

Daly (Chesney-Lind) (1988)
Feminism and Criminology
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... Working toward a reinvention of theory is a major task for feminists today. Although tutored in "male-stream" theory and methods, we work within and against these structures of knowledge to ask new questions, to put old problems in a fresh light, and to challenge the cherished wisdom of our disciplines. Such rethinking comes in many varieties, but these five elements of feminist thought distinguish it from other types of social and political thought:

Gender is not a natural fact but a complex social, historical, and cultural product; it is related to, but not simply derived from, biological sex difference and reproductive capacities.

Gender and gender relations order social life and social institutions in fundamental ways.

Gender relations and constructs of masculinity and femininity are not symmetrical but are based on an organizing principle of men's superiority and social and political-economic dominance over women.

Systems of knowledge reflect men's views of the natural and social world; the production of knowledge is gendered.

Women should be at the center of intellectual inquiry, not peripheral, invisible, or appendages to men.

These elements take different spins, depending on how a scholar conceptualizes gender, the causes of gender inequality, and the means of social change. Generally, however, a feminist analysis draws from feminist theories or research, problematizes gender, and considers the implications of findings for empowering women or for change in gender relations. Finally, we note that scholars may think of themselves as feminists in their personal lives, but they may not draw on feminist theory or regard themselves as feminist scholars. For personal or professional reasons (or both), they may shy away from being marked as a particular kind of scholar....

Tracing Developments: The Awakening to the 1980s

In the late 1960s, Bertrand (1969) and Heidensohn (1968), respectively a Canadian and a British female criminologist, drew attention to the omission of women from general theories of crime. Although they were not the first to do so, their work signaled an awakening of criminology from its androcentric slumber. Several years earlier Walter Reckless had observed in the 3rd edition of *The Crime Problem* (1961: 78),

If the criminologist, before propounding or accepting any theory of crime or delinquency, would pause to ask whether that theory applied to women, he would probably discard it because of its inapplicability to women.

Then, as today, the problem identified by Bertrand, Heidensohn, and Reckless has two dimensions. First, it is uncertain whether general theories of crime can be applied to women's (or girls') wrongdoing. Second, the class-, race-, and age-based structure of crime forms the core of criminological theory, but the gender-based structure is ignored. Although related, these dimensions pose different questions for criminology. The first is whether theories

generated to describe men's (or boys') offending can apply to women or girls (the *generalizability problem*). The second is why females commit less crime than males (the *gender ratio problem*). Both questions now occupy a central role in research on gender and crime, which we shall address below....

Approaches to Building Theories of Gender and Crime

Theories of gender and crime can be built in several ways, and we see criminologists taking three tacks. Some are focusing on what we have called the *generalizability problem*, while others are interested in what we have termed the *gender ratio problem*. Still others want to bracket both problems, regarding each as premature for an accurate understanding of gender and crime.

The Generalizability Problem

Do theories of men's crime apply to women? Can the logic of such theories be modified to include women? In addressing the generalizability problem, scholars have tested theories derived from all-male samples to see if they apply to girls or women (e.g., Cernkovich and Giordano 1979; Datesman and Scarpitti 1975; Figueiredo, McDonough and Selo 1980; Giordano 1978; Warren 1982; Zietz 1981). Others have borrowed elements from existing theories (e.g., Moyer 1985 on conflict theory) or have recast the logic of a theory altogether (e.g., Schur 1984 on labeling). According to Smith and Patemoster's (1987) review of the large body of studies taking this approach, the available evidence is limited, mixed, and inconclusive. More studies likely will confirm a consistent, logical answer to the question "Do theories of men's crime apply to women?" The answer is "yes and no": the truth lies in this equivocation.

The Gender Ratio Problem

The gender ratio problem poses the following questions: Why are women less likely than men to be involved in crime?

Conversely, why are men more crime-prone than women? What explains gender differences in rates of arrest and in variable types of criminal activity? In contrast to the gender composition of generalizability scholars, almost all gender ratio scholars seem to be men. Their approach is to develop new theoretical formulations by drawing primarily from statistical evidence, secondary sources, elements of existing theory (e.g., social control, conflict, Marxist), and at times from feminist theory. Box (1983), Gove (1985), Hagan, Simpson, and Gillis (1987), Harris (1977), Messerschmidt (1986), Steffensmeier (1983), and Wilson and Herrnstein (1985) have offered ideas on this issue. Heidensohn (1985) is one of few female criminologists to take this route.

Juxtaposing the Generalizability and Gender Ratio Problems

Much of the confusion and debate that surround the building of theories of gender and crime can be resolved when scholars realize that they are on different tracks in addressing the generalizability and gender ratio problems. Members of each camp seem to be unaware of the other's aims or assumptions; but when the two are juxtaposed, their logic and their limitations are revealed. Analogous developments have taken place in building theories of gender and the labor market; thus we sketch some of that literature to clarify problems in developing theories of gender and crime.

A model of occupational status attainment, outlined by Blau and Duncan (1967) and using an all-male sample, was applied subsequently to samples of women. This research suggested that the same variables predicted occupational status for men and for women (see Sokoloff's 1980 review); the implication was that the processes of intergenerational occupational mobility were the same for men and women. Those taking a more structural approach to the labor market soon raised this question, however: how was it that the "same" processes produced such distinctive distributions of men and women in the paid occupational structure (job segregation) and

caused such marked differences in men's and women's wages? That query inspired a rethinking of the structural and organizational contexts of men's and women's work (paid and unpaid), which now commands the attention of many sociologists and economists.

The gender and labor market literature today is several steps ahead of that for gender and crime, but similarities at different stages are clear. Generalizability scholars are not concerned with gender differences in rates of arrest or in arrests for particular crimes (or in rates and types of delinquent acts). Instead they want to know whether the same processes (or variables) describe intragender variability in crime and delinquency. Setting aside the mixed research findings, they (like status attainment theorists) confront a vexing question. Even if (for the sake of argument) the same processes or variables explain intragender variability in crime and delinquency or in its detection, why do such similar processes produce a distinctive gender-based structure to crime or delinquency? Moreover, what does it mean to develop a gender-neutral theory of crime, as some scholars now advocate, when neither the social order nor the structure of crime is gender-neutral?

Smith and Paternoster (1987) propose developing a gender-neutral theory of crime because gender-specific theories of the past (meaning theories of female criminality) held sexist and stereotypic assumptions of female behavior. (Note that theories of male crime are assumed to be universal and are not construed as gender-specific.) When Smith and Paternoster then consider the gender ratio problem, they suggest that the volume of criminal deviance may reflect "differential exposure to factors that precipitate deviant behavior among both males and females" (1987:156). Their surmise begs the question of how gender relations structure "differential exposure" and "factors," and seemingly denies the existence of gender relations.

Like structural analysts of gender and the labor market, gender ratio criminologists

argue the quality and the depth of evidence are insufficient to address the generalizability or gender ratio problems. Perhaps more important, the ways in which questions are framed and results are interpreted by many (though not all) of those pursuing the generalizability or gender ratio problems remain tied to masculinist perspectives, ignoring the insights from feminist scholarship.

Observations

Because the building of theories of gender and crime is recent, and because a focus on women or on gender difference is viewed as a marginal problem for the field, we think it imprudent to judge some efforts more harshly than others. We may find, for example, that different explanations for intra- and intergender variability are necessary, or that a more careful examination of patterns of girls' or women's crime may improve our understanding of boys' or men's criminal deviance, among other possibilities. At this stage of theory building, all approaches must be explored fully. In advocating this position we are aware that some varieties of theory building and some methodological approaches are thought to be more elegant (or, as our male colleagues like to say, more powerful). Specifically, global or grand theoretical arguments and highly statistical analyses are valued more highly by the profession. Thus we examine the approaches taken by criminologists in this intellectual context. Our concern is that scholars begin to see that the dimensions of a major criminological problem—the place of men and of women in theories of crime—cannot be separated from a problem for the sociology of knowledge—the place of men and of women in constructing theory and conducting research. Harris (1977:15) alluded to this problem when he said:

Dominant typifications about what kinds of actors "do" criminal behavior—typifications which have served dominant male interests and have been held by both sexes—have played a crucial

ance and . . . keeping men in crime and women out of it.

If the words "criminal behavior," "criminal deviance," and "crime" are replaced with "criminology" in this statement, we can extend Harris's insight with the following observations.

Preferable modes of theory building are gender-linked. Male scholars, for example, have moved rather boldly into theoretical work on the gender ratio problem in both juvenile (e.g., Hagan et al. 1987) and adult arenas (e.g., Messerschmidt 1986). Meanwhile female scholars have displayed more tentativeness and a discomfort with making global claims. In a related vein, it is clear that preferred modes of data collection are also gender-linked. Although both male and female criminologists are required to display their statistical talents, the women's empirical approaches in understanding crime today are more likely than the men's to involve observations and interviews. They are more interested in providing texture, social context, and case histories; in short, in presenting accurate portraits of how adolescent and adult women become involved in crime. This gender difference is not related to "math anxiety" but rather to a felt need to comprehend women's crime on its own terms, just as criminologists of the past did for men's crime.

As increasing numbers of women (and feminists) enter criminology, they face dilemmas if they wish to understand men's, women's, or gender differences in crime or delinquency. A safe course of action—intellectually and professionally—is to focus on the generalizability problem and to use a domesticated feminism to modify previous theory. Something may be learned by taking this tack (i.e., intragender variability), but there remains an issue, not yet pursued vigorously: whether theoretical concepts are inscribed so deeply by masculinist experiences that this approach will prove too restrictive, or at least misleading.

Our final observation is more speculative. It is inspired by Heidensohn's (1985)

forts. She suggests that the men conducting these studies were "college boys . . . fascinated with the corner boys" (1985:141). These researchers "vicariously identified" with the boys, romanticizing their delinquency in heroic terms. We think that this sense of affinity has eluded female criminologists thus far in their analyses of girls' or women's crime. An example will illustrate this point.

Controlling Men's Violence Toward Women

The victimization (and survivorship) of women is a large and growing part of criminology and is of central interest to feminists in and outside criminology. The relatively high feminist visibility in this area may lead criminologists to regard it as the only relevant site for feminist inquiry in criminology. Not so; the more one reads the literature on victimization—the physical and sexual abuse of children, women, and men—the more difficult it becomes to separate victimization from offending, especially in the case of women (Browne 1987; Chesney-Lind forthcoming; Chesney-Lind and Rodriguez 1983; McCormack, Janus, and Burgess 1986; Silbert and Pines 1981). In research on physical abuse and sexual violence by men against women, these major themes and findings are seen:

Rape and violence—especially between intimates—are far more prevalent than imagined previously.

Police, court officials, juries, and members of the general public do not take victims of rape or violence seriously, especially when victim-offender relations involve intimates or acquaintances.

Myths about rape and intimate violence are prevalent.

They appear in the work of criminologists, in criminal justice practices, and in the minds of members of the general public.

Whereas female victims feel stigma and shame, male offenders often do not view their behavior as wrong.

Strategies for change include empowering women via speakouts, marches, shelters and centers, and legal advocacy; and changing men's behavior via court-

violence toward women. Research ethics preclude an answer, but clinical evidence to date shows that pornography with violent content increases aggression, whereas pornography without violent content diminishes aggression (see Baron and Strauss 1987:468). Such evidence hardly settles the matter either for anti-pornography or for anticensorship feminists. At issue are different views of men's sexuality and the causes of men's violence, with radical feminists initiating the anti-pornography movement. Also at issue is whether state officials can be trusted to render the judgments that anti-pornography activists seek via the proposed civil remedy (Waring 1986). Finally, anticensorship feminists see greater harm for women and sexual minorities in efforts to suppress the many forms of commercialized pornography.

Although feminists of all types agree that men's rape and battery of women require urgent attention, scholars and activists have different views on the causes and the malleability of men's sexual and physical aggression. Pornography (and its links to men's sexual violence) and prostitution (and its links to pornography) are prominent in the dissensus. We turn to these debates and their implications for criminal justice policy.

Causes of Men's Violence Toward Women

Radical feminists tend to construct men's nature as rapacious, violent, and oriented toward the control of women (see, e.g., Brownmiller 1975; Dworkin 1987; MacKinon 1982, 1983, 1987; Rich 1980). Both rape and intimate violence are the result and the linchpin of patriarchal systems, in which women's bodies and minds are subject to men's dominion. Marxist and socialist feminists (e.g., Hooks 1984; Klein 1982; Messerschmidt 1986; Schwendinger and Schwendinger 1983) differ from radical feminists on one key point: they believe that men's nature cannot be described in universalistic (or biologically based) terms but is a product of history and culture, and is related to other systems of domination such as classism, racism, and imperialism. In contrast, liberal feminists offer no theory of causes, but like Marxist and socialist feminists they envision the possibility that men's socially structured violent nature can change. What role, then, should the state play in controlling men's violence and protecting women from such violence? Feminist responses are contradictory and the dilemmas are profound.

Questioning the Role of the State

Pornography. Differences among feminists over the causes of men's violence and the state's role in controlling it are nowhere so clear as in the pornography issue. Part of the debate concerns the effect of pornography on increasing or causing men's sexual

Debate among and between feminists and sex-trade workers (Bell 1987; Delacoste and Alexander 1987) reveal differences in how women view sexuality and sexual power, as well as problems in relying on a male-dominated state to protect women. These differences are often submerging in a coalition of civil liberties groups, women's groups, and sex-trade workers' organizations who reject state regulation or criminalization of prostitution. In advocating the decriminalization of prostitution and a range of issues associated with prostitutes' right to work, the concerned groups achieve a short-term solution: women can make a living and are not singled out as criminals in a commercial activity that men control, use, and profit from. Nevertheless, the institution of prostitution remains intact, and with it this feminist dilemma: will support for some women's right to work perpetuate an institution that ultimately objectifies women and exploits them sexually, may foster violence against women, and may harm female prostitutes? Today, however, as in the past, the state's stance on vigorous enforcement of prostitution and other related ordinances depends on how prostitution harms men via sexually transmitted diseases, rather than on the institution's impact on women (Alexander

1987; Bland 1985; Daly 1988; Walkowitz 1980).

In juxtaposing prostitution and pornography, one sees the contradictions and dilemmas for feminists who campaign for redress against men's violence toward women (often by seeking an expanded role for the state in protecting women) while simultaneously advocating women's economic and sexual freedom. Similar dilemmas arise in controlling intimate violence.

Intimate violence and rape. State criminal laws for the arrest and prosecution of spouse (or intimate) abuse and rape have changed significantly in a short period of time (see reviews by Bienen 1980; Lerman 1980). Civil remedies such as the temporary restraining order to protect battered women are more readily available than in the past. These legal changes are a symbolic victory for many feminists, who see in them the state's accommodation to their demands for protection against men's violence. Yet the effect of new laws and programs on changing police and court practices seems far less impressive. Officials' resistance and organizational inertia are common themes; program success can be short-lived (Berk, Loseke, Berk, and Rauma 1980; Berk, Rauma, Loseke, and Berk 1982; Crites 1987; Rauma, Fagan, and Wexler 1984; Quarm and Schwartz 1984; Spencer 1987). Some scholars think legal reforms may serve a deterrent and educative function over the long term, and thus that it may be unreasonable to expect immediate change in men's violence or in the state's response (Osborne 1984).

Gender Equality in the Criminal Justice System

In the early days of second-wave feminism, calls for legal equality with men were apparent everywhere, and the early feminist critics of criminal law and justice practices reflected this ethos. Today feminist legal scholars are more skeptical of a legal equality model because the very structure of law continues to assume that men's lives

are the norm, such that women's legal claims are construed as "special treatment." Alternatives to thinking about equality and difference have been proposed in view of women's social and economic subordinate status and gender differences in paid employment, sexuality, and parenthood; see, e.g., *International Journal of the Sociology of Law* 1986; MacKinnon 1987; Rhode 1987; Vogel Forthcoming; *Wisconsin Women's Law Journal* 1987. Feminist dissensus over what should be done partly reflects different perspectives on gender, but increasingly one finds that strategies for change reflect lessons learned from engaging in the legal process. As feminists have moved to change the law, so too has the law changed feminism.

Questioning Equality Doctrine and the Equal Treatment Model

Feminist analyses of criminal justice practices reflect a similar shift by moving away from a liberal feminist conceptualization of gender discrimination as a problem of equal treatment. This recent change is more pronounced in British than in American criminology (related, no doubt, to the preponderance of statistical approaches in the United States). It is seen in studies and literature reviews by Allen (1987), Chesney-Lind (1986, 1987), Daly (1987a, 1987b, forthcoming), Eaton (1983, 1985, 1986, 1987), Heidensohn (1986, 1987), Smart (1985), and Worrall (1987). Unlike previous statistical studies of gender-based disparities in court outcomes (for reviews see Nagel and Hagan 1983; Parisi 1982), more recent qualitative studies of legal processes analyze the interplay of gender, sexual and familial ideology, and social control in courtroom discourse and decisionmaking at both the juvenile and the adult levels. This work addresses how gender relations structure decisions in the legal process, rather than whether men and women are treated "the same" in a statistical sense. Eaton (1986: 15) sums up the limitations of analyzing

sentencing as an equal treatment problem in this way:

The [discrimination] debate is conducted within the terms of legal rhetoric—"justice" and "equality" mean "equal treatment," existing inequalities are to be ignored or discounted.

Thus, just as feminist legal scholars are critiquing equality doctrine, feminist criminologists now are questioning how research on discrimination in the courts is conducted. . . .

The limitations of current equality doctrine are also apparent for changing the prison (or jail) conditions of incarcerated women. Litigation based on equal protection arguments can improve conditions for women to some degree (e.g., training, educational, or work release programs), but such legal arguments are poorly suited to the specific health needs of women and to their relationships with children (Leonard 1983; Resnik and Shaw 1980). Indirectly they may also make it easier to build new families for female offenders than to consider alternatives to incarceration. Historical studies of the emergence of women's prisons in the United States suggest that separate spheres notions, which were applied to penal philosophy, may have offered somewhat better conditions of confinement for women (notably white, not black women; see Rafter 1985) than an equality-with-men model (Freedman 1981; SchWeber 1982). Therefore equality defined as equal treatment of men and women, especially when men's experiences and behaviors are taken as the norm, forestalls more fundamental change and in some instances may worsen women's circumstances.

Conclusion

We are encouraged by the burst of research attention that has been given to women and to gender differences in crime, to the response to delinquency and crime in the juvenile and criminal justice systems, and to women's victimization. Yet with the possible exception of women's victimiza-

tion, criminology has not felt the full impact of feminism except in its most rudimentary liberal feminist form. In this vein we underscore a point made several times in the essay: feminist inquiry is relevant and should be applied to all facets of crime, deviance, and social control. A focus on gender and gender difference is not simply a focus on women or on what some scholars term "women's issues" in a narrow sense. It is and should be a far more encompassing enterprise, raising questions about how gender organizes the discipline of criminology, the social institutions that fall within its scope, and the behavior of men and women.

We are surprised by those who continue to say that a focus on gender is unimportant for theories of crime because there are "so few women criminals." We have also been told that discussions of women's crime are "entertaining," meaning that they are a trivial footnote to more general and important problems. Still the fact remains: of whatever age, race, or class and of whatever nation, men are more likely to be involved in crime, and in its most serious forms. Without resorting to essential arguments about women's nature, we see in this pattern some cause for hope. A large price is paid for structures of male domination and for the very qualities that drive men to be successful, to control others, and to wield unpromising power. Most theories of crime suggest the "normalcy" of crime in the light of social processes and structures, but have barely examined the significance of patriarchal structures for relations among men and for the forms and expressions of masculinity. Gender differences in crime suggest that crime may not be so normal after all. Such differences challenge us to see that in the lives of women, men have a great deal more to learn.

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