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feminism & criminology

FEMINISM AND CRIMINOLOGY

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for my sisters,
Frances Butterfield and Maxine Cape

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Introduction

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It is tempting to begin a book on feminism and criminology with a statement about the neglect of both women and feminism by the discipline. Certainly, a quick scan of the criminology section of any American or British library will turn up many standard student texts in which women and feminism play but a minor role. This exercise will confirm that criminology is still a discipline dominated by men, and that its subject matter is also male-dominated. Criminology, it seems, is mainly about academic men studying criminal men and, at best, it would appear that women represent only a specialism, not the standard fare.

Similarly, feminism as a substantial body of social, political and philosophical thought (indeed the subject of this book), does not feature prominently in conventional criminological writing. When feminism is formally allocated a place in a textbook, it is often to be found within the women's chapter, which is the chapter invariably on women as offenders and as the victims of crime. This is necessarily a constricted use of feminism. Alternatively, feminism is slotted into a chapter entitled 'Gender and Crime', which should deal at least with the implications of masculinity and femininity for the criminality of both sexes, but is often simply another, and misleading, way of designating the now compulsory chapter on women. Thus, feminism is either reduced to, or conflated with, the study of women and crime, implicitly a minor branch of the discipline of criminology. Feminism in its more ambitious and influential mode is not employed in the study of men, which is the central business of criminology. The potential of feminist analyses in criminology at large is, therefore, widely misunderstood and

underestimated. The message to the reader is that feminism is about women, while criminology is about men.

A clear illustration of this interesting logic is to be found in the *Oxford Handbook of Criminology*, a weighty volume (1259 pages) intended to present students with a comprehensive account of the current state of the discipline.[1] In the introductory chapter, the editors tell us their thoughts on the organization of the Oxford book.[2] They were aware from the start that the 'dimensions of gender and race' needed careful 'handling', and felt obliged to choose between two approaches. 'Should we insist that gender and race be thoroughly addressed in every chapter? Or should we assign them chapters for specialist coverage?'[3] The editors choose the second option. As a consequence, 'Gender and Crime'[4] is the twenty-first chapter of the book, and there is precious little on gender before this: the preceding thousand pages of the book are remarkably free of any explicit analysis of the implications of gender for the understanding of crime. Then when we get to chapter twenty-one, we discover that this is in fact a chapter about women and crime, not about gender.[5] There is no equivalent chapter on men.

By setting up the intellectual task as they do, the editors of the Oxford book are tacitly asking us to think of criminology as a discipline that is somehow free from the effects of gender when it is in its proper form. Gender is treated as a 'specialist' topic (rather than integral to the analysis of crime), and then we discover that this specialism of gender actually refers to the study of women. In a few easy steps, the editors have established a standard case and an exception or speciality. The standard case is the study of men as non-gendered subjects and the speciality is the study of women as gendered beings. As Jonathon Culler has pointed out, this procedure of comparing a deviant with a standard case is generally assumed to be the appropriate one in any 'serious analysis', whatever the discipline. It is not peculiar to criminology. The method is 'to describe . . . the simple, normal standard case of [whatever the topic], illustrating its "essential" nature, and proceeding from there to discuss other cases that can be defined as complications, derivations, and deteriorations'.[6]

The editors of the Oxford book perform precisely this manoeuvre. 'Gender', which predictably turns out to mean 'women', is treated as a specialism that can come late in the book. The main part of the volume, which is essentially about men (but not as sexed men and therefore not explicitly so), then appears as the natural heartland of criminology, its proper terrain. In criminology, as in other disciplines, it is men, not women, who supply the essential (and therefore

unexamined) 'standard case'. Men, themselves, are not compared with others to see what makes them specific and different.

American criminology texts employ a similar logic. In 1991, Stephen E. Brown, Finn-Aage Esbensen and Gilbert Geis published one of the many standard introductory textbooks of criminology tailored for the American student market. *Criminology: Explaining Crime and its Context* is some 730 pages long and divided into three parts: 'foundations of criminology', which introduces the subjects of criminology, criminal justice and crime statistics; 'theories of crime', which traverses the usual range of theories of crime; and 'types of crime'. Women appear in the third section on criminal types. The reason that female crime enters the book this late in the day, well after the general chapters on theoretical criminology, is 'because theories of crime and delinquency until now largely have failed to incorporate gender variables'.[7] And yet, the authors concede, 'Perhaps the most salient characteristic of crime in American society . . . is the extraordinary variation in the rates at which males and females commit most major crimes'.[8]

Although they decry implicitly the practice of setting women to the side (or towards the end) in criminology, because, as they say, sex difference is the most significant feature of crime, Brown and colleagues do just this. Without further apology, they effectively concede on page 495 that the preceding pages of their volume, which purported to be a general treatment of crime and criminology, have really been about men but (somehow) as ungendered subjects. Women appear on page 499 as a special 'type' of offender, whose specificity is their gender, a characteristic which by implication men lack. The topic of feminism is also contained within this women's chapter, neatly labelled and condensed into three pages. Placed thus within the women's chapter, feminism is thoughtfully quarantined from the men's pages (which constitute virtually the entire book). The message is clear: feminism has nothing of interest to say about criminology proper.

A second, more recent example of American textbook writing is the second 1994 edition of *Criminology and Justice* by Lydia Voigt, William E. Thornton, Leo Barrile and Jerome M. Seaman. This book comes in five parts: the usual introduction to the discipline; crime statistics; crime theories; criminal types; and the criminal justice system. Here the subject of 'female criminality' is allotted a few pages in the theory section. It begins with the usual *mea culpa* about the neglect of women: 'Perhaps the most serious indictment of criminological theories is that they are nothing more than specialised theories of male delinquency and criminality'.[9] The authors

then concede, in one way or another, that the indictment is fully justified. They say that 'Over the years, attempts have been made to apply some of the popular sociological theories to female offenders', a clear admission that the popular theories have been theories of men.[10] They also reveal that all the social theories of crime hitherto discussed 'have been based on male samples'.[11] But then knowing all this, the authors are unblushing in their conservatism. They adhere to the standard textbook formula: the general and more extensive part of the work is about men (though it is not called the men's part which would be to concede its limited significance), and then the study of some specialist areas includes a short piece on women who are explicitly gendered. And although they include in their women's section a handful of references to feminist work, they do not name it as such. Feminist criminology thus does not even receive the dignity of a label, either within or without the women's chapter.[12]

At this point, it would seem that my introductory statement about the neglect of feminism by criminology would be well justified. It would also seem, by implication, that feminism offers few prospects for criminology. However, to accept this negative appraisal of feminism's achievements would be to ignore a considerable and mature body of writing by feminists on the subject of crime. As this book will reveal, there is a wealth of feminist criminology that is not appearing, to any significant degree in the standard texts on crime.[13] There are feminists who have carried out the more conventional (but necessary) empirical work of documenting sex bias within the criminal justice system. Feminists have questioned the scientific methods deployed by criminologists, as well as their highly orthodox approach to the nature of knowledge. Feminists have engaged with criminological theory, across the range, questioning its ability to provide general explanations of human behaviour. Feminists have provided an abundance of data about crime from the viewpoint of women (to counter the more usual viewpoint of men), and feminists have also helped to develop new epistemologies that question the very sense of writing from the perspective of a woman (or, for that matter, from the perspective of a man).

In short, as this book will make plain, feminist criminology is a healthy, robust and rich oeuvre which poses some of the more difficult and interesting questions about the nature of (criminological) knowledge. A hallmark of feminist criminology, and of feminism generally, is its willingness to put itself about, to engage with its detractors, and to subject itself to precisely the sort of critical scrutiny it has applied to others. The work of feminists consistently

displays a sensitivity to its working assumptions and a willingness to subject them to revision. It is, therefore, a matter of concern that the student coming to the criminology textbook literature for the first time is led to believe that feminist criminology is either underdeveloped or only of minor significance.

Should the student of crime then look to the criminology journals for some indication of feminism's standing within the discipline, the story will be much the same. If we examine the contributions to the leading American and British journals,[14] we discover that feminism is still peripheral to the main concerns of criminology, which, as we will see in the next chapter, remain heavily empirical and often untheoretical. As a rule, the new writing in the discipline continues to display a remarkably consistent disregard for new currents in critical theory.[15] Evidently, the editors of the leading criminology journals of the United States and of Britain do not require their writers to take account of feminist criticism. The vast majority of articles simply proceed to publication as if feminism had never happened.[16]

In 1987, I published a volume on the characterization of women within the main theories of crime, mainly emanating from the United States.[17] There I suggested that the supposedly general or gender-neutral theories of crime worked poorly for women, and that, as a consequence, it was necessary for criminologists to reconsider some of their most basic assumptions about human behaviour. A decade later, it seems that some of the leading figures in American and British criminology[18] have not heeded these comments; nor have they responded to the work of the many other feminists who are now writing about crime. Having been so summarily dismissed, a further temptation for the feminist criminologist is simply to turn one's back on criminology. Despairing of any scholarly connection, one might as well take one's wares elsewhere. One prominent feminist criminologist who took this option some years ago is Carol Smart. Her departure was marked by the comment that criminology needed feminism more than feminism needed criminology.[19] Smart was clearly of the view that other disciplines offered greater possibilities for fruitful intellectual exchange. Indeed, all the major disciplines, even science and law which perhaps have been the most hidebound, now seem to appreciate the worth of the feminist enterprise.

The costs to criminology of its failure to deal with feminist scholarship are perhaps more severe than they would be in any other discipline. The reason is that the most consistent and prominent fact about crime is the sex of the offender. As a rule, crime is something

men do, not women, so the denial of the gender question – and the dismissal of feminists who wish to tease it out – seems particularly perverse. Sexual difference runs right through the crime statistics – from large-scale corporate fraud to petty property crime; from major to minor crimes against the person. Crime is also something that men are expected to do, because they are men, and women are expected not to do, because we are women. Crime, men and masculinity have an intimate relationship, so intimate that we often fail to see it, and so intimate that it can seem natural. Though the vast majority of men do not enter the official criminal statistics, those individuals who do become known as criminals are usually men.[20] Each year we know this will be true and rarely is anything made of it, even though for many it is a major concern. It would be astonishing were the crime statistics, official or informal, to reveal otherwise. Criminology would tilt on its axis.

The maleness of crime is true of the United States of America, of Britain, of Australia and indeed of all Western countries. Men are the vast majority of violent and non-violent offenders. They are virtually all of the rapists,[21] they are responsible for the majority of other forms of assault, and they are most of the burglars.[22] They even predominate in that area of crime which is sometimes thought to be the preserve of women: larceny.[23] In view of this remarkable sex bias in crime, it is surprising that gender has not become *the* central preoccupation of the criminologist, rather than an afterthought.

Surely it would be natural to ask the 'man question': what is it about men that makes them offend and what is it about women that makes them law-abiding? Several feminist criminologists have remarked upon this myopia, this failure to make central the obvious. According to Maureen Cain, 'so great has been the gender-blindness of criminological discourse that men as males have never been the objects of the criminological gaze'.[24] Anne Edwards has observed that 'although males are the chosen subjects of study in the overwhelming majority of cases, maleness or masculinity are hardly ever mentioned as a possibly significant variable'.[25] This insensitivity to the significance of the (male) sex of the offender who forms the major object of study is, as we will see, particularly marked in the mainstream American literature still appearing in the pre-eminent American journal, *Criminology*.

Not only have criminologists failed to pursue the 'man question' of crime, but they have also been insensitive to the effects of conventional understandings of masculinity and femininity on their own understandings of crime. It is as if they have assumed that

they themselves are free of these effects, that their own cultural constitution as men can be treated as an irrelevant accident, and not as an integral part of their view of the world. It is true that the fact that it is men, and not women, who form the bulk of the population of offenders is nearly always remarked upon; it is also true, as Edwards has observed, that criminologists spend most of their time studying men. But then not much is made of this preoccupation with men. It is a basic given, something which goes almost without saying, rather than a central intellectual concern. Criminology has been developed and presented as a study of men (by men) and their relation to crime, but it is a study that is uninterested in men (as men) and that fails to recognise the consequent specificity, limitations and underlying assumptions of the discipline.

A common-sense response to this observation about criminology's concern with men, as the standard case, and the slight attention paid to this fact, might be that there is a good reason for this selective focus in the case of criminology (though perhaps not in the other disciplines). After all, it is men who do most of the offending. Criminology poses its first logical question – why do people engage in crime? – and finds that it is men who form the obvious objects of their study, because men are the main offenders. But, in truth, there is nothing inevitable about this first question.

An equally sensible starting point (and it is certainly not the only other starting point)[26] is to ask what it is about people that makes them law-abiding, a question that should immediately bring women to the fore as the more law-abiding sex. In fact, when this question has been posed, it still has not had this effect. Men have stayed in the centre of the picture, which in itself further strengthens the argument to be developed below that criminology has a basic difficulty seeing women as proper subjects of study and as properly inquiring subjects. The question of why people obey the criminal law could be regarded as a particularly good one because, traditionally (and, to many, controversially), criminologists have been concerned with the problem of stopping crime. An inquiry into the lives of women would surely throw light on this problem.

Moreover, there is no inexorable logic about the direction in which criminology's first question has taken the discipline (and its consequent treatment of women and of men). Traditionally, criminology's concern with what makes people offend has entailed a comparison with non-criminal men and the question has then been asked, what makes the criminal group more socially pathological, or more aberrant or even less moral than the non-criminal group.

The non-criminal group has been cast in the more favourable light, and the search has been for the reasons for the pathology of the criminal.

However, on the rare occasions when women have been brought into the picture (within orthodox criminology), it has not been to contrast them favourably with the criminal group or to begin to regard women as central figures of interest (because women are generally more law-abiding, and, we might even say more socially responsible, and the crime that women do commit tends to be less serious and less violent). Instead, women have become the aberrant group, even when compared with an aberrant group. So, when women, as the more law-abiding sex and the lesser criminals, have occasionally been contrasted with criminal men, criminologists have rarely seen fit to ask the sorts of questions they have asked about law-abiding men (such as what makes them more socially healthy, or even more moral, than the criminal group).[27]

As lesser criminals, women have often been regarded as inept or unambitious. As law-abiding citizens they seem to lack the offender's energy and drive. We might say that even the criminal looks good when compared with a woman.[28] The idea that an exploration of the lives of women might provide the discipline with powerful insights into human behaviour has not been considered. Nor has the idea been countenanced that an understanding of women might tell men specifically about men. This would allow women a degree of separateness and subjectivity that has not been accorded them by the discipline.

The neglect of women in much mainstream criminology has, therefore, skewed criminological thinking in a quite particular way. It has stopped criminologists seeing the sex of their subjects, precisely because men have occupied and colonized all of the terrain. This myopia is not exclusively a problem of criminology. To Elizabeth Grosz, the blindness of men to their own maleness is a problem which pervades Western culture. In her view:

> the specificities of the masculine have always been hidden under the generality of the universal, the human. Men have functioned as if they represented masculinity only incidentally or only in moments of passion and sexual encounter, while the rest of the time they are representatives of the human, the generic 'person'. Thus what remains unanalysed, what men can have no distance on, is the mystery, the enigma, the unspoken of the male body.[29]

Put another way, criminology is a disciplinary study of men and by men, but one which has been cast as a study which is not

especially interested in men as men, how they differ from women, and why they offend so much more than women. It is certainly not interested in what feminists have to say on these questions. Criminology presents itself to the world as a human science, not a science of men, ignoring the cultural, intellectual and ethical significance of the maleness of the subjects it has chosen to study, and the intellectual and ethical significance of the exclusion of women from the field of inquiry. Indeed, criminologists have been remarkably insensitive to their own powers as meaning-makers, as the makers of a discipline of knowledge. Often they have been quite oblivious of the fact that they have been constituting a body of facts and theory all along, selecting certain objects to include in their studies (and in the same moment defining the meaning of those objects), and selecting others to exclude. Instead, there has been a tendency simply to treat crime and the criminal as brutal facts, as phenomena which are naturally occurring out in the world, demanding the criminologist's attention.

The curious consequence is that conventional criminologists have tended not to consider what characterizes the people they have selected as criminology's proper subjects; that is, they know little about men as *men* and what it is about them that conduces to crime even though they are nearly always studying men. They know even less about women and their relation to offending. In short, we may say that the men of criminology have an enormous blind spot. Though they concentrate their efforts on men, they tend not to ask why it is that they are studying men, and why it is mainly men who engage in crime.[30] Nor do they reflect much upon the fact that they themselves (that is, as criminologists) are mainly men, and that as (mainly white, all educated and so middle-class) men they might see the world in a particular and specific, not neutral and universal, way.[31] They have not considered the fact that their own sex might have something to do with what and why they study, and what they have come to make of it: that the identity of the inquiring subject might influence, even constitute, the meaning of the object of inquiry.[32]

My decision to write this book was animated not only by a concern about criminology's ill-founded disparagement of feminism and its unwillingness to engage with theories that could only have invigorated the discipline. It was also motivated by a desire to discover what had gone wrong with the discipline of criminology that it should remain so reluctant to reflect critically upon its own world view. I wanted to know why criminologists were refusing to examine their own working assumptions, and why, as a consequence,

they avoided central questions about crime, such as the 'man question', preferring to set aside (or marginalize) the whole question of gender and crime.

My task, then, was to examine the mindset of the discipline from an explicitly feminist perspective. What were the causes of criminology's intellectual closure? How had criminologists come to believe so firmly in their own neutrality and impartiality that they could so confidently dismiss the objections of those who suggested otherwise, without any further reflection? Why did criminologists think as they did about what counted as good knowledge? These questions pressed me into writing a book about the theories of knowledge which, implicitly, have underpinned criminology, and the criminological practices generated by those epistemologies.

A book about an entire discipline and how it thinks as it does about what counts as good scholarship must, of necessity, be schematic. It cannot provide an exhaustive catalogue of each school of criminology and its main exponents, the sort of taxonomy you would expect to find in a standard criminology text. My intention, instead, is to document some of the major shifts in criminological approaches to knowledge, invoking particular examples of research, only as they become relevant. Because this is a feminist criminology book, the intellectual highlights are also somewhat different from those you would find in the standard work. Although I intend to indicate the major intellectual movements in conventional criminology, my larger concern is to make apparent the epistemological development of feminist thought, indicating where and why orthodox criminology has tended to fall by the wayside.

The first part of the book is a feminist history of criminology, which takes us from the nineteenth century to the present day, and so traverses a considerable intellectual territory. The principle focus, however, is the fairly recent history of criminology because the major paradigm shifts of the discipline occurred from about the 1960s. Before that time, a fairly orthodox scientific approach to the study of crime was taken by criminologists generally. After the sixties, there was a questioning of conventional science or positivism and a period of accelerated change in philosophical outlook.

The book begins with an account of the scientific attitude adopted by some of the first men of criminology. Chapter 1 considers how the early criminologists made it their brief to study the criminal man (not the criminal or conforming woman) as a scientific object in a distanced, dispassionate manner, and how they managed to use scientific arguments to justify their quite particular concerns and practices. From the start, criminological man took pride in his