focus on a particular issue which illustrates this struggle -- the directive to charge and its consequences. Twenty-four women working in the battered women's movement were interviewed for this chapter. Their interviews were meant to provide an understanding of how feminists perceive the state, its usefulness to them and the political strategies used in working with and/or challenging the state.

#### The Manitoba Directive

On February 11, 1983, the Attorney General of Manitoba directed police to lay charges in all reported cases of spouse abuse where there were reasonable and probable grounds that an assault had taken place. Prior to this directive, victims of what the police called "domestic disputes," usually had to request that charges be laid against their attackers. Technically, the new directive meant that "spouse assault" would be treated like any other assault with charging decisions and responsibilities left to the criminal justice system rather than to the victim.

Two similar directives had been issued previously in Canada: London, Ontario in May of 1981 and Calgary, Alberta in November

of 1982. However, these directives were undertaken by the city police departments and did not result in changes in legislation. Manitoba was the first Canadian province to legislate this mandate --a move which gave it more stature in the community as a symbolic representation of government concern and commitment. The Attorney General's directive was largely due (if not directly due) to pressures from women's groups, especially the Manitoba Committee on Wife Abuse.

As a result of the directive, 3,673 assault charges were laid in 1983 as opposed to 2,458 in 1982. This increase was more than double of that experienced between 1981 and 1982 (Ursel and Farough, 1986:172). The increased charges meant that more wife abuse cases came before the courts. One year later, articles began appearing in the media with such titles as: "Backlog in court tied to wife-beating policy: Judges, lawyers fear system misused in many cases" (Winnipeg Free Press, May 17, 1984).

Two judges publicly criticized the directive. One argued that "the statistics show that the problem of wife abuse does not have to necessarily be dealt with in the courts. The courts are probably being improperly used in a good many cases...The whole matter should be reviewed to see whether or not more discretion should be turned back to the police to deal with the cases on an ad hoc basis" (Winnipeg Free Press, May 17, 1984). The other stated: "It is not the right of people to keep abusing the public services of the police, the Crown and the courts to advance whatever their particular little interest may be...and that's

exactly what's happening in so many cases. I can't count them" (Winnipeg Free Press, May 17, 1984). Defense lawyers were also critical, complaining that the policy was unrealistic and ruined marriages.

While it is not clear how representative the vocal judges and lawyers were of their peers, given the discussion in Chapter One concerning the social character of law and the prejudices carried by those who interpret the law, it should not be surprising that many in the legal system would object to an increase in what they perceived as family and social work issues in the courts of law. Nor is it surprising that the victim is blamed and the problem of wife abuse poorly understood.

Crown Attorneys and the police defended the mandate (at least in the media). The senior Crown Attorney said the "policy [was] working because police arrest and detention effectively diffuse a potentially dangerous situation in the home" and that the percentage of convictions was not "a reliable guide to the effectiveness of the policy" (Winnipeg Free Press, May 17, 1984). Although the Acting Crime Superintendent from the Winnipeg City Police sympathized with the practical problems experienced by the court, he argued that removing the policy would "be a step backwards" and added "We have to see the victim's side of the story too. This is not a black and white issue" (Winnipeg Free Press, May 18, 1984).

Women's groups responded to the judges' comments in anger, stating that they showed "an ignorance of the complexity of wife

abuse and a glaring insensitivity to the issues" (Winnipeg Free Press, May 22, 1984). The Manitoba Action Committee on the Status of Women told the press that: "Not to charge wife-batterers is to say that it is not as serious to beat your wife as it is to beat the clerk at the 7-Eleven store" and that abused women would start cooperating with the legal system once it started offering them support systems (Winnipeg Free Press, May 18, 1984).

The public appeared to agree with the government and women's groups. The 1984 Winnipeg Area Study found that 85% of those surveyed either strongly agreed or agreed with Penner's action. Only 6% disagreed with the policy (Ursel and Farough, 1986:180).

While the mandate may have been a step in the right direction, it could not begin to deal with the many complicated issues surrounding wife abuse. The editorial of the Winnipeg Free Press claimed that the Attorney General's approach to wife abuse was "simple-minded" and had resulted in "a year of failure":

A complete policy for the defence of battered wives must give them economic options, counselling and psychological support. It must spread the word that women should not feel guilty about having been battered...Mr. Penner's program has mocked battered women. Here he is offering to punish their assailants and they, silly creatures, are failing to make use of his help. But they know better than he the difficulties they face. He should have another go at it (May 22, 1984).

There were to be more consequences of the directive than just a backlog in the courts. In August of 1986, a woman from

Portage la Prairie was charged with contempt of court and jailed for refusing to testify against her attacker. The judge presiding in the case declared that the woman had caused a great inconvenience to the court by refusing to testify. The Crown commented: "How do you counsel somebody who doesn't want help? This may sound callous, but as long as she's in jail she's not getting beaten up" (Winnipeg Free Press, August 29, 1986). The incident seemed to embarrass the Attorney General who called it a "sticky judicial problem" and recommended a lesser sentence: "Our policy is the protection of women. We don't want to be in a situation where someone is twice victimized" (Winnipeg Free Press, Sept 6, 1986).

Yet two years later, two Winnipeg women were jailed for refusing to testify. Women's groups were furious, asking: "what is happening in our system when this is the only response we can give?" (Winnipeg Free Press, February, 25, 1988). The new Attorney General defended the court's decision stating: "the new system creates an obligation on the part of the victim to testify...we don't want to go back to the old system where the attacking spouse can say: 'If you don't show up in court, nothing will happen.'" (The Winnipeg Sun, February 25, 1988). On the other hand, the government admitted that the charges were a mistake and had been laid without the prior approval of a senior department official (Winnipeg Free Press, February 25 and April 14, 1988).

### The Interviews

The remainder of this chapter is an analysis of interviews conducted with women who, as workers and/or activists in the battered women's movement, were a part of the debate concerning both the surface, i.e., apparent issues: the directive, victim non-cooperation and contempt of court charges, and the underlying issues -- issues which have been discussed throughout this thesis -- the nature of the state and the women's movement, their involvement with wife abuse, their relationship with one another and their ability to effect social change.

The interviews deal with the respondents' perceptions of these issues based on their experience in the battered women's movement. Although I set the parameters of the interviews by the kinds of questions asked, the questions were open-ended and exploratory so that the respondents defined the issues themselves.

The women were interviewed during the summer of 1988. My own experience in the women's movement provided me with some initial contacts and from there, I was able to obtain the obtain the names of additional women.<sup>37</sup> The interviews ranged from 30 to 120 minutes. The average interview took 60 minutes to complete.

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<sup>37</sup> I am indebted to Jane Ursel for her help in this regard.

### The Sample

Interviews were requested with 25 women. One refusal resulted in 24 interviews. The nature of the interview questions dictated that I choose women who had spent some time in the battered women's movement. Their experience in working with wife abuse ranged from 3 to 19 years and averaged 7 years. Many of the women had also worked in more than one wife abuse organization and/or had been active in the women's movement in other capacities. The women represented 20 different organizations in Manitoba.

Seventeen women described themselves as feminists. The question: "Do you define yourself as a feminist? If so, what does that mean to you?" is a difficult one because the label means different things to different women. I used the label because I wanted to have some indication of their loyalties and affiliations with the women's movement. If a very common definition of feminism (having an understanding of women's oppression and working towards ending that oppression) is used to analyze their answers, only one woman who did not define herself as feminist could be described as non-feminist. Of the remaining six, two described themselves as "humanists," two as "holistic" and "spiritual," one said she believed in equality but didn't have a clear definition of what a feminist was, and one said she was a professional who didn't use the term for practical reasons.

### Is Wife Abuse a Feminist Issue?

Ten women gave an unequivocal yes as their answer to this question. Their answers mirror the feminist definition of wife abuse described in Chapter Three. They argue that the "oppression of women is the root cause of wife abuse" and describe the problem as a "product of unequal power relationships" with historical roots. Wife abuse occurs today because "women are still seen as the possession of man" and because "society allows it to happen." There was the recognition that the early feminist movement publicized the issue. One woman commented that "everything is a feminist issue."

Fourteen woman thought that the term "feminist issue," wasn't broad enough to describe wife abuse and tended to present the problem as one concerning only women or feminists. They argued that wife abuse was also a: community concern, political issue, global issue, holistic problem, human or humanist issue and a societal issue. One native woman said that she did not define wife abuse simply in terms of gender inequality: "It's also a problem of being a colonized people. Abuse against women was not a native norm. It's part of the colonization that has led to family disintegration and a displaced people."

What is the State and Am I a Part of It?

The typical answer to my question: "When I say 'the state' to you, what do you think of?" was that the state was comprised of government and the criminal justice system. Only five women felt that all institutions within our society were a part of the state. These women also defined the state in terms of social relations as well as institutions.

I asked the women to consider whether professional agencies were a part of the state because I was interested in knowing how many of the women felt that **they** were actually part of the state. Of the fifteen women who answered this question and worked in a professional agency, only three said that their agency **was** part of the state. In their reasoning, the remaining twelve women distinguished between institutions which they perceived as a part of the state and those distinct from but influenced by the state. They argued that only those agencies whose mandate came from the state were actually a part of the state. Most of them agreed, therefore, that Child and Family Services was a part of the state while an organization such as Klinik was not. They felt that the following characteristics "protected" an organization from undue state involvement: (1) having its own philosophical base and training models, (2) having a separately constituted board, (3) close relationships with the community and (4) being non-profit and using volunteers.

They argued that their agencies were "challenging" the state "to change what the state has done." Said one woman:

Professional agencies don't have as much power and influence (as government and the criminal justice system). They are closer to the community than the police or courts. That means we have less concrete power. We aren't the people who directly make changes. We can lobby, demonstrate etc., and influence in that way but to a certain extent, it is out of our hands.

Another woman stated: "they (agencies) are servants of the state and have to be accountable but that doesn't necessarily mean subservient to. They can still effect change."

The issue of government funding discussed in Chapter Three was not seen as a problem for six of the women. They argued that government funding did not compromise an organization: "Being responsible for money doesn't mean that you are part and parcel of the state," and "I draw a distinction between state control and state funding. The only thing the state needs to control is the criminal law." Others disagreed: "At \_\_, the funding gives us stability and legitimacy but our politics have become middle of the road. We have had to give up our political voice. Then of course, you have to change when the government changes. The government is good at the carrot and the string."

#### The Mandate

All of the women were supportive of the mandate although some were very positive: "I saw it as a major coup" while others

feared that it would accomplish little. Moreover, thirteen women acknowledged that the mandate had produced some very negative consequences.

For all of the women, the mandate was essential as a symbolic statement and a message to the public and offenders that wife abuse and violence against women in general, was serious and criminal and would not be tolerated by society. But had the mandate made a difference to the processing of wife abuse cases? Was the criminal justice system responding to the mandate as it was intended? The respondents' answers to these questions (discussed in the following three sections) were very mixed.

#### Police Behavior

Nineteen women felt qualified to comment on police attitudes and behavior before and after the mandate. Fourteen said that the mandate had made some difference to police behavior as witnessed by increases in charging by both the Winnipeg police and the R.C.M.P. Not surprisingly, the respondents perceived large discrepancies in how individual officers and districts responded to the policy. Generally, the city core areas were seen as most responsive while outlying areas and very middle-class areas were least responsive. Two respondents felt that younger officers were more responsive and six said that police still were not receiving adequate training.

Two women argued that changes in behavior did not reflect changing attitudes: "They don't have an analysis really, it's just more paperwork for them." One R.C.M.P. member told a respondent: "We charge because we have to but we don't think we should."

The remaining three respondents said that the mandate had made no difference in behavior or attitude. They argued that law does not change attitudes and the mandate had in fact, made the police more resentful. One claimed that there was not and would not be any change with regard to the native community which police regarded as "all drunken Indians anyway."

All respondents feared that victim non-cooperation was going to erode the fragile base of support for the mandate held by the police.

#### Judges, Crowns and Sentencing

Of the twenty-one women who commented on the implementation of the mandate by the legal system, fourteen said that the system was not responding to the mandate as it was intended. Seven said that there had been some positive response and some crowns and judges were making a definite effort to understand the issues and come to terms with the mandate.<sup>38</sup>

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<sup>38</sup> In Winnipeg, a separate courtroom was set up and a judge and crown delegated to handle wife abuse cases. It was thought that this would result in a smoother processing of wife abuse cases and it probably was also a way of appeasing disgruntled crowns and judges: "When they were rotating (crowns) it was like

Thirteen women felt that the majority of judges and crowns had little or no understanding of either the complexity of wife abuse or the danger that some abused women faced. One respondent explained:

The policy is in many ways, a marriage of law and social work and judges and lawyers are totally unprepared for this...remember that these people have gone through law school socialization, are the accomplishment oriented sort of people and in a sense 'male' even if they're not men. These women who won't cooperate just blow them away...It's easy to do victim blaming if it's not from your experience.

Other women claimed that training or education for crowns or judges was extremely difficult because judges were like "the untouchables" and both "crowns and judges see themselves as extremely busy so it's hard to get them into training. Also they 'know everything' right?"

All women agreed that the sentencing was inconsistent at best and at worst, "awful." The most common complaint was that the sentences were far too lenient and did not fit the crime. There were other complaints as well: that there was "still too much game playing between crowns and judges," offenders were sent off to alcohol rather than abuse counselling, children were taken away from homes because "well if you can't protect yourself, how

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'oh god, I've got to do this for the next few months'" and cutting down on "improper" comments to the media. Of course, the designated court did not apply to cases outside of Winnipeg and there was a problem with getting Winnipeg cases into wife abuse court -- any cases involving custody for example, had separate hearings.

can you protect you children?" and women were being charged with contempt of court for refusing to testify.

In short, the majority of the women (N=14) felt that the mandate had no effect on the outcome of abuse cases: "In reality, they're bringing men in, not having a hearing for seven months and giving them probation." Respondents said that while some abused women were satisfied with the system in the initial stages, in the end "no woman I have talked to said that she would go through the system again."

#### Government Responsibility

The respondents did not place all of the blame on the actors within the criminal justice system. There was an awareness that the legal system is not structured to handle problems such as wife abuse in an innovative way. Respondents said that the legal system was as "inflexible" and "cut and dry" as it was "male-dominated" and that criminal law was perhaps too "blunt an instrument" to use on such a complex issue. However, all but two of the women believed that there was some potential in using the legal system to effect change and that it was the responsibility of the government to exercise that potential and make changes where they were needed.

The women criticized the government for implementing the mandate "in isolation" -- without surrounding it with support systems for battered women. While the government-run Women's

Advocacy program<sup>39</sup> was praised for its work, respondents argued that it could not handle the problem on its own. Winnipeg needed a system similar to the one in Minneapolis "where everything is plugged in for the woman" or a crisis response team similar to that in London, Ontario where the team works with police from the initial call and immediately connects both victim and offender to various networks. Respondents said that in the current situation "there is too much time that passes between the incident and the trial. That has a psychological effect on the women." As for the offender, "no body talks to the batterer for the four months before the trial except the defence. So of course, they slide into denial."

Government was also held responsible for a lack of funding and resources for services, shelters and second stage housing. All respondents said that there was never enough money for services and housing which ran on shoe-string budgets. Two women said that they were tired of media blitzes announcing government funding for wife abuse services which never materialized:

...it's crap about the government giving us all of this money and shelters etc. They give us no operating funds. When I worked in \_\_\_\_, the media contacted me and said 'isn't this wonderful, the government announced that you're going to be getting all of this money.' I said 'yes it's wonderful.' But the money never arrived. Then the people who support us read in the media that we've been given all of this money, assume we're okay and turn to another issue.

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<sup>39</sup> The Women's Advocacy program was set up in May of 1986 and offers legal information and short-term counselling to battered women.

Another respondent said that it had been very convenient for the federal government to get out of funding obligations by passing the responsibility to the provinces, often knowing that the province would not take up the slack: "...So we got started and then the feds threw out the money. That's our history. Drop the money and then tell the provinces to pick it up. If the province won't, you're stuck."

There was also acknowledgement among respondents that the problem was bigger than one of support systems, speeder trials and more government money: "There is no one solution to this problem. We need to change the system and we need to look at and change the other systems around this system which keeps women dependent and oppressed." And, there was suspicion that the government was using the mandate for its own purposes: "Through the directive, the state has given us the illusion that something is being done."

#### Conflict With the State

All of the women in sample were involved with the state to some degree. The reasons that these women gave for working with the state are variations on the following:

The government is the only one with the power of the law to define issues as criminal and intervene. The state is the only entity with the financial resources. The state is the material embodiment of the community. The community has to take responsibility for what is a social problem.

However, the majority of women (n=14) were cognizant of conflicts and/or contradictions which may arise when feminists (or any other minority) choose to work with the state and encourage state involvement in the issues which concern them. From their responses, the areas of conflict fall into one of two categories: those dealing with the nature of the state and those surrounding state "management" of wife abuse.

Three women described the state as homogeneous and inherently violent and patriarchal. For these women, it was a major contradiction for feminists to work with a state "established on the use and abuse of that (patriarchal) power." One woman argued that non-feminists and "some women who called themselves feminists" regard "the state as being the almighty father and forget that the almighty father is the rapist and has never provided."

The remaining eleven women disagreed, stating that the state was patriarchal but perhaps not inherently so: "The state is unbalanced towards the status quo but we don't know where it's going to end. Feminists tend to view the state as homogeneous. It's not. We have to manipulate its divisions," "the state doesn't inherently have to have limits. In reality people set the limits," and "Yes I think there is some 'give' in the state, it's not inherently sexist, partly because of some of the women going into it."

In terms of state management of wife abuse, the respondents raised many of the issues discussed in Chapter Three. Six women

expressed concern that "the battered women's movement was taken out of the grassroots," and had become "fragmented" -- losing its "strength" as a "movement dealing with violence." One woman saw limitations in the government definition of what constitutes an abused "wife": "the government still defines wife abuse traditionally -- those heterosexual women with serious injuries. This misses a lot of people."

Five women worried about the possible consequences of excess "professionalization": "I have concerns about the professionalizing of services. I think you lose compassion and don't look at the complexities and I definitely don't believe that psychiatrists are the best people to be handling these issues or that the only way to go is with the court." One woman said that even the volunteers had become professional: "I've noticed that the volunteers have changed and that changes an organization. Eight or even five years ago, volunteers were saying that they were just here to help women. Now they're also here for their resumes and they don't want to stick their necks out." One woman said that "standardization" of services can also be a problem: "some standards are good, for example, services for x number of miles but it's not good if it's just the cheapest way to do it and ignores uniqueness."

The manner in which the state provides funding is seen as a serious problem by all women. Shelter workers are poorly paid and because of that, the turnover is very high. Money is available in job funds but the grants are for untrained people

and respondents said they were caught in a cycle where they trained people, had to let them go when the grant ran out and then started all over again. Three women felt that the constant shortage of funding for services led to competition and serious divisions among agencies dealing with battered women: "...you have a number of groups doing fabulous work and the government saying we have x number of dollars, putting us in competition with one another" and "Everyone wanted government money. It was a struggle for who could speak the hardest and manipulate contracts."

Finally, women expressed concern that the nature of government commitment towards the battered women's movement was short-term. What will happen when wife abuse is no longer a "hot" issue?

#### Internal Conflict

I asked the women to address conflict or disagreements between: (1) feminist and non-feminist organizations, (2) the various feminist organizations and (3) members within organizations, with regards to the specific issues of the mandate and victim non-cooperation and the more general issue of state involvement in wife abuse and other "feminist" issues.

The women focused their responses on conflict or disagreement between organizations (there was debate over whether

some organizations could be labelled feminist).<sup>40</sup> There seemed to be very little conflict over the specific issues. The women were generally in agreement on the positive and negative aspects of the mandate. Twenty-one out of the twenty-four women agreed that uncooperative victims should not be prosecuted. These issues did not generate emotional responses from the women. What did generate emotion, were conversations around funding/ideology and strategy within the battered women's movement in Manitoba. I did not ask these questions directly but my questions on state involvement indirectly concerned all three of these components and seemed to provoke the responses.

It is clear from the respondents that the conflict centered around the Manitoba Committee on Wife Abuse (MCWA) and its interactions with other wife abuse organizations. Although all respondents mentioned the conflict, only eight provided me with enough information for an analysis.

The MCWA was set up as a central agency for wife abuse in the province with a government mandate. This caused a great deal of resentment as the Committee was perceived fairly or unfairly as "empire building" and trying to take control of the issue and of other organizations: "The MCWA would like complete and utter control. It wants to be 'the agency' in our province."

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<sup>40</sup> The focus may be partially due to the bias of experienced workers/activists in my sample. If I had talked to volunteers, for example, the focus may have been on confrontations between the board and volunteers or staff and volunteers.

Funding is again an issue here. Other organizations felt that the MCWA received too much money and were very aware that the staff at MCWA received higher salaries than workers from other organizations.

However, not all of the conflict can be attributed to structure and government funding. The perceived ideology and strategic style of the committee certainly played a role in the conflict. At least six respondents clearly saw the women at the MCWA as different from themselves -- they were described as radical to the point of naivete, "man-haters" and ironically, "anti-state": "they are the government but they hate the government." The respondents felt that these attitudes were inappropriate for women employed in a state-run institution and made negotiation with government and the criminal justice system that much more difficult. They also argued that the MCWA made the entire battered women's movement "look bad" in the eyes of the public and the communities from which their own organizations needed support. Said one woman: "I think those marches at the legislature jeopardized the work being done. It was seen as non-progressive, 'girlie games' and there was mockery and laughter." Another woman claimed that the committee jeopardized rural liaisons: "75% of them were lesbian. After training sessions and workshops, they would be all hugging and kissing each other and it blew rural people away."

There were other allegations, but suffice to say that the relationship between the MCWA and other organizations did not

improve, "centres started pulling out" and angry letters were sent to the government. Eight respondents predicted that the government could not continue to fund or support the MCWA. Approximately two months after these interviews, the conservative government (the MCWA had been set up by the NDP) cut off funding to the MCWA citing a duplication of services, a deficit of \$40,000 and internal problems (Winnipeg Free Press, August 24, 1988).<sup>41</sup>

In view of the discussion in Chapter Three, it should not be surprising that funding for the now defunct MCWA was to be used for services in the province rather than lobbying efforts. Many of the respondents would no doubt support such a move, especially since services were in such dire need. However, reaction would be mixed among those women who were especially concerned with the possible consequences of state involvement and the strength of the battered women's movement as a whole, as the demise of the MCWA left Manitoba without a political association of shelter workers.

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<sup>41</sup> The MCWA also experienced a major dispute between the board and volunteers in December of 1987. The volunteers resigned en masse when the board of directors required that the volunteers, staff and board swear an oath of allegiance to the board and vow never to reveal confidential information or face temporary or permanent dismissal as well as court action. The media was fully involved at this point, the headlines of the Winnipeg Free Press editorial declaring: "Replace these Squabblers" (Winnipeg Free Press, December 23 and 24, 1987 and February 10, 1988).

Towards a Feminist Strategy

None of the women in my sample had a purely liberal notion of the state because none of them saw the state as neutral or objective. I suspect that feminists involved in issues where state involvement and the nature of state involvement is not so obvious would be more likely to have a liberal analysis. For all of the women interviewed, the patriarchal aspects of the state were clear -- they did not have that "invisible" or "unnamed" quality as discussed in Chapter One.

Ten women were liberal in the sense of their dependence on and faith in the legal system to effect change. For them, legal change was the only permanent change: "We have to work within the structure and change laws that are going to last so we can have permanent change." I found this response surprising in light of the current controversy over abortion. Clearly, the abortion issue indicates that law is a changing process and that legal rights do not have permanent guarantees attached to them.

I also found that these ten women tended not to dwell on whether or not their strategies could be considered "politically correct." In other words, unlike the early feminists discussed in Chapter Three, they did not seem to feel that there was a link between the method or process of obtaining change and ideology: "It all depends on how you package it. I don't care how you sell it as long as you sell it" and "When we apply for funding, we use

reasons that we know they want to hear. It may be cynical perhaps."

The mirror opposites of the women described above, were two women with a radical feminist orientation. These women reflected the radical feminist analysis of the state as described in Chapter One: the state is an instrument of patriarchy -- the class "men." These women did not believe it possible that the state could effect any long-term change. They were not critical of feminists who worked for the state (they did themselves) but they saw this work as a short-term bandage approach to the problems of women and they were critical of the process: "why should we go through that to end up here? There are other ways to do it." They felt that the "fear of creating the new and letting go of security, i.e., funding, familiar philosophies and roles. The fear of change" was a serious problem for feminists and an obstacle hindering "real" social change. These women had solutions -- empower women and create new structures, but both were vague on what this meant and how they were going to do this. One said that she would not tell me, implying I guess, that it was an underground secret.

The remaining twelve women were critical of the state, at the same time thought it important to work with the state but were also very aware of the consequences of doing so. In short, they reflected all of the dilemmas of feminist strategy discussed in Chapter One.

They differ from the radical feminists in that they were not willing to concede that either the state was inherently patriarchal or could not be used for long-term change: "The state is unbalanced towards the status quo but we don't know where it's going to end...All contingencies are not controllable by feminists but they're not controllable by the state either. Feminists should be crafty strategists open to a variety of ways of using the state."

Unlike the more liberal feminists, these women view legal change as only one in a series of needed changes. While critical of the current criminal justice system, they were also patient: "We're constantly fine-tuning, refining the process. You can't make just one adjustment...for every action, there's a reaction. Law is just one of those systems to keep whacking away at."

In terms of the method or process of effecting change, these women were critical of the "all powerful mother" syndrome—the tendency of feminists to dictate their values to their "clients": "The agenda of crisis workers is not empowering to women to stuff philosophies down someone's throat" and "I think that there is a difference between a feminist orientation for the client and having a feminist philosophy in general. I think that it is inappropriate to try and convert the client. It's just like I don't favor church-run groups of this kind."

The tension for these women seemed to be between supporting a "practical" approach to the state: lobbying, educating, handling the media, involving influential people in their issues,

understanding bureaucracy etc., and "trying to set up a different relationship with the state" in order to establish a situation where women control the agenda (or at least some of it) and where issues of concern to feminists are grounded by women and the women's community.

### Conclusion

A partnership between the women's movement and the state seems to be a contradiction in terms. As an ideology, feminism arose as an alternative to the status quo. As a social movement, its reason for being was to change the system which it deemed harmful to women. The state is of course, a major (and some would argue, the major) actor in that system. The question arises: can a movement which is out to challenge and transform the state actually work with the state and be successful in effecting social change.

Despite any apparent contradictions, feminists have always worked with the state on the issues which concern them. I chose to examine this extraordinary relationship through the issue of wife abuse. Other issues also come to mind: abortion, rape and pornography for example, any one of these could have been used. But wife abuse is an ideal subject because of its lengthy albeit intermittent, history of state and feminist concern and involvement.

Reform movements around wife abuse have nothing to do with actual increases in the incidents of wife beating. They are always a response to socio-economic conditions and other social movements. This thesis examined two periods of wife abuse reform: the English, American and Canadian campaigns during the nineteenth and early twentieth centuries and the contemporary period beginning in the late 1960s. Between these two periods,

there were no movements toward wife abuse reform in either North America or Europe.

In order to understand the interaction between the state and the women's movement, we have to know something about the nature of the state. We often use the term "the state" without a clear understanding of what the state is and how it operates. Any strategy regarding the state and its usefulness in effecting social change must consider the nature of the state and questions of state autonomy, capacity, unity and conflict. I argue in this thesis, that regardless of which institutions we decide are a part of the state, all parts of our lives are structured and governed by state relations. In Western democratic societies, state relations act in ways that can be considered patriarchal, capitalist and racist. However, this does not necessarily mean that the state (or all parts of it) are inherently any of these things. We do not know the degree to which these systems of power influence and limit the state.

The state is not an homogeneous block. There is conflict as well as unity within and between state apparatuses. The state is actively engaged in struggle all of the time from both inside and outside of the state and is vulnerable to social pressure. I argue, that since the limits of state autonomy and power are unknown, feminists who wish to struggle with the state must push the state to its limits. I also argue that theory alone cannot adequately explain the nature of any particular state. An

historically grounded discussion of the state and its relationship to political struggle is needed.

The state has been a powerful actor in shaping the history of wife abuse reform. In Victorian England, it was the state rather than feminists or other social reformers, which first declared wife abuse a social problem and initiated reform. This did not happen for feminist reasons. Legislators and law enforcement officials decided that men who beat their wives were also common criminals and a menace to English society. They allowed state intervention in the family when they felt it was necessary for social control.

In the contemporary period, the state has become increasingly interventionist in all "social issues." Although the contemporary women's movement "rediscovered" wife abuse and brought it to the attention of the state, the state has taken control of the issue -- defining it and managing it on its own terms.

The early feminist vision of the "ideal" shelter was based on the collective model: few rules and regulations, decision-making by consensus, a minimal specialization of tasks, and a staff chosen on the basis of their ability to empathize with women in crisis. The "ideal" shelter was also to promote feminist ideology in that it was set up not only to provide protection but also to "empower" battered women. Today shelters are institutions. They have become de-politicized, bureaucratized, individualized, medicalized and professionalized

social service agencies. And, many feminists would argue that they protect the family unit rather than empower women. Yet at the same time, the involvement of the state in wife abuse has resulted in increased services to battered women and a facilitation and legitimation of the issue that feminists could not have achieved on their own. There have been reforms -- legal and otherwise.

The question here becomes: "if reform happens, does it matter why it was initiated?" and "is the process of reform as important as the reform itself?" Many contemporary feminists have argued that reform initiated for non-feminist reasons will be ineffective and continue to oppress women in some fashion and that process is political and cannot be separated from ideology. However, feminists face a significant dilemma: the state is the only entity with the financial resources to help women and it is the only vehicle with the power to reach the majority of women.

This dilemma was not as significant for the Victorian feminists, as they often defined social problems in a similar manner to the state. Although some of the more radical women in England and America linked wife abuse with social notions of women's inferiority and laws and traditions which allowed a husband to own his wife as property -- feminists did not differ from the state or the middle class in viewing wife abuse as mainly a problem of the working class, the immigrants and the "drunkards." All feminists (including the more radical women) also had a liberal analysis of the state and therefore, accepted

both state management of the issue and its process of effecting change through law and legislation. Yet, Victorian feminists did not allow the state the satisfaction of initiating reform and then considering the issue solved. They continued to push the state in order to sustain its interest in wife abuse and promote further reform. The English legislators would have been content to focus their energies on the male offender if not for the constant demands from feminists that they become involved with reforms concerning separation and divorce.

Examples of how contemporary feminists have dealt with the dilemma of state involvement in wife abuse and in "feminist" issues in general is discussed in Chapter Four. Most of the women interviewed argued that women have the right to state services and that women can use the state for their own needs. They also felt that women have to work within as well as outside of the state. Most rejected the radical feminist contention that everything the state did was automatically "bad" or that the state was inherently patriarchal. They saw their challenge as one of locating areas within the state where they could make changes and establishing a relationship with the state where they had some control over the agenda.

There is always the danger that limited gains provided by the state may deradicalize feminism. Yet, no radical movement survives with all of its principles intact. Its own members often question the initial principles and reject them. There is much evidence of this in the battered women's movement. Many

feminists came to feel that the original concepts just did not work and were often unfair to battered women, many of whom did not buy the feminist version of reality.

Battered women have played an important role in the feminist/state struggle over wife abuse. They have from time to time, refused to cooperate with either the state or the women's movement. Many have angered the criminal justice system by refusing to testify against their attackers, thus challenging the rules and obligations of the law. As a group, they have shown a preference for professionally-run shelters rather than shelters organized by feminists. Although they may be "victims" in a certain sense, they have also been a powerful influence on both the state and the women's movement and on wife abuse reform and policy.

There is no doubt that actions of the state continue in patriarchal, capitalist and racist forms. This thesis has also examined the manner by which patriarchy restructures itself in order to retain control in a liberal democracy. However, women have won important battles within restructured patriarchy. It is not helpful to deny the significant changes which have occurred during the feminist and state struggle to deal with wife abuse. It is also inaccurate to say that reform does not change the nature of the state. Reform does change the nature of the state. A state which provides shelters to battered women for example, is not the same as a state which does not. And, despite the criticisms of the directive to charge mandate in Manitoba, it

can also be seen as beginning to incorporate "female" (or what the courts consider "social work") values into legal institutions: a possible way of breaking down the sexual divisions within law.

On the other hand, feminists cannot hold to naive assumptions that reforms are permanent or that legal or legislative reforms are sufficient to change the material conditions of women's lives. The current abortion controversies are evidence of that.

## Appendix

### Interview Questions

1. How long have you been working with wife abuse?
2. Do you define yourself as a feminist? If so, what does that mean to you?
3. Is wife abuse a feminist issue? Explain.
4. Were you instrumental in pushing for the "directive to charge" mandate? In what way?
5. Do you agree with the mandate? If yes, why? If no, why not?
6. Do you think the police are treating the mandate as it was intended?
7. Do you think the legal system is responding to the mandate as it was intended?
8. Should uncooperative victims be prosecuted? Why or why not? If no, what should be done?
- 9a. In your opinion, is there disagreement between feminist and non-feminist organizations in regards to the mandate and the issue of victim non-cooperation? Why or why not?
- b. Disagreement within the various feminist organizations themselves?
- c. Disagreement between individuals within an organization?
10. When I say "the state" to you, what do you think of?
11. Are professional agencies a part of the state?
- 12a. How do you feel about government involvement in wife abuse?
- b. Professional agencies?
13. How do you feel about the involvement of these groups in "feminist" issues in general? Are there some feminist issues which should involve "the state" and others which should not?
- 14a. In your opinion, is there disagreement between feminist and non-feminist organizations in regards to this issue (re: state involvement)?
- b. Disagreement within the various feminist organizations themselves?
- c. Disagreement between individuals within an organization?
17. General Comments.

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