

THE VICTIMIZATION OF WOMEN

LAW, POLICIES,
AND POLITICS

MICHELLE L. MELOY / SUSAN L. MILLER

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The Victimization of Women

For my daughter, Morgan. You are my sunshine day and night. —MLM

In memory of my father, Arthur Meloy. —MLM

For my son, Connor, my joy and fellow adventurer. —SLM

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The Victimization of Women

What would we say about a movement that apparently forgot to invite most of its professed beneficiaries? What if we discovered, for example, in the victims' "movement," that victims were, politically, all dressed up but had no place to go? What kind of movement would it be? Would it really be a movement at all? (Elias 1993: 26)

Despite cultural training teaching that female victims should not be blamed for what happens to them, some of the most telling questions about crimes of personal violence committed against women continue: of a rape victim, "Did she know him? What was she wearing?" or of a battering victim, "What did she do to get him so mad? Why didn't she just *leave*?" This knee-jerk reaction reflects a deep-seated ambivalence in how we think about fault and responsibility. Surely it is the perpetrator who justly deserves our scorn and blame. But if this is so, then why do victims' behaviors and/or appearances remain under scrutiny? Are the lines between victim and offender more complicated than this suggests?

In recent years much academic literature exists to educate people about crime victims' experiences and the obstacles that limit their choices and abilities to prevent or handle their victimization. Blatant victim blaming has fallen out of vogue. Laws were enacted to reflect a movement away from victim precipitation or provocation theories. Protocols used by police and prosecutors to respond to crime victims were revamped, reflecting a change from traditional beliefs about shared victim responsibility to a new awareness of the support a victim needs when navigating the criminal justice

system. Yet despite these best efforts, victim blaming and myths about victims persist.

We write this book to present in a readable, coherent manner the major debates, controversies, quagmires, unintended consequences, and unanswered questions about victims, victims' rights, and victim-centered policies. We not only summarize the range of positions held by scholars, social commentators, policy makers, and the public but also offer readers the tools to critically assess these arguments by providing statistical information, legal arguments, policy evaluations, and examples that inform and challenge the general beliefs people hold about victims.

The criminal justice system's focus is on legal guilt: did this person commit this particular act or not? Looking at the underlying context of the situation is often beyond the interest or scope of an investigation by a criminal justice system that favors efficiency and frowns on ambiguity. But victimization issues are far more nuanced and complicated than the incident-driven criminal justice system leads us to believe. In everyday conversations, entertainment shows about victimization, and media depictions of victims' circumstances resemble a sport, of sorts, for the producers of news, for lay authors of volumes written for the general public, and, yes, also for some academics. As the proliferation of television crime shows suggests (e.g., *America's Most Wanted*, *Cold Case*, *COPS*, *Criminal Minds*, *CSI: Crime Scene Investigations*, *Law & Order*, *SVU: Special Victims Unit*), dissecting the acts of victims and offenders is astoundingly popular. Creating dichotomies of victims as "innocent" and "good" and offenders as "guilty" and "evil" is the typical way that the general public, the agents of popular culture (TV, newspapers, bloggers, news Web sites), and the criminal justice system frame the players. These judgments are guided by decisions about who is worthy of our sympathies and financial support or government funding, and about who is undeserving and should be punished.

But this either/or scenario mischaracterizes most victimizations. Painting a picture of crime victims as passive, helpless, and incompetent, while casting offenders as strong and powerful, is flawed. While some victims have no control over their experiences, other victims are resilient and make reasonable choices and take reasonable actions despite being limited by their position in the social structure and the resources available to them.

Although we have selected certain victim issues for exploration in this book, we do not ignore, diminish, or trivialize the wide range of victims and victim issues that are not examined herein. Indeed, whole books could be and are written about victimization topics not included here, such as physical child abuse, elder abuse, victimizations against disabled persons, prison rape, human trafficking, same-sex intimate partner battering, or

male victims of crime and violence. Rather, we provide a unique overview of the emergence of victimology as a distinctive area of study and its current status within sociology and criminology traditions, the victims' rights movement and discourse, research and policy issues, and the puzzling and contested aspects of victimization, especially as it affects female victims. Tackling the difficult issues, the messy ones, is a necessary part of the story of how our society characterizes crime victims and how these characterizations shape our responses to them personally, politically, and formally.

Researching Victimization

For female victims of male violence, assessments of victim culpability often turn on the individual circumstances of the crime, such as whether or not the victim knew her offender, what she was doing or wearing that may have enticed him, or what steps she could have taken to prevent her victimization. Yet we do not hold burglary or robbery victims to the same standards: imagine asking a robbery victim whether she fought back, or what she was wearing. How does this kind of victim blaming come about? Part of this stems from the early research conducted by victimologists, which focused on victim contribution as an integral part of crime. And part of this reaction is shaped by women's vulnerability to crimes of intimate physical and sexual violence committed by men and the fears that they raise. Violations against women are often devalued as a function of gender stratification itself, since the victimizers of women are frequently men.

In discussing research on victimization, Andrew Karmen distinguishes between objective and subjective methods of studying victims.¹ A subjective method interprets victimization from a moral, religious, emotional, or philosophical orientation and thus is vulnerable to the whims and interests of those with the power to confer labels. This method is viewed as less scientific, more based on visceral and descriptive musings than a rigorous examination of the issues.² Moreover, it is often the subjective studies that inflame people's passionate opinions about a victim's blameworthiness, regardless of the lack of supporting evidence.³ Nonetheless, subjective methods remain common in some contemporary commentators' writings on victimization. During the 1940s and 1950s, a more objective method of studying victims of crime emerged, one that employed the methods of social science to examine the dynamics, patterns, prevalence, and distribution of victimization.⁴ Following this tradition, early victimologists sought credibility with their academic peers by bringing scientific objectivity into their work.

Original Victimologists: The Beginnings of Blame

In the 1930s and 1940s the writings of the “pioneer” victimologists harbored an anti-victim sentiment that was reflected in their language, theories, and research agendas. In fact, an underlying belief in the culpability of some victims was behind the initial academic inquiries into the study of victim-offender relationships.⁵ The initial victimologists were originally interested in the victim-offender dyad because of an underlying presumption that victims were responsible for causing their own harm.⁶ Thus, victim blaming was born. The most popular theories of this era were shared responsibility, victim precipitation, victim provocation, victim resistance, and victim vulnerability (based on age, sex, race, and immigrant status).⁷ The main hypothesis guiding these theories was that reciprocity exists between victims and offenders, often called the victim-offender “duet.”

Hans Von Hentig (1941: 303), who was among the first to study victims, believed that “a real mutuality frequently can be observed in the connection between the perpetrator and the victim, the killer and the killed, the duper and the duped. The victim in many instances leads the evildoer into temptation. The predator is, by varying means, prevailed upon to advance against the prey.”⁸ Benjamin Mendelsohn (1940), another of the first “victimologists,” was a criminal defense attorney in Romania.⁹ He routinely investigated the behavior of his clients’ victims before and during the crime. He contended that victims unintentionally invite their victimization, and he developed typologies based on victim-offender relationship to address degrees of victim culpability including innocent victims, crime-precipitating victims, victims with minor guilt, victims as guilty as the offender, victims as more guilty than the offender, and most guilty victims.¹⁰ Menachem Amir (1971: 99), the researcher of the most frequently cited study on rape victim precipitation, stated that “the offender should not be viewed as the sole ‘cause’ and reason for the offense, and the ‘virtuous’ rape victim is not always the innocent and passive party.” University of Pennsylvania researchers Thorsten Sellin and Marvin Wolfgang (1964) produced another victim-precipitation perspective of inner-city murders. These scholars introduced typologies differentiated by situations rather than by relationships. For example, their situational typologies included primary victimization (where someone is specifically targeted, such as a victim of a hate crime or domestic violence), secondary victimization, tertiary victimization, mutual victimization, and no victimization (i.e., victimless crimes). By at least one account¹¹ Sellin and Wolfgang continued to look at victim-precipitation theory to analyze victimizations that resulted from factors related to the victim’s behavior and lifestyle.¹² In addition to victimization theories of victim

precipitation, historically, the weight of that responsibility was placed on women, which served to protect men's power and privilege and offer greater impunity for their infractions.

Legacy of Victim Blaming and Its Implications

These early theories, focusing on victims' contribution to the crime, lay the foundation for the continued reliance on victim blaming.¹³ However, nowhere is victim blaming as pronounced as in considerations of crimes of violence committed by men against women, such as sexual assault or battering.¹⁴ Why is it that we tend to sympathize with someone who is mugged, burglarized, or injured by a drunk driver, yet victims of male-on-female violence often experience victim blaming and self-blame? Questions like these are probed in the forthcoming chapters.

It is also part of human nature to desire reassurance that we will not be hurt if we follow "the rules." If a victim is blamed for her actions or appearance, and we do not engage in the same behaviors or look the same, then it is easy to see why she was the target and we are not as vulnerable. This notion, the "just world hypothesis," assumes that bad things happen only to bad people.¹⁵ Additionally, the greater one's social distance (i.e., socioeconomic class, educational attainment, prestige level) from a "typical" victim (i.e., poor, undereducated persons with limited social capital), the more protected one perceives herself to be and vice versa. Even victims themselves think about what they did to assist the crime. Social psychologist Ronnie Janoff-Bulman discusses two kinds of self-blame that victims employ. In the first, *behavioral self-blame*, victims seek meaning behind their attack and try to reestablish an equilibrium by focusing on the choices that allowed them to be vulnerable (i.e., choosing to walk in a certain neighborhood or accepting a ride). If they make different choices in the future, their likelihood of victimization will decrease. This process restores a feeling of control over the event because crime is seen not as something random but rather as something preventable. It reflects a need "to minimize the threatening, meaningless nature of the event," which is better than living in a world perceived as unsafe, unpredictable, and malevolent.¹⁶ This response contrasts with the second kind of self-blame, *characterological self-blame*, in which victims feel they are bad people who deserve to be hurt, attributing their victimization experiences to something internally flawed within them (i.e., feeling that they are flirtatious or a bad person).

Sympathy and understanding for victims often turn on issues other than the facts of the crime. If a victim has a stellar background, a good job, and good family values, is well-educated and white, and was attacked by a stranger, preferably from a different race and armed with a weapon that

caused injury, support overflows. But that description does not fit most victims of sexual assault, rape, stalking, or battering. In these cases, it is unlikely that the victim and offender are strangers to one another. Then, it follows that assessing a victim's worth rests on assumptions made about her character and background. If she lacks social capital in terms of education, socioeconomic status, race, or sexual orientation, she is held to a higher standard of credibility. While it is possible that victims' options may be blocked due to obstacles such as poverty, low self-esteem, fear, and limited access to needed supports such as help from family, friends, the criminal justice system, or religious and medical institutions, it should not follow that these limits further wound victims by facilitating poor treatment, limiting resources, or denying their pain.

The case of killer Jeffrey Dahmer raises questions about how the criminal justice system projects blame onto victims of lower status.¹⁷ In 1991, Dahmer, a 31-year-old, employed white man, was on probation for sexually abusing a boy. He lured a 14-year-old Laotian male into his apartment with the promise of cash in exchange for posing for photographs. Dahmer then drugged, tortured, and sexually assaulted the teenager, but the boy escaped, running drugged and naked in the street, bleeding from his rectum. Two young African American women called 911 and waited with him for the police and emergency medical team to arrive. Meanwhile, Dahmer returned and tried to recapture the boy, but the two women thwarted his efforts. Despite the boy's visible fear, the lingering effects of the drugs, and his nakedness and bleeding, the police dismissed the paramedics. They performed a superficial investigation of the incident, believing Dahmer's story that the boy was an adult and that the two were lovers just having a quarrel. If the police had investigated further, they would have discovered the boy's age and found that Dahmer was on probation for molesting his brother. Shortly after the police left the scene, Dahmer strangled, sexually assaulted, photographed, and dismembered the boy.

The two witnesses to the street incident were outraged at the Milwaukee police response and followed up, demanding answers. A civil rights lawsuit filed by the victims' families stated that the police did not fully investigate the situation because the victim was Laotian, the witnesses were women of color, and it seemed that Dahmer and the victim were homosexual. Sadly, at least four other men were murdered by Dahmer after this incident. Dahmer's higher status, that of being employed and white and having English as a first language, diminished the credibility of the victim—despite his young age and obvious injuries—and of the African American witnesses. The Dahmer case shows how individual traits affect how the criminal justice system responds to both victims and offenders.

A (Brief) Respite from Victim Blaming

By the 1960s and 1970s, there was a movement away from a victim-blaming emphasis and toward a critique that was more system-oriented. During this era, more people questioned how the state allocated resources, and public concern about victims and social inequalities deepened, exerting an impact on the next wave of victimologists. Scholars were more concerned about crime victims' financial and emotional recovery through government assistance, and how the criminal justice and legal systems perpetuated and reinforced victim blaming.¹⁸ Grassroots activists and victim advocates worked to expose criminal justice practices that failed to protect victims of rape and battering and to hold offenders accountable. In essence, the victims' rights movement gained momentum during this time. Chapter 3 contains more in-depth discussions on the victims' rights movement.

Political scientist William Ryan, in his groundbreaking 1971 book, criticized victim blamers, arguing that victims are not intrinsically or pathologically bad but that attitudes toward them are shaped by labeling people who are different as problematic. Once people are seen as problematic, the label sticks and is disseminated, and differences are exaggerated, and these differences may be used to justify mistreatment. Ryan was particularly focused on marginal or disenfranchised people. This perspective echoed the rise in the 1960s of concern for the rights of juveniles, women, victims, gays and lesbians, and prisoners. Ryan argued that one cannot hold powerless people responsible for their own victimization, especially if this "underclass" of people were products of a racist, sexist, or oppressive society. Sociologists contend that this "catchy expression, 'blaming the victim,' quickly took on a life of its own; Ryan's original focus on the underclass was soon lost as the phrase became applied to a broad range of victims."¹⁹ Essentially, the reemergence of victim blaming effectively shut down the system-blaming conversation, discrediting any alternative argument.

Although the victims' rights movement is credited with facilitating changes in legal practice, creating greater understanding of victims' suffering, impacting the ideology of victimologists, and improving victim participation in criminal procedures, blaming of women for their own rape and battering did not disappear. Rather, as the study of victimization made its way into pop culture, horrific crime headlines became standard fare in newspapers. Journalists used lurid tales of victimization to sensationalize the news, commercial enterprises started selling personal protection devices and security systems that pandered to fear, and politicians manipulated the victims' rights platform and public fear of crime to garner votes and endorsements. People continued to distinguish between "real" victims, such

as a victim raped by a stranger wielding a knife or gun, and less credible victims, such as someone who claims rape when the situation seems more like a “date gone bad.” Thus, attention paid to victims by scholars and the social commentary about victim blaming and system blaming resulted in a cacophony of voices trying to establish themselves as “the expert” on victimization. Victim blaming was once again on the rise, after a temporary dormancy during the focus on system blaming.

Resurgence of Victim Blaming

The macro-level approach to understanding criminal victimization was quickly abandoned and replaced, once again, with a less controversial one: victim blaming. Ironically, this refocusing on victims’ role and culpability as the key to understanding criminal victimizations resulted from the successes of the victims’ rights movement. A pushback or backlash, aimed predominantly at feminists concerned with victims’ issues, is evident in the popularity of many books, such as Christina Hoff-Sommers’s *Who Stole Feminism*, Charles Sykes’s *A Nation of Victims*, Alan Dershowitz’s *The Abuse Excuse: And Other Cop-Outs, Sob Stories, and Evasions of Responsibility*, Robert Hughes’s *Culture of Complaint: The Fraying of America*, Paula Pearson’s *When She Was Bad*, Katie Roiphe’s *The Morning After*, and Shelby Steele’s *The Content of Our Character: A New Vision of Race in America*, sold in neighborhood bookstores across the country. The books born out of this backlash pushed back against what Cole says was perceived as the “‘nation of victims,’ ‘the victims’ revolution,’ the ‘politics of victimization,’ ‘victicrats,’ ‘victimists,’ and ‘victimism.’”²⁰ Writings such as these, which often appeal to nonacademic audiences, criticize American culture for suggesting that victimization is omnipresent, that our society is overly litigious, and that everyone but the victim is responsible. These cultural writers warned the public that “nearly everyone has a chance to be a victim now.”²¹ According to Dershowitz, the high-profile cases of the Menendez brothers’ trials for killing their parents, Lorena Bobbitt’s trial for cutting off her husband’s penis, and O. J. Simpson’s criminal trial for murdering his ex-wife and her male friend all illustrate how today’s criminals present themselves as yesterday’s victims.²² The judicial system’s tolerance for the offenders-as-true-victims defense began with battered women’s syndrome (BWS), according to Dershowitz.²³ BWS is discussed again in chapter 3. In brief, it is a psychological condition that is used as a legal defense to explain why a battered woman remains in an abusive relationship or kills her abusive partner.

Alyson Cole (2007: 22) assessed the cultural writers’ perspective this way: “The most salient common element shared by these writers, by contrast