Policing Patriarchy

Earlier this year the NSW Bureau of Crime Statistics and Research released a report, Domestic Violence in NSW: A Regional Analysis. It concluded that there is considerable regional variation in domestic homicide; that this variation is associated with socio-economic status, low status areas having higher rates of domestic homicide; and that there is a link between domestic homicide rates and rates of reported domestic violence. The report decided that "there is a relationship between domestic violence and class".

A key policy implication drawn from this finding was that "while all victims of domestic violence need protection and support, the areas of greatest need are in the Western and South Western suburbs of Sydney and the Western and North Western areas of country NSW". The findings elicited a hostile response from some spokeswomen for women's organisations. Eva Cox was quoted in the Sydney Morning Herald as commenting that "What Dr Weatherburn's figures are saying is that poor men belt their wives while rich men do not, which is absolute nonsense". And "His definition of domestic violence is too narrow because it does not take into account the psychological violence and the threats, which we find in cases involving middle class women".

The head of the NSW Women's Advisory Council, Jane Stackpool, was a little more guarded. She was quoted as saying that "the council...had worked hard over the past decade to convince the community that domestic violence was not confined to certain geographical or socio-economic areas...We have been trying to get the message across that domestic violence is a serious crime which can happen to any woman, and that there are never any excuses for it. What this report does is create excuses".

The vehemence of this response may have been motivated by a tactical concern not to undermine the 'Domestic Violence is Everywhere/Domestic Violence is a Crime' public awareness campaign. Nevertheless, the implication is that domestic violence is equally distributed across class, ethnic, cultural and other divisions. In other words, domestic violence is a paradigm expression of a generalised patriarchy. On this view, to acknowledge different levels of domestic violence across such divisions would disrupt the campaign by providing an 'excuse' for domestic violence.

There is a paradoxical 'silencing' aspect to such arguments coming from women speaking on behalf of women's organisations. Paradoxical in that feminist campaigns around domestic violence, sexual assault and incest have often been conducted under a banner of 'breaking the silence'. It seems that, in the interests of 'breaking the silence', it is better that certain things are left unsaid, even if they are true.

The assumption that underlies the 'male violence is evenly distributed' view is that all men are essentially and potentially violent towards their female partners and others. Leading researchers argue that women fear attack by virtue of being women in a male-dominated society. It is argued that the greater fear of violence experienced by women in general reflects the level of hidden violence against women, the pervasive sexual harassment and intimidation of women by men in all spheres of their lives and the 'climate of unsafety' that this produces by constantly reminding women of their vulnerability.

Some researchers have developed the notion of a 'continuum of sexual violence' to encompass what they see to be the full range of forms of violence, harassment and economic, psychological and social mechanisms of control experienced by women. This leads to the conclusion that since all women experience sexual violence, the division of women into those who are victims and those who are not is exposed as 'false'. Logically we end up with a definition of violence which makes victims of all women and offenders of all men, which sees, in Anne Edwards' words, violence as "an essential component of relations between men and women".

The argument concerning the hidden nature of violence against women frequently turns on a more fundamental point concerning the social organisation of women's oppression in modern societies: the public/private dichotomy. While this distinction is subject to many competing interpretations (in itself a warning as to the dangers of generalising its use), its most common use is to mark the divide between the public life of the market, state and politics on the one hand, and the private realm of the home and domesticity on the other. This dualism provides the fundamental organising matrix of women's experience, or (in Katherine O'Donovan's words) "the social differentiation between men and women in the gender order has its counterpart in the general social distinction between private and public".

Furthermore, it is argued, the former is a legally regulated domain while the latter remains largely unregulated. Hence, violence against women becomes a hidden, privatised phenomenon rather than a matter for public, legal control. Moreover, many feminists see this privatisation of women's existence as itself a form of violence, 'the coercion of privacy' which reflects as it maintains the institutionalisation of male domination.

A major problem with this argument is that it rests on an idealised conception of the way the criminal justice system, in particular the police, operate in the so-called 'public' sphere. The argument that police
should simply enforce the law in the case of domestic assaults (and other forms of violence against women) by arresting and charging offenders, as they would for any other assault, ignores the particularism and selectivity that characterise policing outside, as well as within, the domestic sphere. It therefore oversimplifies the problems entailed in getting the police to behave differently, by reducing them to the problem of police sexism. However, many men as well as women are vulnerable to both violence and the tendency for such violence to be officially and popularly denied and disregarded. An example can be found in the most public of these male domains, the pub.

An observational study of violence in selected licensed premises in Sydney found that, in most cases, although there was genuine victimisation by an aggressor against an undeserving and unwilling victim, there was a reluctance to call the police. Moreover, when the police were called they rarely took any action beyond advising the victims to pursue civil remedies, unless the incident could be construed as an offence against public order. From observation and interviews with police, it was concluded that police (and managements and staff of pubs and clubs) commonly regarded violence in such establishments as an in-house matter, worthy of police involvement only if and when a breach of the peace occurs or is threatened.

Police deferred to the ‘authority’ of management and staff to handle violent incidents in their own way, even though violence on the part of staff (‘bouncers’) frequently constituted a major part of the problem. And police also appeared to regard most victims of such violence as at fault, for simply being in a rough place or because they were drunk. Interestingly, establishments that the researchers classified as particularly and consistently violent, were often regarded by the police as ‘no trouble’, since their conception of trouble was constituted largely by reference to the maintenance of what they saw as public order rather than what occurred within these places.

It seems clear that police decisions about whether or not to act on complaints of violence can’t be reduced to universal and pre-constituted categories—and this includes the definitions of ‘public’ and ‘private’. Nor are they reducible to some pre-given set of gender-based dualisms. They are more complex and heterogeneous than is allowed for in such theories of victimisation.

In her study of the different uses of psychiatric measures when processing female and male offenders, Justice Unbalanced, Hilary Allen offers a powerful criticism of the essentialist nature of many feminist arguments concerning law and criminal justice:

The assumption that all social relations are predetermined by a general oppression of all women by all men converts any specific discussion of this or any other sexual discrepancy into an otiose restatement of what is presumed in advance. In the process, it dismisses as insignificant the more specific and problematic questions that one might otherwise wish to ask, such as why only some of these (uniformly oppressed and homogeneously constructed) female subjects are exposed to this differential psychiatrisation...

This form of analysis also robs political questioning of any practical significance. If all structures of authority, such as medicine and the law, are assumed to be fundamentally determined by the forces of patriarchy, then there is no point in attempting to weigh up the various advantages or disadvantages of different social practices, let alone to intervene in them. Short of a total revolution, all political action becomes pointless. Such an approach is simply not useful, and the only way to avoid its cul-de-sac is to refuse its assumptions from the outset. The world is full of sexism, but this sexism does not operate uniformly nor inexorably, nor by any super-human machinery.

Extending Allen’s critique to debates about violence against women, it is clear that in the types of feminist analysis she is criticising, the empirical differences and discrepancies in patterns of violence—its differential impact on women, the incidence of male victimisation—are reduced to irrelevance. There is indeed no difference, even that between victims and non-victims, which is permitted to disturb the seamless web of women’s oppression.

Victimisation as well as fear of victimisation is not confined to women; nor are victimisation and fear uniformly experienced by women. If any sense of difference in the experience of women (or the conduct of men) has to be subordinated to essentialist claims concerning the universality of masculinity and the uniformity of violence and female victimisation, there will be little point in seeking to change particular practices, relationships and conditions which some victims confront. And given the assumptions of such feminist analysis, there is no informed basis for doing so. Where no pertinent differences exist for women this side of a total revolutionary transformation of a male-dominated society, how could a difference be made by any action which, recognising their common oppression, fell far short of at once changing the position of all women?

Masculinity is absolutely central to the question of violence. But some forms of masculinity are dangerous and oppressive to men, and to the young of both sexes, as well as to women. There is a difference between victims and non-victims. Addressing the problems of violence necessitates addressing the conditions of marginality of its most frequent and vulnerable victims. The differences in patterns of violence as they affect women from different backgrounds are of critical importance in analysing and responding to violence. They are not inconveniences to be wished away or silenced in the interests of protecting the dubious all-encompassing explanatory power of the notion of patriarchy.

RUSSELL HOGG and DAVID BROWN teach in law at Macquarie University and New South Wales University respectively.