

IN AN ABUSIVE STATE

**HOW NEOLIBERALISM APPROPRIATED THE FEMINIST
MOVEMENT AGAINST SEXUAL VIOLENCE**



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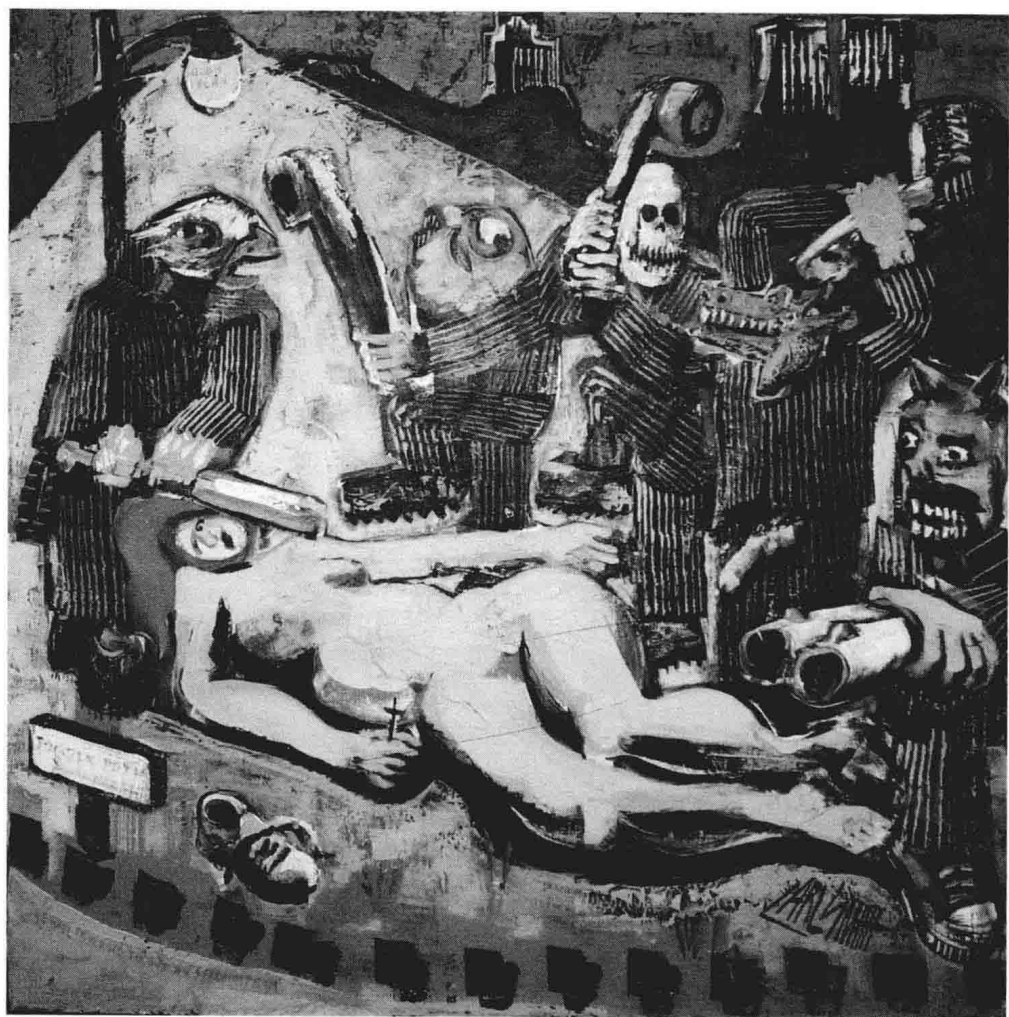
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for **Gabriel**

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PREFACE

The recent reversal of the convictions in the 1991 Central Park Jogger trials¹ redresses a shameful example of American injustice analogous to the infamous Scottsboro Boys trial, in which a group of black teenagers was convicted of raping two white women on a railroad train between Chattanooga and Memphis in March 1931.² Both events were accompanied by a public outcry for immediate “justice,” the incompetent legal defense of young, vulnerable boys, the failure of prominent national organizations to draw attention to their innocence, and long delays in the overturning of wrongful convictions.

Historians have long debated the reasons behind this dramatic miscarriage of justice in 1930s America. Many see the events as an outgrowth of racism in the Deep South that created circumstances that made it nearly impossible for black men accused of raping a white woman to get a fair trial. Others have cited the slowness of the NAACP to realize that these boys were innocent and to provide resources and draw national attention to the situation. And as was shown in the lengthy appeal process and retrials, these defendants were subjected to the vagaries of local politics and a corrupt local criminal justice system.

These are all undoubtedly important factors, but the Scottsboro Boys Trial and the modern equivalent in the conviction of the “Central Park Five” are agonizing examples of what Hannah Arendt called the “banality of evil”; injustices that come about when ordinary people, often acting as agents of state power, become indifferent to their par-

ticipation in violence and their role in the perpetuation of racism.³ In both cases, it is important not only to raise questions about the actual trials but also to investigate the role of ordinary conditions of culture, bureaucracy, and government that create the conditions for injustice.

In this regard, this book formulates an understanding of the contemporary political environment that produced the Central Park Case and, more generally, the increasingly coercive state reactions to crimes involving sexual violence. In part, this has arisen from a dominant construction of sexual violence as a “social problem” that emerged in the early 1970s.⁴ In the United States, awareness of the problem of sexual violence was accompanied by a phenomenal growth in the crime control apparatus, including increased prosecutorial power, mandatory sentences, and an unprecedented rise in prison populations. At the same time, sexual violence became important to the agenda of the “therapeutic state,” a network of professionals, social workers, and government agents providing service delivery to the poor and disadvantaged. These clients of the welfare state are predominantly women and their children who are afflicted with a high incidence of troubles that are of concern to therapeutic professionals, including domestic violence, child abuse, addiction problems, and other “dependencies.” As a result, the feminist movement became a partner in the unforeseen growth of a criminalized society, a phenomenon with negative consequences not only for minority and immigrant groups of men but also for those women who are subject to scrutiny within the welfare state.

This does not mean that either state power or feminist activism is monolithic in form. In an analysis of the politics of state action, it is important to differentiate between political ideology, governmental practices, instrumental policies, and the actions of individual actors. The power of the state emerges through highly diffuse forms of authority that influence people in everyday life and become constituted in citizens’ political consciousness. Likewise, the influence of feminism is found in grassroots movements, professional ideologies, academic thinking, and popular consciousness. In all these facets, feminist knowledge and practice is greatly contested and constantly in flux. There has been, however, an amalgamation of forces that has produced a dominant understanding of the problem of sexual violence and its causes and consequences. This prevailing understanding has solidified in cultural representations and has been ratified in a range of governmental and nongovernmental institutions.

Recently there has been increased concern among feminist activists about their problematic alliance with the state. There are three likely responses. The first and the most politically vehement is to call attention to state repression. From this perspective, the unjust verdicts in the Central Park case are simply another example of racist justice, media conspiracies, and police misconduct. Although this response correctly draws our attention to the fundamental importance of racism in American culture and criminal justice policy, it fails to look systematically at how the growth in the crime-control sector is part of a larger scheme of bureaucratic control over women and groups of threatening "outsiders."

The second response is focused on reclaiming personal autonomy for women. This view can be seen either as a powerful argument for women's agency, even under conditions of extreme duress, or, regrettably, in terms that contribute to the backlash against feminism. The social work theorist Linda Mills, for example, advances a forceful argument about the need for women to exercise absolute choice over decisions affecting their safety and their lives in order to protect themselves from all forms of professional intrusiveness.⁵ She calls for the end of mandatory arrest policies in the case of domestic violence and moving away from policies that isolate perpetrators from victims. Her alternatives, which rely on community-based dispute resolution, are based upon a fundamental presumption of the universality of violence in relationships. She points to evidence indicating that women are as violent as men in intimate relationships and concludes that the feminist victim/perpetrator model doesn't accurately describe the dynamics of domestic violence.

Although Mills carefully avoids presenting her work as an across-the-board attack on feminism, her scheme is not compelling in the face of overwhelming evidence about the distinctiveness and extreme brutality of violence against women. Mills's portrayal of the intrusiveness and often counterproductive role of therapeutic professionals finds strong support in this book; however, it is also important not to glorify women's opportunities for choice and ability to exercise autonomy given unequal power relations with perpetrators and the influence of therapeutic knowledge. Putting the dilemmas encountered by victims in a broader perspective is necessary to make clear how the professional treatment of battered women is endemic to contemporary conditions of citizenship and often arises in the context of women's dependency on the welfare state.

And finally, the loose coalition of feminists most involved with programs and policies, including academics, activists, and service providers, clearly sees contradictions and failures in practice but is not well positioned for self-criticism. Already overwhelmed by women's need for safety and redress, the movement devotes much of its energy to keeping their current services operational in the face of declining support for all social welfare programs. Nonetheless, it has been feminist policymakers and researchers who have conducted most serious studies of the effectiveness of programs. Yet much of this work remains silent about the overall negative consequences of criminalization. Within mainstream feminism and its activist organizations there is also little critical reflection about how feminists pose sexual violence as a "social problem." In particular, the early efforts to make clear that rape, battering, and other forms of sexual abuse are "violence" and "not sex" has led to entrenched understandings of the causes of violence, the social dynamics of racism and gender, and the potential solutions.

This book takes another tack. *In an Abusive State* examines the ways in which society has defined sexual violence as a social problem and how this creates policies that reinforce stereotypical assumptions about women's dependency and the character of intimate violence. In part, this analysis stems from interpreting the symbolic representations of sexual violence in contemporary society and how these representations are reinforced in some of the most well-known rape cases of the recent past. This book also shines a critical light on how the large-scale expansion of legal and governmental efforts to counteract the threat of sexual violence has transformed the everyday relationships between the state and women as both actual and potential victims. It reveals how the now commonplace practices of responding to cases of rape and domestic violence promote *problematic* state control over the disrupted lives of victims. In this regard, strategies employed to help victims of sexual violence are narrowly focused on individualistic forms of problem solving rather than seeking a more comprehensive understanding of this phenomenon or counteracting other forms of domination in women's private and public lives.

This "new" look at this issue is largely made possible by an ability to examine the movement in *retrospect*—from a historical perspective, the motivations and actions of reformers can be seen in terms of the larger political forces that defined their engagement with the state. Despite contestation from both within and outside the movement, the

feminist campaign against sexual violence was driven by the logic of social reform; it pushed for new legal definitions of crime, swifter and surer processing of cases by courts, the investment of resources by social welfare bureaucracies, and ultimately the transformation of public attitudes. From this perspective, the lack of progress along the way was often viewed as the unanticipated consequence of social change. This book, however, calls for a reevaluation of the reformist goals of the movement and also examines how its prospects were changed by the growth of neoliberal state policies. It shows how the contemporary campaign against sexual violence is fundamentally shaped by dramatic shifts in welfare policies, incarceration rates, and the surveillance role of social service bureaucracies over recent decades.

The analysis presented in this book may not satisfy the reader looking for a pragmatic solution to narrowly framed policy questions; however, it offers much broader prescriptions for how to address the real threat of violence against women while building more vibrant, inclusive, and democratic communities. One clear piece of advice is that it no longer makes sense to single out violence against women as a specific issue for policymaking because there are advantages to seeing it as part of a larger project of enabling women to be more effective citizens. It is critical to “protect” women by removing the economic and social obstacles they regularly encounter rather than by expanding the capacity of the state to reproduce violence. The best means to counter a range of encroachments caused by the growth of bureaucracies and police power is by sustaining all citizens’ fundamental rights and dignity.

Chapter 1 provides an overview of the argument presented in this book. It describes from a historical perspective how the feminist campaign addressing sexual violence has evolved in alliance with the state. Chapter 2 considers how feminist ideology has transformed in the context of cultural anxieties associated with sexual terror. It shows how the issue of sexual violence, once placed on the public agenda, polarized gender- and race-based interests and fueled notions about the sadistic nature of this violence.

Chapter 3 looks at how the modern crime control apparatus has developed in response to demands on the state to assert control over sexual violence. The focus of this chapter is political trials involving high-profile crimes, in particular, the New Bedford and the Central

Park Jogger gang-rape trials. This analysis demonstrates how prosecutors' narratives about the crimes epitomize forms of expressive justice, where the trial becomes a forum to publicly affirm the law's capacity to maintain order.

Chapter 4 examines the routine forms of state control over sexual violence, particularly the development of a professional cadre of doctors, therapists, and social workers who increasingly assert responsibility for diagnosis, treatment, and prevention of sexual assault and family violence. It shows how these expanding forms of expertise about rape victims and battered women have the dual effect of transforming sexual violence into a treatable social problem, or medical condition, amenable to the norms of professional practice, while rationalizing the anxiety associated with often brutal and persistent violence between intimates.

In Chapter 5 the consequences of increased state involvement in the containment of sexual violence are considered from the "victim's" perspective. The analysis is based upon testimonies of rape victims and interviews with battered women. In the face of the expansion of regulatory authority, women negotiate their status vis-à-vis the state. This chapter chronicles their complex responses to the protection offered by state actors and shows how women sometimes challenge professional depictions of themselves and their problems.

Chapter 6 examines the expansion of feminist concerns about sexual violence into the international human rights arena. It raises concerns about the appropriation of the rhetoric of human rights, particularly the degree to which it is used to buttress the coercive apparatus of state or international organizations. The book's conclusion assesses the movement to combat sexual violence as it has developed over the past forty years. The significant law reforms pertaining to rape and domestic violence are shown to have had limited impact in terms of their desired objectives. Even though recent studies have demonstrated the limits of reform and in some cases the counterproductive effects, such evidence rarely has led to a questioning of the value of using the punitive power of the state in countering sexual violence. The conclusion puts forward suggestions for the redirection of feminist activism.

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THE SEXUAL VIOLENCE AGENDA

feminists and the state

Neoliberalism . . . is hostile to concessions to the popular classes (social and economic rights) and to the state as a promoter of non-mercantile interactions among citizens . . . [D]emocratic struggles for inclusion in the social contract . . . have been suppressed, illegalized, criminalized, while organizations that conducted them have been under attack and often dismantled. A new virulent counter-reformism emerged, determined to erode or eliminate social and economic rights, expanding the market economy in such a way as to transform the whole society into a market society. Since whatever is being proposed as a reform (of education, health, social security, etc.) is definitely for the worse, the left is often forced to defend the status quo.

—Boaventura de Sousa Santos

For almost forty years a concerted campaign by feminists has transformed popular consciousness and led to the widespread growth of organizations designed to address the problem of sexual violence. This campaign is often seen as the core component of the contemporary feminist movement and fundamental to the feminist agenda of promoting autonomy, equality, and social justice. The movement's primary objective has been the recognition of the harm of sexual violence and the consistent sanctioning of perpetrators. Undeniably, this work has been extremely important; it has called attention to the effects of sexual violence on women's lives and demanded a large-scale public commitment to stopping this violence. However, femi-