

## **Karla Homolka**

### **Aim of the paper**

This paper is based upon the case of Karla Homolka. I have provided you with handouts which outline the main details of Karla's life. Karla's case is problematic. As you can see from the handout Karla was both a victim and a perpetrator of sexual violence. Despite her seemingly active participation in sexual violence, her agency and her legal culpability remain contested issues. Many have attempted to answer the overarching question: was she a coerced/compliant victim or a culpable perpetrator? This paper will attempt to resolve the tension between her non-agency and her legal responsibility by drawing upon Primo Levi's (1988) concept of 'gray zones'.

### **Context**

Just to give you a bit of background/context. This paper is a response to a suggestion made by Murphy and Whitty who - in the 2006 edition of *Feminist Legal Studies* - called for more complex accounts of female victims' role in oppressing other victims. Specifically, they suggest applying the concept of 'gray zones' to the case of Karla Homolka. As we now, gray zones is a term developed by Primo Levi (1988) to describe the circumstances within Nazi concentration camps when prisoners assumed the role of perpetrator. They decided, having themselves suffered under conditions of extreme oppression, to subjugate their fellow victims. This takes place under ambiguous circumstances, therefore making judgement and punishment difficult. Claudia Card (2000, 2002) extends the terminology to talk about 'gray areas'. She analyses women's involvement in oppressing fellow female victims within the context of social misogyny.

## **Binary constructions**

The two 'stories' used in the Karla Homolka case alternate between:

a) a passive innocent dupe - *a woman in danger*

b) a morally depraved *dangerous woman*

According to Morrissey (2003) and Pearson (1998) Karla should be regarded as a willing and active participant in the rape and murder of young girls - '**bad woman**'.

Within this reading of the case, Karla is regarded as a cold and unsympathetic woman who acted agentially. This portrayal was substantiated by the recovery of the videotapes of the sexual assaults, shown in the courtroom, which depicted Karla's involvement in the sexual attacks on the young girls. Additional proof of Karla's callous nature was found in her lack of empathy for the young victims. Despite being left alone on two separate occasions with Kirsten French during the three days she was held captive, Karla did not make any attempt to help free her.

The other reading of the case is to view Karla as a woman *in danger* (Kilty and Frigon 2007) - a masochistic victim. Indeed, throughout their relationship, Karla was a victim of Paul's violence and emotional abuse. Karla's agency and her legal culpability are called into question when her own victimisation - of physical, emotional and sexual abuse at the hands of her husband - is taken into account (Kilty and Frigon 2007). Her involvement in the crimes was far from voluntary: her participation was simply a means of survival. Within this reading of the case, Karla is portrayed as a 'victim' of oppression. Or to use Warren and Hazelwood's (2002) term a 'compliant victim'.

## **Binary constructions**

The dichotomous construction of violent women is not uncommon. Indeed, there has been a tendency, within analyses of women's violence, to adopt an either/or binary approach. This sees violent women as *either* absolved of any responsibility for their violent actions through 'stories' which depict them as innocent. *Or*, they are vilified for such actions and regarded as 'bad' (Peter 2006). This polarized view of violent women - as *either* victims who fight back (thus making their actions legally justifiable) *or* culpable perpetrators (thus rendering them legally responsible) - is problematic and has dominated many discussions of women's violence.

## **Feminist Discourses**

We all know that in the past feminists have avoided the subject of women's violence or have been very selective with the cases they choose to discuss (Morrissey 2003). Commentators have observed that "...something of a veil tends to be drawn over those more uncomfortable cases where the victim is a child or another woman..."(Allen 1987, p.93). By now we are all familiar with the reason for this silence/avoidance: feminists have been preoccupied with violence *against* women (Graycar and Morgan 2002; Mackinnon, 1997). Also, some feminists remain uncomfortable acknowledging women's sexual agency, for fear it might overshadow or, worse still, excuse men's sexual violence against women (see Howe 2008).

However, not all feminist share this position. Various feminists have commented on the deleterious effect of the 'woman-as-victim' maxim (Allen 1987; Daly 1994 Harding 1987) and have moved beyond this reductionist process towards an appreciation that women can be *both* a victim *and* a perpetrator (Ajzenstadt 2009; Dunn, and Powell-Williams 2007; Peter 2006; Sjoberg 2008). This work has been used most notably in discussions of battered women who kill their husbands. Within this context the women can be regarding as avenging victims as they kill the perpetrators. The problem with Karla Homolka is that she killed other innocent women. She did not kill her persecutor instead she persecuted other innocent female victims. In order to address this agency/structure debate I will now turn to Levi's concept of gray zones.

## **Gray Zones**

Victims become complicit in oppressing/victimizing other victims. Coercion, compliance, survival. Card (2000) believes that gray zones have three striking features:

First, their inhabitants are victims of evil. Second, these inhabitants are implicated through their choices in perpetrating some of the same or similar evils on others who are already victims like themselves. And third, gray-zone inhabitants act under extraordinary stress (Card 2000, p.517).

Levi – Nazi concentration camps. Prisoners compelled to victimize oppress their fellow prisoners.

### **Women Misogyny and Gray Areas**

Drawing upon Levi's (1988) notion of gray zones; Claudia Card (2000) analyses women's involvement in gray areas within the 'social context of misogyny'. Misogyny within this context refers to practices, behaviours, and socially created environments that are hostile to women and girls (Card 2000, p.513).

Women's participation, according to Card (2000), is not always voluntary. Rather, it is often the result of oppressive and coercive situations with men - both on a structural and individual level. The ambiguity of these gray areas is implied not only because the individual is both a victim and an agent, but because of the 'extraordinary moral stress' they are under. This makes judging their guilt and responsibility problematic (Card 2000; Levi 1988).

## **Gray areas**

This 'grayness' according to Card has multiple sources. Firstly, there is the blurring of boundaries between evil and innocence. There are victims who have clearly suffered at the hands of their persecutors who, at this point, are regarded as passive/innocent. Yet, these "victims" inflict harm and suffering onto others, who also did not deserve to suffer. Yet given the circumstances or context, their behaviour is not judged or understood as comparable to that of their persecutors. This is because "...gray agents lack the same discretion and power to walk away" (Card 2002, p.225).

### **So who and what actions fall within gray zones?**

Card argues that it is important to distinguish between those women who face morally ambiguous circumstances, in which the choices available to them are complex and those who do not. (Card 2000). Gray choices, Card (2000) argues, should not include the choices facing all individuals who are both victims and perpetrators of evil for e.g. survivors of torture who seek revenge. This behaviour, as Card understands it, is not ambiguous nor is it “morally difficult or complex” (Card 2000, p.524).

Nor is the behaviour of battered women who kill. Yes they might be “deeply perplexing” because they are viewed as both victims and perpetrators. Yet they are not gray agents according to Card (2000). Their violence is not directed towards other victims of oppression. The target of their violence is their oppressors. Their behaviour “does not give us a gray zone in which the agent victimizes someone who, like herself, is already a victim or already a target of oppression”. In a similar vein to Levi (1988), Card (2000 2002) understands gray zones to consist of victim-perpetrators who are responsible for perpetrating atrocities against other victims.



### **Gray Areas: A Recuperative Narrative?**

So how can the concept of gray zones or areas assist us in recuperating the narrative of Karla Homolka? Let's go back to Card's argument about grayness.

'Grayness', according to Card's (2000) thesis, is based upon the blurring of boundaries between oppression and culpable wrongdoing. In the first instance there are victims (Karla) who have suffered at the hands of their oppressors (Paul Bernardo). At this point the victims can be regarded as passive/blameless. However, these 'victims' then go on to subjugate other undeserving victims (Tammy, Jane Doe, Leslie Mahaffy and Kirsten French). These victim-perpetrators are not to be judged as harshly as their persecutors, as they have acted under conditions of extreme duress. The first two notions resemble Karla's situation: she was a victim who then victimized other female sufferers. The issue of diminished responsibility is, however, slightly more problematic and requires further discussion.

### **Choice and obligation**

To this end I will draw upon the work of Nancy Hirschmann.

Obligation is based upon voluntarist principles (Hirschmann, 1989). However, Hirschmann draws attention to the problems associated with voluntarist conceptions of obligation. One of which is the gender bias inherent within obligation theory. This means ‘...cultural biases against women, which deny women opportunities for consent and pervert consent theory as a result’ (Hirschmann 1989:1229). Under this line of thinking obligation represents the limitations which can be placed upon an individuals’ behaviour. In Hirschmann’s words: ‘...obligation is a limitation on behaviour, a requirement for action or nonaction, that the actor or nonactor has chosen or agreed to’ (Hirschmann, 1989:1227).

Hirschmann (1989) reminds us that historically women have been bound to a series of obligations. She further argues that women have been denied opportunities to choose and create their own lives. ‘Obligation needs to be reformulated to account for...the very human experience of choicelessness, and for the fact that...choice exists in contexts. (Hirschmann, 1989:1241).

### **Choice and obligation**

On this subject of *choice* and free agency Hirschman (1998, p.361 emphasis in the original) states: “the *act of choosing* is necessary but not sufficient. What is also needed is the ability to *formulate choices*, and this requires the ability to have meaningful power in the construction of contexts”. The choice for Karla, according to her testimony, was this: assist with the sexual assaults and the murders in order to protect her own life or, by trying to protect the girls, risk being killed. Karla chose the former. Yet, if we follow Hirschman’s thinking we are to believe that Karla did not have any ‘meaningful power in the construction’ of the situation she found herself in. In other words, she was not responsible for formulating the choices available to her in the first place – she was under the control and conditions of Paul Bernado. He was in control of the situation.

### **Coercion and relational autonomy**

For Hirschmann then obligation and social contract theory are based upon a relationship of power and domination not simply one of voluntary consent (Hirschmann, 1989). So this brings us to the issue of coercion – victims have been forced to participate. However Chapman argues that ‘...the accused who seeks to use the established and recognized defence of duress must show that they were not complicit in bringing the coercion upon themselves’ (Chapman, 2008, p.15).

Perhaps the question that needs to be resolved, however, is whether escape - as opposed to avoidance - from oppression is an option for these victim-perpetrators? This was certainly the focus of Levi’s (1988) analysis: the structure of state oppression experienced by the prisoners offered them no opportunity or avenue for escape. This was not necessarily the case for Karla. She could escape.

### **Coercion and relational autonomy**

We must adopt a feminist analysis, one which suggests that the choices and options available to women, living in a male dominated society, are constrained, thus impacting upon their autonomy (Ajzenstadt 2009; Sjoberg 2008; Wesely 2006). This means adopting a relational autonomy approach (Sjoberg 2008).

This approach accepts that individuals make choices, but is also recognises that choice is not something which is given completely freely. Says Sjoberg (2007:98)

‘...relational autonomy is the recognition that freedom of action is defined and limited by political and social relationships. Relational autonomy does not reject the idea of individual choice, but realizes that choice is not absolute in a world of power disparity’.

Should individuals be held accountable for the actions they take within gray spaces? In other words, what constraints are placed upon them within these morally gray spaces? Is complicity their only option?

Going back to Hirschman’s (1998) ideas about choice and autonomy, perhaps we need to place Karla’s actions within a social structural and historical context of gender inequality and power imbalances within heterosexual relationships. Karla’s involvement in the crimes is an example of the strategic ways women negotiate their survival in abusive relationships with men.

Within the context of a patriarchal social structure battered women often lack the resources to just walk away. Not only does this resonate with Card's claim that gray agents lack the freedom to leave the situation. Levi (1988, p.41) also said that gray zones are characterized by regimes of 'terror and obsequiousness' and the harsher the subjugation the more likely the victim is to collaborate with the authority. This line of thinking may account for Karla's later involvement in the crimes. During the final year of their relationship, for example, Paul's violence towards Kara intensified.

The difficulty with Card's assertion that victim-oppressors lack the ability to walk away, when applied to the case of Karla Homolka, is that Karla did eventually leave.

How is it that Karla managed to leave? Why did she not leave after the tragic death of her sister which occurred two years into their relationship? The use of the gray zone/area requires some degree of seeing the victim-perpetrators as unable to escape their situation.

### **Karla's testimony**

During her trial Karla testified to her involvement in the crimes but claimed to have been acting under extreme duress.

Because I was told by Paul, and I knew from past experience that if I didn't do what he told me to do I would get beaten and have to do it anyway. It wasn't a case of saying "no" and just taking a beating, it was a case of saying "no" and being beaten until I did it (R. v. P. Bernardo 1995, p. 661 cited by Kilty and Frigon 2007, p.49).

## **Guilt and Responsibility**

Murphy and Whitty (2006) - gray zones necessitate a consideration of different levels of responsibility. Levi's (1988) - greatest blame lies with the persecutors. The guilt and accountability of the collaborators is harder to measure. Karla admitted to her involvement in the sexual assaults and the murders. However, despite admitting to her involvement in the crimes, Karla presented herself as a masochistic victim who had been forced to participate and was therefore not as legally responsible as Paul. This is illustrated in the following interview excerpt:

Does the acknowledgement of her coercion and victimisation render her blameless? Levi (1988) argues that the behaviour of the collaborators within the gray zone is not to be measured against the behaviour of the persecutors. This is because these victimised agents have acted under conditions of 'extraordinary stress'. However, was Karla under extraordinary stress when she committed the sexual assault on her sister back in 1990 which occurred at the beginning of her relationship with Paul?

If we are to successfully apply the concept of gray zones to this case we have to believe that Karla had no control over the situation and that she had no option but to comply.



## **Concluding Comments**

The use of gray zones in the case of Karla Homolka offers partial recuperation. I do not feel that it accounts for her involvement in the sexual assault of her sister. By taking into account Karla's 'grayness' her culpability and her agency for her crimes are not being revoked. Rather, they are mitigated by her victimisation and her coercion. This case illustrates the difficulty in trying to attribute violent women with complete responsibility for their actions or conversely, absolving them of any accountability (see Peter 2006). By utilizing the concept of gray zones, we are able to develop a more nuanced understanding of the complicated relationship between victimisation and agency.

Feminists have devoted time and effort into highlighting women's victimisation and oppression by men. Women like Karla are problematic because they are both victims and agents. It is not completely apparent, particularly in this case, where coercion ends and agency begins. As Card argues: "[w]omen, who have inhabited many gray zones, present challenges for feminist theorists, who have long struggled with how resistance is possible under coercive institutions" (Card 2000, p.509).

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