8 | *The Liberal State*

> The difference between the judges and Sir Isaac [Newton] is that a mistake by Sir Isaac in calculating the orbit of the earth would not send it spinning around the sun with an increased velocity . . . while if the judges . . . come to a wrong result, it is none the less law.
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> —John Chipman Gray (1909)

> Political revolutions aim to change political institutions in ways that those institutions themselves prohibit.
>
> —Thomas Kuhn (1962)

Feminism has no theory of the state. Just as feminism has a theory of power but lacks a specific theory of its state form, marxism has a theory of value which (through the organization of work in production) becomes class analysis, but also a problematic theory of the state. Marx himself did not address the state much more explicitly than he addressed women. Women were substratum, the state epiphenomenon.[1] He termed the state "a concentrated expression of economics,"[2] a reflection of the real action, which occurred elsewhere; it was "the official résumé of society,"[3] a unity of ruptures; it, or its "executive," was "but a committee for managing the common affairs of the whole bourgeoisie."[4] Engels frontally analyzed women and the state, and together. But just as he presumed the subordination of women in every attempt to reveal its roots, he presupposed something like the state, or statelike society, in every attempt to find its origins.[5]

Marx tended to use the term *political* narrowly to refer to the state or its laws, criticizing as exclusively political interpretations of the state's organization or behavior which took them as sui generis, as if they were to be analyzed apart from economic conditions. He termed "political power" as embodied in the modern state "the official expression of antagonism in civil society."[6] Changes on this level could, therefore, emancipate the individual only within the framework

of the existing social order, termed "civil society."[7] Revolution on this level was "partial, merely political revolution."[8] Accordingly, until recently, most marxist theory has tended to consider as political that which occurs between classes and the state as the instrument of the economically dominant class.[9] That is, it has interpreted the political in terms of the marxist view of social inequality and the state in terms of the class that controls it. The marxist theory of social inequality has been its theory of politics. The state as such was not seen as furthering particular interests through its form. This theory does not so much collapse the state into society (although it goes far in that direction) as conceive the state as determined by the totality of social relations of which the state is one determined and determining part—without specifying which, or how much, is which.

After 1848, having seen the bourgeoisie win revolutions but then not exercise state power directly, Marx tried to understand how states could plainly serve the bourgeoisie's interest yet not represent it as a class.[10] His attempts form the basis for much contemporary marxist work that has tried to grasp the specificity of the institutional state: how it wields class power or operates within class strictures or supplements or moderates class rule or transforms class society or responds to approach by a left aspiring to rulership or other changes. While much liberal theory has seen the state as emanating power, and traditional marxism has seen the state as expressing power constituted elsewhere, recent marxism, much of it structuralist, has tried to analyze state power as specific to the state as a form, yet integral to a determinate social whole understood in class terms.

Politics becomes "an autonomous phenomenon that is constrained by economics but not reducible to it."[11] This state is found "relatively autonomous"; that is, the state, expressed through its functionaries, has a definite class character, is definitely capitalist or socialist, but also has its own interests, which are to some degree independent of those of the ruling class and even of the class structure.[12] The state as such, in this view, has a specific power and interest, termed "the political," such that class power, class interest expressed by and in the state, and state behavior, though inconceivable in isolation from one another, are nevertheless not linearly linked or strictly coextensive. Thus Jon Elster argues that Marx saw that the bourgeoisie perceived their interests best furthered "if they remain outside politics."[13] Much of this work locates "the specificity of the political" in a mediate

"region" between the state and its own ground of power (which alone, as in the liberal conception, would set the state above or apart from class) and the state as possessing no special supremacy or priority in terms of power, as in the more orthodox marxist view.[14] For Nicos Poulantzas, for example, the "specific autonomy which is characteristic of the function of the state . . . is the basis of the specificity of the political"[15]—whatever that means.

The idea that the state is relatively autonomous, a kind of first among equals of social institutions, has the genius of appearing to take a stand on the issue of reciprocal constitution of state and society while straddling it.[16] Is the state essentially autonomous of class but partly determined by it, or is it essentially determined by class but not exclusively so? Is it relatively constrained within a context of freedom or relatively free within a context of constraint?[17] As to who or what fundamentally moves and shapes the realities and instrumentalities of domination, and where to go to do something about it, what qualifies what is as ambiguous as it is crucial. When this work has investigated law as a particular form of state expression, it has served to relieve the compulsion to find all law—directly or convolutedly, nakedly or clothed in unconscious or devious rationalia—to be simply "bourgeois," without undercutting the notion that it, with all state emanations, is determinately driven by interest.[18]

Feminism has not confronted, on its own terms, the relation between the state and society within a theory of social determination specific to sex. As a result, it lacks a jurisprudence, that is, a theory of the substance of law, its relation to society, and the relationship between the two. Such a theory would comprehend how law works as a form of state power in a social context in which power is gendered. It would answer the questions: What is state power? Where, socially, does it come from? How do women encounter it? What is the law for women? How does law work to legitimate the state, male power, itself? Can law do anything for women? Can it do anything about women's status? Does how the law is used matter?

In the absence of answers, feminist practice has oscillated between a liberal theory of the state on the one hand and a left theory of the state on the other. Both theories treat law as the mind of society: disembodied reason in liberal theory, reflection of material interest in left theory. In liberal moments, the state is accepted on its own terms as a neutral arbiter among conflicting interests. The law is actually or

potentially principled, meaning predisposed to no substantive outcome, or manipulable to any ends, thus available as a tool that is not fatally twisted. Women implicitly become an interest group within pluralism, with specific problems of mobilization and representation, exit and voice, sustaining incremental gains and losses. In left moments, the state becomes a tool of dominance and repression, the law legitimating ideology, use of the legal system a form of utopian idealism or gradualist reform, each apparent gain deceptive or cooptive, and each loss inevitable.

Liberalism applied to women has supported state intervention on behalf of women as abstract persons with abstract rights, without scrutinizing the content and limitations of these notions in terms of gender. Marxism applied to women is always on the edge of counseling abdication of the state as an arena altogether—and with it those women whom the state does not ignore or who are in no position to ignore it. As a result, feminism has been left with these tacit alternatives: either the state is a primary tool of women's betterment and status transformation, without analysis (hence strategy) of it as male; or women are left to civil society, which for women has more closely resembled a state of nature. The state, and with it the law, have been either omnipotent or impotent: everything or nothing. The feminist posture toward the state has therefore been schizoid on issues central to women's status. Rape, abortion, pornography, and sex discrimination are examples.[19] To grasp the inadequacies for women of liberalism on the one hand and marxism on the other is to begin to comprehend the role of the liberal state[20] and liberal legalism[21] within a post-marxist feminism of social transformation.

Gender is a social system that divides power. It is therefore a political system. That is, over time, women have been economically exploited, relegated to domestic slavery, forced into motherhood, sexually objectified, physically abused, used in denigrating entertainment, deprived of a voice and authentic culture, and disenfranchised and excluded from public life. Women, by contrast with comparable men, have systematically been subjected to physical insecurity; targeted for sexual denigration and violation; depersonalized and denigrated; deprived of respect, credibility, and resources; and silenced—and denied public presence, voice, and representation of their interests. Men as men have generally not had these things done to them; that is, men have had to be Black or gay (for instance) to have these things done to them as men. Men have done these things to

women. Even conventional theories of power—the more individuated, atomistic, and decisional approaches of the pluralists, as well as the more radical theories, which stress structural, tacit, contextual, and relational aspects of power—recognize such conditions as defining positions of power and powerlessness.[22] If one defines politics with Harold Lasswell, who defines a political act as "one performed in power perspectives,"[23] and with Robert Dahl, who defines a political system as "any persistent pattern of human relationships that involves, to a significant extent, power, rule, or authority,"[24] and with Kate Millett, who defines political relationships as "power structured relationships,"[25] the relation between women and men is political.

Unlike the ways in which men systematically enslave, violate, dehumanize, and exterminate other men, expressing political inequalities among men, men's forms of dominance over women have been accomplished socially as well as economically, prior to the operation of law, without express state acts, often in intimate contexts, as everyday life. So what is the role of the state in sexual politics? Neither liberalism nor marxism grants women, as such, a specific relation to the state. Feminism has described some of the state's treatment of the gender difference but has not analyzed the state's role in gender hierarchy. What, in gender terms, are the state's norms of accountability, sources of power, real constituency? Is the state to some degree autonomous of the interests of men or an integral expression of them? Does the state embody and serve male interests in its form, dynamics, relation to society, and specific policies? Is the state constructed upon the subordination of women? If so, how does male power become state power? Can such a state be made to serve the interests of those upon whose powerlessness its power is erected? Would a different relation between state and society, such as may exist under socialism, make a difference? If not, is masculinity inherent in the state form as such, or is some other form of state, or some other way of governing, distinguishable or imaginable? In the absence of answers to these questions, feminism has been caught between giving more power to the state in each attempt to claim it for women and leaving unchecked power in the society to men. Undisturbed, meanwhile, like the assumption that women generally consent to sex, is the assumption that women consent to this government. The question for feminism is: what is this state, from women's point of view?

The state is male in the feminist sense:[26] the law sees and treats

women the way men see and treat women. The liberal state coercively and authoritatively constitutes the social order in the interest of men as a gender—through its legitimating norms, forms, relation to society, and substantive policies. The state's formal norms recapitulate the male point of view on the level of design. In Anglo-American jurisprudence, morals (value judgments) are deemed separable and separated from politics (power contests), and both from adjudication (interpretation). Neutrality, including judicial decision making that is dispassionate, impersonal, disinterested, and precedential, is considered desirable and descriptive.[27] Courts, forums without predisposition among parties and with no interest of their own, reflect society back to itself resolved. Government of laws, not of men, limits partiality with written constraints and tempers force with reasonable rule-following.

At least since Langdell's first casebook in 1871, this law has aspired to be a science of rules and a science with rules, a science of the immanent generalization subsuming the emergent particularity, of prediction and control of social regularities and regulations, preferably codified. The formulaic "tests" of "doctrine" aspire to mechanism, classification to taxonomy, legislators to Linnaeus. Courts intervene only in properly "factualized" disputes,[28] cognizing social conflicts as if collecting empirical data; right conduct becomes rule-following.[29] But these demarcations between morals and politics, science and politics, the personality of the judge and the judicial role, bare coercion and the rule of law, tend to merge in women's experience.[30] Relatively seamlessly they promote the dominance of men as a social group through privileging the form of power—the perspective on social life—which feminist consciousness reveals as socially male. The separation of form from substance, process from policy, adjudication from legislation, judicial role from theory or practice, echoes and reechoes at each level of the regime its basic norm: objectivity.

Formally, the state is male in that objectivity is its norm. Objectivity is liberal legalism's conception of itself. It legitimates itself by reflecting its view of society, a society it helps make by so seeing it, and calling that view, and that relation, rationality. Since rationality is measured by point-of-viewlessness, what counts as reason is that which corresponds to the way things are. Practical rationality, in this approach, means that which can be done without changing anything. In this framework, the task of legal interpretation becomes

"to perfect the state as mirror of the society."[31] Objectivist epistemology is the law of law. It ensures that the law will most reinforce existing distributions of power when it most closely adheres to its own ideal of fairness. Like the science it emulates, this epistemological stance cannot see the social specificity of reflexion as method or its choice to embrace that which it reflects. Such law not only reflects a society in which men rule women; it rules in a male way insofar as "the phallus means everything that sets itself up as a mirror."[32] Law, as words in power, writes society in state form and writes the state onto society. The rule form, which unites scientific knowledge with state control in its conception of what law is, institutionalizes the objective stance as jurisprudence.

The state is male jurisprudentially, meaning that it adopts the standpoint of male power on the relation between law and society. This stance is especially vivid in constitutional adjudication, thought legitimate to the degree it is neutral on the policy content of legislation. The foundation for its neutrality is the pervasive assumption that conditions that pertain among men on the basis of gender apply to women as well—that is, the assumption that sex inequality does not really exist in society. The Constitution—the constituting document of this state society—with its interpretations assumes that society, absent government intervention, is free and equal; that its laws, in general, reflect that; and that government need and should right only what government has previously wronged. This posture is structural to a constitution of abstinence: for example, "Congress shall make no law abridging the freedom of . . . speech." Those who have freedoms like equality, liberty, privacy, and speech socially keep them legally, free of governmental intrusion. No one who does not already have them socially is granted them legally.

In this light, once gender is grasped as a means of social stratification, the status categories basic to medieval law, thought to have been superseded by liberal regimes in aspirational nonhierarchical constructs of abstract personhood, are revealed deeply unchanged. Gender as a status category was simply assumed out of legal existence, suppressed into a presumptively pre-constitutional social order through a constitutional structure designed not to reach it. Speaking descriptively rather than functionally or motivationally, the strategy is first to constitute society unequally prior to law; then to design the constitution, including the law of equality, so that all its guarantees

apply only to those values that are taken away by law; then to construct legitimating norms so that the state legitimates itself through noninterference with the status quo. Then, so long as male dominance is so effective in society that it is unnecessary to impose sex inequality through law, such that only the most superficial sex inequalities become *de jure,* not even a legal guarantee of sex equality will produce social equality.

The posture and presumptions of the negative state, the view that government best promotes freedom when it stays out of existing social arrangements, reverberates throughout constitutional law. Doctrinally, it is embodied in rubrics like the "state action" requirement of equal protection law, in the law of freedom of speech, and in the law of privacy. The "state action" requirement restricts the Constitution to securing citizens' equality rights only from violations by governments, not by other citizens. The law of the First Amendment secures freedom of speech only from governmental deprivation. In the law of privacy, governmental intervention itself is unconstitutional.[33]

In terms of judicial role, these notions are defended as the "passive virtues":[34] courts should not (and say they do not) impose their own substantive views on constitutional questions. Judges best vindicate the Constitution when they proceed as if they have no views, when they reflect society back to itself from the angle of vision at which society is refracted to them. In this hall of mirrors, only in extremis shall any man alter what any other man has wrought. The offspring of proper passivity is substancelessness. Law produces its progeny immaculately, without messy political intercourse.

Philosophically, this posture is expressed in the repeated constitutional invocation of the superiority of "negative freedom"—staying out, letting be—over positive legal affirmations. Negative liberty gives one the right to be "left to do or be what [he] is able to do or be, without interference from other persons." The state that pursues this value promotes freedom when it does not intervene in the social status quo. Positive freedom, freedom to do rather than to keep from being done to, by distinction, gives one the right to "control or . . . determine someone to do, or be, this rather than that."[35] If one group is socially granted the positive freedom to do whatever it wants to another group, to determine that the second group will be and do this rather than that, no amount of negative freedom legally guaranteed to the second group will make it the equal of the first. For women, this

has meant that civil society, the domain in which women are distinctively subordinated and deprived of power, has been placed beyond reach of legal guarantees. Women are oppressed socially, prior to law, without express state acts, often in intimate contexts. The negative state cannot address their situation in any but an equal society—the one in which it is needed least.

This posture is enforced through judicial methodology, the formative legal experience for which is *Lochner v. New York,* a case that arose out of the struggle of the working class to extract livable working conditions from a capitalist state through legislated reform.[36] Invalidating legislation that would have restricted the number of hours bakers could work on grounds of freedom of contract, the Supreme Court sided with capitalism over workers. The dissenters' view, ultimately vindicated, was that the majority had superimposed its own views on the Constitution; they, by contrast, would passively reflect the Constitution by upholding the legislation. Soon after, in *Muller v. Oregon,* the Supreme Court upheld restrictive hours legislation for women only.[37] The opinion distinguished *Lochner* on the basis that women's unique frailty, dependency, and breeding capacity placed her "at a disadvantage in the struggle for subsistence." A later ruling, *West Coast Hotel v. Parrish,* generally regarded as ending the *Lochner* era, also used women as a lever against capitalism. Minimum-wage laws were upheld for women because "the exploitation of a class of workers who are in an unequal position with respect to bargaining power and are thus relatively defenseless against the denial of a living wage . . . casts a direct burden for their support upon the community."[38]

Concretely, it is unclear whether these special protections, as they came to be called, helped or hurt women.[39] These cases did do something for some workers (female) concretely; they also demeaned all women ideologically. They did assume that women were marginal and second-class members of the workforce; they probably contributed to keeping women marginal and second-class workers by keeping some women from competing with men at the male standard of exploitation. This benefited both male workers and capitalists. These rulings supported one sector of workers against all capitalists by benefiting male workers at the expense of female workers. They did help the working class by setting precedents that eventually supported minimum-wage and maximum-hours laws for all workers.[40] They

were a victory against capitalism and for sexism, for some women perhaps at the expense of all women (maybe including those they helped), for the working class perhaps at women's expense, at least so long as they were "women only."

The view of women in *Muller* and *West Coast Hotel* was that of the existing society: demeaning; paternalistic, and largely unrealistic; as with most pedestalization, its concrete benefits were equivocal at best.[41] The view of workers in *Lochner* left capitalism unchecked and would have precluded most New Deal social reforms men wanted. (Protecting all workers was not considered demeaning by anyone.) For these reasons, these cases have come to stand for a critique of substantivity in adjudication as such. But their methodological solution—judicial neutrality—precludes from constitutional relief groups who are socially abject and systematically excluded from the usual political process. Despite universal rejections of "Lochnering," this substantive approach in neutral posture has continued to be incorporated in constitutional method, including in the law of equality. If over half the population has no voice in the Constitution, why is upholding legislation to give them a voice impermissibly substantive and activist, while striking down such legislation is properly substanceless and passive? Is permitting such an interpretation of, for example, the equality principle in a proper case activism, while not permitting it is properly nonsubstantive? Overruling *Lochner* was at least as judicially active as *Lochner* itself was. Further, why are legislation and adjudication regarded as exercises of state power, but passivity in the face of social inequality—even under a constitutional equality principle—is not? The result is, substantivity and activism are hunted down, flailed, and confined, while their twins, neutrality and passivity, roam at large.

To consider the "passive virtues" of judicial restraint as a tool for social change suggests that change for workers was constitutional only because workers were able to get power in legislatures. To achieve such changes by constitutional principle before achieving them socially and politically would be to engage in exactly the kind of substantive judicial activism that those who supported the changes said they opposed. The reasoning was: if courts make substantive decisions, they will express their prejudices, here, exploitive of workers, demeaning and unhelpful of women. The alternatives have been framed, then, as substantive adjudication that demeans and deprives on the one hand,

or as substanceless adjudication that, passively virtuous, upholds whatever power can get out of the political process as it is.

The underlying assumption of judicial neutrality is that a status quo exists which is preferable to judicial intervention—a common law status quo, a legislative status quo, an economic status quo, or a gender status quo. For women, it also tends to assume that access to the conventional political realm might be available in the absence of legal rights. At the same time it obscures the possibility that a substantive approach to women's situation could be adequate to women's distinctive social exploitation—ground a claim to civil equality, for example—and do no more to license judicial arbitrariness than current standards do. From women's point of view, adjudications are already substantive; the view from nowhere already has content. *Lochner* saw workers legally the way capitalists see workers socially: as free agents, bargaining at arm's length. *Muller* saw women legally the way men see women socially: as breeders, marginal workers, excludable. If one wants to claim no more for a powerless group than what can be extracted under an established system of power, one can try to abstract them into entitlement by blurring the lines between them and everyone else. Neutrality as pure means makes some sense. If, however, the claim is against the definition and distribution of power itself, one needs a critique not so much of the substantivity of cases like *Lochner* and *Muller,* but of their substance. Such a critique must also include that aspect of the liberal tradition in which one strategy for dominance has been substancelessness.[42]

If the content of positive law is surveyed more broadly from women's point of view, a pattern emerges. The way the male point of view frames an experience is the way it is framed by state policy. Over and over again, the state protects male power through embodying and ensuring existing male control over women at every level—cushioning, qualifying, or *de jure* appearing to prohibit its excesses when necessary to its normalization. *De jure* relations stabilize de facto relations. Laws that touch on sexuality provide illustrations of this argument. As in society, to the extent possession is the point of sex, rape in law is sex with a woman who is not yours, unless the act is so as to make her yours. Social and legal realities are consistent and mutually determinate; since law has never effectively interfered with men's ability to rape women on these terms, it has been unnecessary to make this an express rule of law. Because part of the kick of pornography involves

eroticizing the putatively prohibited, obscenity law putatively prohibits pornography enough to maintain its desirability without ever making it unavailable or truly illegitimate. Because the stigma of prostitution is the stigma of sexuality is the stigma of the female gender, prostitution may be legal or illegal, but so long as women are unequal to men and that inequality is sexualized, women will be bought and sold as prostitutes, and law will do nothing about it.

Women as a whole are kept poor, hence socially dependent on men, available for sexual or reproductive use. To the extent that abortion exists to control the reproductive consequences of intercourse, hence to facilitate male sexual access to women, access to abortion will be controlled by "a man or The Man."[43] So long as this is effectively done socially, it is unnecessary to do it by law. Law need merely stand passively by, reflecting the passing scene. The law of sex equality stays as far away as possible from issues of sexuality. Rape, pornography, prostitution, incest, battery, abortion, gay and lesbian rights: none have been sex equality issues under law.[44] In the issues the law of sex discrimination does treat, male is the implicit reference for human, maleness the measure of entitlement to equality. In its mainstream interpretation, this law is neutral: it gives little to women that it cannot also give to men, maintaining sex inequality while appearing to address it. Gender, thus elaborated and sustained by law, is maintained as a division of power. The negative state views gender and sexual relations as neutrally as *Lochner* viewed class relations.

The law on women's situation produced in this way views women's situation from the standpoint of male dominance. It assumes that the conditions that pertain among men on the basis of sex—consent to sex, comparative privacy, voice in moral discourse, and political equality on the basis of gender—apply to women. It assumes on the epistemic level that sex inequality in society is not real. Rape law takes women's usual response to coercion—acquiescence, the despairing response of hopelessness to unequal odds—and calls that consent. Men coerce women; women "consent." The law of privacy treats the private sphere as a sphere of personal freedom. For men, it is. For women, the private is the distinctive sphere of intimate violation and abuse, neither free nor particularly personal. Men's realm of private freedom is women's realm of collective subordination. The law of obscenity treats pornography as "ideas."[45] Whether or not ideas are sex for men,

pornography certainly is sex for men. From the standpoint of women, who live the sexual abuse in pornography as everyday life, pornography is reality. The law of obscenity treats regulation of pornography from the standpoint of what is necessary to protect it: as regulation of morals, as some men telling other men what they may not see and do and think and say about sex. From the standpoint of women, whose torture pornography makes entertainment, pornography is the essence of a powerless condition, its effective protection by the state the essence of sexual politics. Obscenity law's "moral ideas" are a political reality of women's subordination. Just as, in male law, public oppression masquerades as private freedom and coercion is guised as consent, in obscenity law real political domination is presented as a discourse in ideas about virtue and vice.

Rape law assumes that consent to sex is as real for women as it is for men. Privacy law assumes that women in private have the same privacy men do. Obscenity law assumes that women have the access to speech men have. Equality law assumes that women are already socially equal to men. Only to the extent women have already achieved social equality does the mainstream law of equality support their inequality claims. The laws of rape, abortion, obscenity, and sex discrimination show how the relation between objectification, understood as the primary process of the subordination of women, and the power of the state is the relation between the personal and the political at the level of government. These laws are not political because the state is presumptively the sphere of politics. They are integral to sexual politics because the state, through law, institutionalizes male power over women through institutionalizing the male point of view in law. Its first state act is to see women from the standpoint of male dominance; its next act is to treat them that way. This power, this state, is not a discrete location, but a web of sanctions throughout society which "control[s] the principal means of coercion" that structures women's everyday lives.[46] The Weberian monopoly on the means of legitimate coercion, thought to distinguish the state as an entity, actually describes the power of men over women in the home, in the bedroom, on the job, in the street, throughout social life. It is difficult, actually, to find a place it does not circumscribe and describe. Men are sovereign in society in the way Austin describes law as sovereign: a person or group whose commands are habitually obeyed

and who is not in the habit of obeying anyone else.[47] Men are the group that has had the authority to make law, embodying H. L. A. Hart's "rule of recognition" that, in his conception, makes law authoritative.[48] Distinctively male values (and men) constitute the authoritative interpretive community that makes law distinctively lawlike to the likes of Ronald Dworkin.[49] If one combines "a realistic conception of the state with a revolutionary theory of society,"[50] the place of gender in state power is not limited to government, nor is the rule of law limited to police and courts. The rule of law and the rule of men are one thing, indivisible, at once official and unofficial—officially circumscribed, unofficially not. State power, embodied in law, exists throughout society as male power at the same time as the power of men over women throughout society is organized as the power of the state.

Perhaps the failure to consider gender as a determinant of state behavior has made the state's behavior appear indeterminate. Perhaps the objectivity of the liberal state has made it appear autonomous of class. Including, but beyond, the bourgeois in liberal legalism, lies what is male about it. However autonomous of class the liberal state may appear, it is not autonomous of sex. Male power is systemic. Coercive, legitimated, and epistemic, it *is* the regime.