

FEMINIST THEORY, CRIME, AND JUSTICE*

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Feminist research has expanded beyond its origins in Women's Studies to influence the more traditionally bounded academic disciplines. Criminology has not been immune to these excursions. This paper presents an overview of feminist theory/methods and its applications within select areas of crime and justice studies. Points of intra-theoretical divergence as well as directions for future feminist contributions are noted.

"WHY CAN'T A WOMAN BE MORE LIKE A MAN?"

One is tempted to respond to Henry Higgins's familiar lament with a cynical observation: criminological theory assumes a woman is like a man. As many feminist-criminologists have noted (early critics include Heidensohn, 1968; Klein, 1973; and Smart, 1976), most middle-range and macro theories of crime generously assume that what is true for the gander is true for the goose (see also Harris, 1977). As tempting as this simple assertion might be, however, a closer inspection reveals a more complicated picture.

Some feminist critics (Daly and Chesney-Lind, 1988) suggest that criminology, like other social sciences, is androcentric, that is, study of crime and the justice process is shaped by male experiences and understandings of the social world. Such studies/realities form the core of "general" theories of crime/deviance without taking female experience, as crime participant or victim, into account:

[Men] create the world from their own point of view, which then becomes the truth to be described . . . Power to create the world from one's point of view is power in its male form (MacKinnon, 1982:23).

Not all criminological research has ignored women, but all too often, pre-1970s research on female offenders and victims of crime fell prey to unreflecting sexism and, in its more extreme form, misogyny. Females who deviated from expected roles were viewed as morally corrupt, hysterical, diseased, manipulative, and devious (Glueck and Glueck, 1934). Law-violating and -conforming behaviors were believed to stem from the same etiological source—the female nature (Edwards, 1985; Klein, 1973).¹ A woman, it

* My thanks to Kathleen Daly, Nicole Hahn Rafter, and N. Craig Smith for their insightful comments on a draft of this paper. I was assisted in my revisions by the criticisms of three anonymous reviewers. All of the above are to be commended for their assistance, but none is responsible for the ideas and arguments contained herein.

1. This is not to suggest that biological reductionism is absent in studies/theories of male criminality. Such explanations of male crime abound (e.g., Wilson and Herrnstein, 1985). However, with the demise of phrenology, social factors replaced biology as key

seemed—whether good or bad—could never be like a man.

These observations are not new, but they reflect a different voice, a feminist voice, that has been added to the criminological discourse. The purpose of this review essay is to introduce feminist criminology and its intellectual parent, feminism, to the uninitiated reader. It would be presumptuous to suggest that all relevant studies and arguments about gender and crime are included here. Such an extensive review is more appropriate for a book, and depending on the topic, it has likely already been done and done well (e.g., Eaton, 1986; Freedman, 1981; Heidensohn, 1985; Mann, 1984; Naffine, 1988; Smart, 1976). Instead, illustrative examples of different types of feminist thinking are presented to show how feminism has reframed our points of reference, underlying assumptions, and understandings about crime, victimization, and the justice process.

To achieve these aims, the paper is organized into three sections. First, the perspectives and methods that constitute feminist analysis are sorted and differentiated. Second, three areas of criminological study (the female offender, female victim, and criminal justice processing) are discussed because they are key areas in which feminist approaches have been incorporated. Third, directions for further integration are suggested.

FEMINISM: PERSPECTIVES AND METHODS

Feminism is best understood as both a world view and a social movement that encompasses assumptions and beliefs about the origins and consequences of gendered social organization as well as strategic directions and actions for social change. As such, feminism is both analytical and empirical. In its incipient form, feminist research almost exclusively focused on women—as a way of placing women at the center of inquiry and building a base of knowledge. As it has matured, feminism has become more encompassing, taking into account the gendered understanding of all aspects of human culture and relationships (Stacey and Thorne, 1985:305).

It would be a mistake, however, to think of feminism as a single theory. Feminism has expanded into a diverse set of perspectives and agendas, each based on different definitions of the “problem,” competing conceptions of the origins and mechanisms of gender inequality/oppression, and divergent strategies for its eradication. Collectively, these perspectives share a concern with identifying and representing women’s interests, interests judged to be insufficiently represented and accommodated within the mainstream (Oakley, 1981:335).

etiological forces. These explanations have not been seriously challenged. Conversely, until the feminist critique of the 1970s, biogenic/psychogenic models of female crime went, for the most part, unchallenged.

LIBERAL FEMINISM

Liberal feminism was conceived within a liberal-bourgeois tradition that called for women's equality of opportunity and freedom of choice (Eisenstein, 1981). For the most part, liberal feminists see gender inequality² emerging from the creation of separate and distinct spheres of influence and traditional attitudes about the appropriate role of men and women in society (Pateman, 1987). Such attitudes are reinforced by discrimination against women in education, the work place, politics, and other public arenas.

Liberals do not believe the system to be inherently unequal; discrimination is not systemic. Rather, men and women can work together to "androgynize" gender roles (i.e., blend male and female traits and characteristics; Bem, 1974) and eliminate outdated policies and practices that discriminate against women. Affirmative action, the equal rights amendment, and other equal opportunity laws/policies are advocated as redistributive measures until a meritocratic gender restructuring of society occurs.

SOCIALIST FEMINISM

For socialists, gender oppression is an obvious feature of capitalist societies. Depending on whether one is a socialist woman (Marxist-feminist) or a socialist-feminist, however, the weight that one gives to capitalism as a necessary and/or sufficient cause of that oppression will vary (Eisenstein, 1979). If one is the former, gender (and race) oppression is seen as secondary to and reflective of class oppression.

Socialist-feminists attempt a synthesis between two systems of domination, class and patriarchy (male supremacy). Both relations of production and reproduction are structured by capitalist patriarchy (Beauvoir, 1960; Hartmann, 1979; Mitchell, 1971). Gender difference, as a defining characteristic of power and privilege in a capitalist society can only be attacked by constructing a completely different society, one that is free of gender and class stratification (Oakley, 1981).

RADICAL FEMINISM

The origins of patriarchy, and the subordination of women therein, are seen by radical feminists to rest in male aggression and control of women's sexuality. Men are inherently more aggressive than women, who, because of

2. Phillips (1987) argues that the choice of terms describing gender relations imply particular views of what the problem is. So, inequality (a term favored by liberals and some women of color) suggests that women deserve what men and/or whites are granted. Oppression (socialists and women of color) implies a complex combination of forces (ideological, political, and economic) that keep woman in her place. Subordination is a term favored by radical feminists and some women of color who identify the holder of power as the culprit (men and whites respectively).

their relative size disadvantages and dependency on men during child-bearing years, are easy to dominate and control. The arguments of radical feminists (e.g., Atkinson, 1974; Barry, 1979; Firestone, 1970; Rich, 1980) bring sexuality to the analytical fore. The "personal" is "political" (Millett, 1971). Sex not gender is the crucial analytical category; male domination, not class, is the fundamental origin of female subordination. Radical feminists' political and social agendas encompass lesbian separatism (Atkinson, 1984) and technological control of reproduction (Firestone, 1970).

WOMEN OF COLOR

In her eloquent "Ain't I a woman" speech, Sojourner Truth (1851) informed white suffragists of their myopia about race by highlighting how as a black woman her experience was different from theirs. Joseph and Lewis (1981) remind us that Truth's commentary is no less relevant today. Many women of color see the women's liberation movement as hopelessly white and middle class, immune to their concerns. As Hooks (1987:62) observed,

Most people in the United States think of feminism . . . as a movement that aims to make women the social equals of men. . . . Since men are not equals in white supremacist, capitalist, patriarchal class structure, which men do women want to be equal to?

The alternative frameworks developed by women of color heighten feminism's sensitivity to the complex interplay of gender, class, and race oppression. Patriarchy permeates the lives of minority women, but it does not take the same form that it does for whites (Brittan and Maynard, 1984). Though these contributions may not have coalesced yet into a coherent theoretical framework (at least according to Jagger and Rothenberg, 1984), radical (Lorde, 1988), socialist (Mullins, 1986), and Marxist (Davis, 1981) women of color have provided possible points of integration with theories of race oppression (e.g., Joseph, 1981a, 1981b; Wellman, 1977).

In sum, feminist theory is not one perspective; it is a cacophony of comment and criticism "concerned with demystifying masculine knowledge as objective knowledge" (Brittan and Maynard, 1984:210) and offering insights from a women's perspective.

FEMINIST METHODS

The male epistemological stance, which corresponds to the world it creates, is objectivity; the ostensibly uninvolved stance, the view from a distance and from no particular perspective, apparently transparent to its reality. It does not comprehend its own perspectivity, does not recognize what it sees as subject like itself, or that the way it apprehends its world is a form of its subjection and presupposes it (MacKinnon (1982:23-24).

Concern over the nonobjective consequences of so-called objective normal

science (Kuhn, 1970) has led some feminists to challenge the scientific enterprise. Keller (1982) arranges these challenges on a political spectrum from slightly left of center (liberal feminists) to the more radical left. The liberal critique takes an equal employment opportunity approach by observing the relative absence of women from the scientific community. This view "in no way conflicts either with traditional conceptions of science or with current liberal, egalitarian politics" (p. 114).

From this point, however, the criticisms become increasingly fundamental to the way knowledge is produced; they range from charges of bias in selecting research topics and interpreting results to rejecting rationality and objectivity as purely male products. More radical feminists have adopted a methodological strategy that is in direct opposition to the scientific method. In order to "see" women's existence (which has been invisible to objective scientific methods) "feminist women must deliberately and courageously integrate . . . their own experiences of oppression and discrimination . . . into the research process" (Miles, 1983:121). *Feminist methods* are necessarily subjectivist, transdisciplinary, nonhierarchical, and empowering.

Where one falls along Keller's feminist-political spectrum will determine one's choice of methods (i.e., quantitative versus qualitative) and whether one sees methods and theory as interrelated as opposed to separate and distinct. Thus, methods used by feminists are more diverse than typically credited (for examples, see Jayarate, 1983; Reinhartz, 1983; Stacey and Thorne, 1985).

Together, the above theoretical and methodological points form a feminist perspective. All have been incorporated into criminology, but some have had a greater impact than others. The goal in the next section is to identify the ways in which these approaches and methods have changed the way criminologists address the problems of crime and justice.

INCORPORATING THE FRAMEWORKS

THE FEMALE OFFENDER

The stirrings of feminist criminology are nearly two decades old. Heidensohn (1968:171), in a "pre-feminist" paper, bemoaned the state of knowledge about female deviance and called for a "crash programme of research which telescopes decades of comparable studies of males." Later, Klein (1973) and Smart (1976) were to bring explicitly feminist perspectives to their critiques of extant theoretical and empirical work on the female offender. Klein, a Marxist-feminist, noted the absence of economic and other social explanations for female crime. Smart, working within more of a radical feminist perspective, stressed the linkages among sexist theory, patriarchy, and sexism in practice—specifically identifying the relationship between stereotypical assumptions about the causes of female crime and how female offenders are controlled and treated.

Both Klein and Smart set an agenda for a new feminist criminology, but their more radical approaches were derailed by the publication of Simon's *Women and Crime* and F. Adler's *Sisters in Crime* (1975). Claiming that a "new" female offender was emerging (white collar and/or male like), Simon and Adler generated tremendous interest in female crime (a clear aim of incipient feminism). But, tying the female offender's emergence to women's liberation brought about a "moral panic" (Smart, 1976), which was viewed by some as a backlash to the women's movement.³ In Chesney-Lind's (1980:29) words, it represented "another in a century long series of symbolic attempts to keep women subordinate to men by threatening those who aspire for equality with the images of the witch, the bitch, and the whore."⁴

As with many social problems of our day, female crime became interesting only when it transcended the expected boundaries of class, race, and gender. As a "quasi-theory," the liberation-crime relationship had great appeal for nonfeminist criminologists.⁵ But tests of the thesis were less than supportive. In fact most discredited it (Austin, 1982; Giordano et al., 1981), and others found evidence of a link between female crime and economic marginalization (Datesman and Scarpitti, 1980; Gora, 1982; Mukherjee and Fitzgerald, 1981; Steffensmeier, 1978, 1981; Steffensmeier and Cobb, 1981). The new female offender identified by Simon and Adler was more myth than reality (Steffensmeier, 1978). These conclusions did not differ substantially from Klein's (1973), yet they came years after her original critique—a fact that dramatically illustrates the marginality of feminist criminology at the time. Yet, subsequent research on the causes of female crime has clearly buttressed the economic/class perspectives of Marxist/socialist feminists as well as the

3. The links between women's liberation and changing patterns of female criminality were made before. Bishop (1931) complained that women's liberation during the 1920s had three negative results: (1) more women were turning criminal; (2) a "better" class of women were becoming criminal more often; and (3) women were becoming sexually criminal at a younger age (cited in Rasche, 1974).

4. To be fair, both Simon and Adler had more to offer than mere speculation about the "dark side" of women's liberation. Simon's research documents the basic inequities between male and female correctional facilities and treatments. By attributing these differences to male chivalry toward women, she takes a liberal feminist approach to the problem of gender and justice, an approach that heavily influenced later works in this area. Adler's work, while more impressionistic than Simon's, attempted to explain differences in crime rates between white and black females. Although her interpretations gave rise to more systematic examinations of intra-gender race differences in crime that are highly critical of her interpretations and methods, the issues she raised are of primary importance to most feminist criminologists today.

5. A research focus on gender alone does not qualify one as a feminist just as a focus on class does not make one a marxist. Rather, as part of their endeavor, feminist criminologists must seriously consider the nature of gender relations and the peculiar brand of oppression that patriarchal relations bring (Leonard, 1982).

"opportunity" perspectives of the liberal feminists (Ageton, 1983; Box, 1983; Box and Hale, 1984; Elliott and Ageton, 1980; Giordano et al., 1981).

In retrospect, feminist criminology both gained and lost from the narrow focus on liberation and crime. On the plus side, we gained a better insight into the historical (Mukherjee and Fitzgerald, 1981) and cross-cultural (F. Adler, 1981; Plenska, 1980) patterns of female crime. But because the liberation thesis was so limited, it diverted attention from the material and structural forces that shape women's lives and experiences. It is in these areas that women of color and socialist and radical feminist criminologists are more apt to focus etiological attention (Hagan et al., 1985, 1987; Lewis, 1981; Miller, 1985; Rafter and Natalizia, 1981; Wilson, 1985).

WOMEN VICTIMS: THE RADICAL FEMINIST CRITIQUE

Liberal feminism has dominated studies of the female offender, but the same is not true of victimology (Daly and Chesney-Lind, 1988). Shifting away from analyses that blame the victim for her victimization (Amir, 1967),⁶ radical feminists have constructed alternative interpretations of offender-victim relationships and victim experiences of criminal justice (Chapman and Gates, 1978; Klein, 1981; Wood, 1981).

Brownmiller's (1975) historical and cross-cultural study of rape brought a radical feminist perspective to the center of public consciousness. Building on the argument that rape is not a crime of sex but rather an act of power and dominance (Greer, 1970), Brownmiller concluded that rape is a tool in the arsenal of all men to control all women.

Radical feminists have reframed the ways in which rape is commonly understood in our society. Rather than a crime of sex, it is more apt to be viewed as one of male power, control, and domination. Brownmiller's work, coupled with that of other radical feminists (e.g., Griffin, 1979; Riger and Gordon, 1981), opened a floodgate of inquiry into rape and other types of victimizations that are "uniquely feminine" (Wilson, 1985:4), such as pornography (Dworkin, 1981), battering (Dobash and Dobash, 1979; Martin, 1976; Straus et al., 1980), incest (Finkelhor, 1979; Moyer, 1985; Stanko, 1985) and sexual harassment (MacKinnon, 1979; Stanko, 1985).

Guiding much of this research is the radical feminist critique of official conceptions and definitions of violence, which are viewed as male centered and incapable of incorporating the full range of female experiences of violence (i.e., from intimidation and coercion to physical violence and death). A woman-centered definition of violence is one that portrays violence as a form

6. Precipitous behavior has ranged from dressing provocatively, saying no to sex while "meaning" yes, "nagging" a spouse, Lolita-like seductiveness on the part of the victim, and so on.

of social domination rather than a random and/or noninstrumental form of expression (Hanmer, 1981:32).

Radical feminists have dominated but not monopolized feminist perspectives in this area. Socialist feminists, liberals, and women of color have also participated in the dialogue. Gordon's (1988) research of family violence is implicitly critical of some radical feminists' overly deterministic conception of patriarchy. Such an image, she argues, denies agency to women and cannot incorporate "the chronic conflict, unpredictability, and ambivalent emotions that have characterized relations between the sexes" (xi-xii).

In another historical study, Tomes (1978) links variations in spousal abuse to changes in the economic position of the working class generally and the male's position within the family specifically. As the working class improved its economic position and males cemented greater power within their families, the official incidence of working-class battering decreased.

Based on her findings, Tomes argues that feminists may need to reconceptualize the relationship among male power, female economic dependency, and battering. Dependency is not necessarily tied to greater abuse; in fact, the opposite may be true. A wife's economic independence may exert a greater challenge to male authority within the family, thus creating a climate in which husbands resort to battering as a means to reestablish their control.

Studies that find great variety in the cross-cultural prevalence and incidence of rape and battering (e.g., Pagelow, 1981; Sanday, 1981) have forced feminists to examine patriarchal relations across different societal and situational arrangements (e.g., Wilson, 1985). If female victimization is a function of changing the needs of a capitalist/patriarchal system, then male domination and its relationship to female victimization need not be viewed as inevitable or immutable.

Around the themes of rape and control of sexuality, patriarchy and racism marry and divorce in intricate ways (Davis, 1981). In the United States, white racism and fear gave rise to mythological constructions of black sexuality. Black males are perceived as sexual threats and have been hunted and hanged for their "rape potential." For black victims of rape, the justice process is not simply gendered—it is racially gendered. Data indicate that black-on-black rapes are not taken as seriously by authorities as those that involve white victims (Kleck, 1981; LaFree, 1980). Such findings have led one prominent black scholar (Joseph, 1981b:27) to comment, "It must be considered an impossibility for white men to rape Black women in the eyes of justice and in the minds of many. Black women apparently are considered as something other than 'women.'"

GENDER AND JUSTICE PROCESSING

A final area to be discussed in this literature review is gendered justice.

Comedian Richard Pryor once called attention to discrimination in the U.S. criminal justice system by defining justice as "just us." His concern with differential sentencing practices is one shared by feminists who primarily study the conditions under which criminal justice is gendered and with what consequences. Although liberal approaches typically dominate the gender-and-justice research, other feminist perspectives are gaining ground—especially in research on courts and corrections.

There are many stages in the criminal justice system at which gender may have an impact on decision making. The findings of some of the better-known studies of several strategic points in the decision-making process are summarized below.

POLICE

Arguments about whether and how justice is gendered must begin with police behavior. That police decisions to arrest can be influenced by extralegal factors such as the demeanor of the offender (Black, 1980), has been established. It is less clear how gender, either alone or in conjunction with other characteristics, may consciously or inadvertently influence police behavior.

In the liberal "equal treatment" tradition, Moyer and White (1981) test police bias in response decisions under "probable" responses to hypothetical situations. Neither gender nor race had an effect on police behavior once crime type, especially as it interacts with demeanor of the offender, was controlled. On the other hand, Freyerhern's (1981) comparison of juvenile male and female probabilities of transition from self-report incident to police contact and arrest, finds males to be more likely to incur police contact and arrest than females. Both of these studies are methodologically problematic, however. Moyer and White cannot generalize their findings to real police encounters and Freyerhern (1981:90) does not calculate transition probabilities across individual offense categories, nor does he include status offenses. Avoiding some of these methodological traps but still working within a liberal tradition, Visher (1983) finds the interaction between race and gender to be a key factor influencing arrest decision. Visher finds police chivalry only toward white females once "legal" factors are controlled. She hypothesizes that black females are treated more harshly than their white counterparts because they are less apt to display expected (i.e., traditional) gender behaviors and characteristics when they encounter a mostly white and male police force.

Race and gender are also found to interact through victim characteristics (Smith et al., 1984). An analysis of 272 police-citizen encounters, in which both a suspected offender and victim were present, revealed that white female victims received more preferential treatment from police than black female

victims. Thus, although chivalry may be alive and well for white women, it appears to be dead (if it ever existed) for blacks.

COURTS

Police contact is not the only point in justice processing at which discrimination can occur. Women have been found to receive more lenient treatment in the early stages of court processing (i.e., bail, release on own recognizance, and/or cash alternatives to bail; I. Nagel, 1983) and further into the process, e.g., conviction and sentencing (Bernstein et al., 1977; S. Nagel and Weitzman, 1972; Simon, 1975). Other studies find no gender bias when controlling for crime seriousness and prior record (Farrington and Morris, 1983) or little effect from extralegal factors when legal factors and bench bias are controlled (I. Nagel, 1983). Variation in sentencing may be related to so-called counter-type offenses, that is, women are treated more harshly when processed for nontraditional female crimes, like assault (Bernstein et al., 1977; S. Nagel and Weitzman, 1972), or when they violate female sexual norms (Chesney-Lind, 1973; Schlossman and Wallach, 1978). Given variable-specification problems, however, some of these findings are potentially spurious.

Once again, race may confound these effects. Spohn et al. (1982) address the issue of paternalism in sentencing, especially for black women. Controlling for prior record and attorney type, they found that black women are incarcerated significantly less often than black men, but about as often as white men. They conclude that the apparently lenient treatment of black women is not due to paternalism in their favor but rather to the racial discrimination against black vis-à-vis white men.

Studies of court processing are not entirely dominated by liberal perspectives. More critical perspectives emphasize social power and patriarchal control as the primary mechanisms through which justice is gendered (Kruttschnitt, 1982, 1984). Eaton (1986:35) argues that magistrate courts in Great Britain (the lower courts) reinforce the dominant imagery of justice (i.e., courts are ostensibly fair and just) while they maintain the status quo: "It is in these courts that the formal rules of society—the laws—are endorsed; it is here, too, that the informal, unwritten rules regulating social relations [e.g., gender, class, and race] are re-enacted."

When are females apt to be subjected to formal mechanisms of control? When other, more informal, constraints are lacking or disrupted. Kruttschnitt (1982, 1984) suggests that sentencing outcomes are affected by a woman's social status and/or her respectability. Differential sentencing among women is tied to the degree to which women are subjected to formal versus informal social control in their everyday lives.

Daly (1987a, 1989b) and Eaton (1986, 1987) offer convincing evidence that the most important factor determining sentence outcome, once prior record

and offense seriousness are controlled, is marital and/or familial status.⁷ Marital status has been found to matter for women (married receive more lenient sentences) but not for men (Farrington and Morris, 1983; I. Nagel, 1981) or to be as important for both (Daly, 1987a, 1987b).

Pretrial release and sentencing are seen to be both "familied" and "gendered." They are familied in that court decisions regarding the removal of men and women from families "elicit different concerns from the court" (Daly 1987a:154). They are gendered in that women's care of others and male economic support for families represent "different types of dependencies in family life" (p. 154). Men and women without family responsibilities are treated similarly, but more harshly than familied men and women. Women with families, however, are treated with the greatest degree of leniency due to "the differing social costs arising from separating them from their families" (Daly, 1987b:287). The economic role played by familied men can, more easily, be covered by state entitlement programs, but it is putatively more difficult to replace the functional role of familied women. Judges rationalize such sentencing disparities as necessary for keeping families together (Daly, 1989b).

As these latter studies suggest, much of the observed gender bias in processing may not be a case of overt discrimination for or against women relative to men. Instead, judicial decisions may be influenced by broader societal concerns about protecting nuclear families (Daly, 1989b) and the differing roles and responsibilities contained therein (Eaton, 1986). It is not clear that such forms of justice are overtly paternalistic, nor are they necessarily racist. Rather, in a society that stratifies other rights and privileges by gender, race, and class, "equality" in sentencing may not be just (Daly, 1989a).

Eaton (1986:10-11) takes a somewhat different view of familied justice. In her opinion, the courts reflect the needs and interests of patriarchy and capitalism, in which attendant inequities are reproduced. "Family-based" justice is a visible manifestation of the patriarchal and capitalist need to maintain and protect the nuclear family—within which gender and productive/reproductive relations first emerge.

CORRECTIONS

As it became clear that, compared with males, female prisoners were treated differently (in some cases more leniently and in others more harshly), liberal feminist perspectives came to dominate research questions and policy considerations (see, Haft, 1980; Heide, 1974; Simon, 1975).

The linkages between female incarceration and male control of female sexuality are developed by radical feminists (Chesney-Lind, 1973; Smart, 1976). Rasche (1974), for example, describes how prostitutes with venereal disease

7. These effects appear to be strongest for black defendants (Daly, 1989a).

were prosecuted and institutionalized, with the "cure" as a condition of release. Nondiseased prostitutes were less likely to go to jail or prison. Certain prison practices, such as checking for evidence of a hymen during forced physical examinations and vaginal contraband searches, have been used as techniques to control the sexuality of youthful offenders and to humiliate and degrade female inmates (Burkhart, 1973; Chesney-Lind, 1986).

Socialist feminists emphasize how prison tenure and treatment vary by class and race (Freedman, 1981; French, 1977, 1978; Lewis, 1981; Rafter, 1985). In her historical accounting of the development of women's prisons, Rafter (1985:155) observes how race determined whether and where a woman was sent to prison.

Comparison of incarceration rates and in-prison treatment of black women and white women demonstrates that partiality was extended mainly to whites. Chivalry filtered them out of the prison system, helping to create the even greater racial imbalances among female than male prisoner populations. And partiality toward whites contributed to the development of a bifurcated system, one track custodial and predominantly black, the other reformatory and reserved mainly for whites.

The bifurcated system of women's corrections emerges in part from two competing images of female nature. In one view, women are seen as fragile and immature creatures, more childlike than adult. Consequently, the female offender is perceived as a "fallen woman," in need of guidance but not a true danger to society (Rasche, 1974). The reformatory is perfectly suited to such an offender. Primarily staffed by reform-minded middle-class women, reformatory training programs emphasized skills that would turn the white, working-class misdemeanants into proper (and class-appropriate) women, that is, good servants or wives (Rafter, 1985:82).

In custodial prisons, however, a different archetype dominated. Women's "dark side," their inherent evil and immorality (Smart, 1976) shaped prison philosophy. Here, the predominantly black felons (who were perceived as more masculine, more self-centered, volatile, and dangerous) were treated like men—only, given the conditions of their incarceration (i.e., fewness of numbers and at the mercy of violent male offenders), their equality was tantamount to brutal treatment and often death (Rafter, 1985:181).

The degree to which prisons function as something other than just places of punishment and/or treatment is a popular theme in neo-Marxist literature. Extending this interpretation to women, Marxist-feminists (e.g., Wilson, 1985; Hartz-Karp, 1981) argue that prisons, like other institutions of social control (e.g., mental health facilities), retool deviant women for gender-appropriate roles in capitalist patriarchal societies:

If deviant women are more frequently assigned to the mental health system for social control than to the criminal justice system, it is perhaps

because of the superior ability of the mental health system to “re-tool” worn-out or rebellious domestic workers. (Wilson, 1985:18)

Societal control of female deviance serves the needs of capital. When those needs change, so too will the mechanisms and directions of social control.⁸

In this vein, Carlen (1983) demonstrates how “down, out and disordered” women in Scotland are disciplined through medical and judicial apparatuses. Most of the imprisoned are poor women; many have histories of alcohol and drug abuse, and a large number come from violent homes. These life experiences combine, setting into motion a cycle of deviance, imprisonment, and patriarchal and class discipline that is tenacious and defeating:

Being seen as neither wholly mad nor wholly bad, [women] are treated to a disciplinary regime where they are actually infantilised at the same time as attempts are made to make them feel guilty about their double, triple, quadruple, or even quintuple refusal of family, work, gender, health, and reason (Carlen, 1983:209).

WHERE TO GO FROM HERE?

In 1976, Carol Smart suggested a number of topics for feminist research.⁹ A decade later, feminist criminology has amassed a considerable body of knowledge in most of these areas—so much so in fact that feminists now are more self-critical—especially in the areas of policy and legislative changes (see Daly and Chesney-Lind, 1988). This is a positive step. It suggests not only that a feminist voice is being heard, but that it is loud enough to produce disagreement and intellectual exchange. Nonetheless, certain areas in criminology either have been underexposed or are resistant to feminist concerns. Thus, some new directions for feminist criminology are discussed below.¹⁰

RACE AND CRIME

Poorly conceived offender self-report surveys provided criminologists with the empirical justification to ignore the race-crime relationship, and the prevailing political climate reinforced our myopia. There is enormous risk in ignoring that relationship, however. First, based on more sophisticated crime

8. Cloward and Piven (1979) and Box (1983) assert that female deviance is handled by the medical community, in part, because women are more likely to direct their deviance inward (i.e., they privatize it into self-destructive behaviors, like depression and suicide). Such behavior is conceptualized as sickness (like “hysteria” earlier) and is thus subject to the formal control of the psychiatric community.

9. The relevant topics are the female offender and the attitudes of criminal justice personnel toward her; criminal justice processing; gender and corrections; and the structure and purpose of law.

10. To suggest that feminists need to identify areas “appropriate” for feminist critique implies that knowledge, as currently constructed, is selectively androcentric. I would argue that criminology as a whole, like other academic disciplines, needs a feminist “overhaul.”

measures (e.g., National Youth Survey, National Crime Survey, cohort studies), it is clear that the race-crime relationship is an essential one. Second, and not unlike the gender-crime relationship, such reticence leaves the interpretive door open to less critical perspectives.

Feminist criminologists have great potential in this area, but the data are sparse and problematic and the analytic contributions few. Too often we rely on quantitative studies that dichotomize race into white and black, or the nonwhite category is broadened to include groups other than blacks (see, e.g., Tracy et al., in press). In the former instance, other ethnic/racial groups are ignored; in the latter, such inclusive categorizations assume etiological and historical/cultural invariance between groups.

Clearly, one of the first places for feminists to start is to target women of color for greater research. Available data indicate that there are significant differences between black and white female crime rates (Ageton, 1983; Chilton and Datesman, 1987; Hindelang, 1981; Laub and McDermott, 1985; Mann, 1987; Young, 1980). Simpson (1988), Miller (1985), and Lewis (1981) argue that the unique structural and cultural positioning of black women produces complex cultural typescripts that exert push-pull pressures for crime, pressures that may not exist for white women.

Miller's (1985:177-178) ethnography of lower-class deviant networks describes how certain types of male and female criminality (e.g., hustling, pimping, and other instrumental crimes) are interdependent in minority communities. Female crime also appears to have a group-directed and -enacted dimension (see Young, 1980). The collective nature of such minority offending may stem from the fact that it emerges, in part, from the integrated and extended domestic networks of underclass blacks (Miller, 1985) and from joint participation in gang activities (Campbell, 1984).

These observations do not imply, however, that patriarchy is absent from these communities. Male dominance and control are reproduced within interpersonal relationships (not necessarily familial) and embodied in informal organizations, like gangs (Campbell, 1984) and state social service agencies. Some female offending can be interpreted as challenging patriarchal control and asserting independence (Campbell, 1984:135); much can be attributed to both economic necessity and the pull and excitement of street life (Campbell, 1984; Miller, 1985). Female participation in violent crime may stem from abusive relationships between men and women (Browne, 1987; Mann, 1987) and/or the frustration, alienation, and anger that are associated with racial and class oppression (Simpson, 1988).

Research by Hill and Suval (1988) suggests that the causes of crime may differ for black and white women, which raises questions about whether current theories of female crime, including feminist perspectives, are white-female centered. Given the paucity of data on how gender structures relationships within minority communities and families, it is impossible to say.

More quantitative research is needed on minority groups other than blacks (e.g., Chicanos and other Hispanics, Asians, Native Americans) to establish a better knowledge base, but qualitative studies that probe culture and subjective differences between women of color and whites are also essential (Mullins, 1986). Feminist criminologists are guilty of the "add race and stir" shortsightedness that pervades feminist thinking. We would do well to heed Spelman's (1988:166) reminder of how to understand and approach differences among women:

If we assume there are differences among women, but at the same time they are all the same as women, and if we assume the woman part is what we know from looking at the case of white middle-class women, then we appear to be talking only about white middle-class women. This is how white middle-class privilege is maintained even as we purport to recognize the importance of women's differences.

ELITE CRIME

In 1977, Harris admonished criminologists for their failure to use "the sex variable" as the empirical building block for all theories of criminal deviance. Apparently (though not surprisingly) this was interpreted to apply only to street crime. The entire area of white-collar, corporate, and organizational crime has not been examined from a feminist perspective.

Officially, women are underrepresented in white-collar crime data although recent Bureau of Justice Statistics (1987) data suggest that women have made inroads into this formerly male domain. Similar claims are made regarding female penetration of the upper reaches of organized crime (Simpson, 1987). Yet, Daly (1988) finds neither the crime types nor the offenders themselves to be particularly elite.

Much of our information on female participation in organized crime is anecdotal, derived from the nonsystematic observations of male crime participants. Consequently, there has been little systematic research on women's penetration of and mobility within illicit markets. The official data on corporate and other white-collar offending are equally problematic (see Reiss and Biderman, 1980). Given that both the data and interpretation/theory in these areas are suspect, feminist researchers must first develop an empirical base with which to answer the following types of questions. Is elite crime a male domain (Steffensmeier, 1983)? What are the motivations and characteristics of women who do participate (Daly, 1988; Zietz, 1981)? How are they similar and different from male offenders (P. Adler, 1985; Block, 1977; Simpson, 1987)? What explains the official increase in female participation in white-collar offenses?

At this point, feminists have barely scratched the surface of the elite crime

area. Daly (1988) is providing some direction, but much more needs to be done.

DETERRENCE

Gender confounds the anticipated relationship between objective sanction risks and criminal activity, that is, given that female sanction risks are low, women should have high rates of law breaking. Yet, as virtually all measures of crime document, the exact opposite is true. This empirical relationship has left deterrence theorists scrambling to make sense of the inconsistency.

Richards and Tittle (1981:183–185) argue that there are at least five lines of reasoning that would predict that women perceive higher levels of risk than do men. Using measures derived from these hypotheses, they find two variables, stakes in conformity and perceptions of visibility, to be highly associated with gender differences in perceived chances of arrest:

Women may think that legal sanction is relatively certain because they are more likely to think of themselves as subject to surveillance and general social sanctions than are men. Their greater relative stakes in conformity may make deviance more threatening for them, and lead to high sanction risk estimates (p. 196).

The social control literature, in general, characterizes female conformity in a stereotypical manner. Conforming females are seen as passive, compliant, and dependent. Instead, Naffine (1988:131) suggests that the conforming women be seen as “involved and engrossed in conventional life. But . . . also actively concerned about the effects of her behavior on her loved ones, particularly emotionally and financially dependent children.” (Naffine is especially critical of Hagan et al., 1979, 1985, 1987.)

Naffine’s image of conformity is partially influenced by Gilligan’s (1982) work in moral development theory. Gilligan’s research discovers that men and women use “a different voice” when they talk about moral responsibility. If the moral calculus of reasoning about crime is different between men and women, Gilligan may have identified a new way of conceptualizing gender differences in (1) perceived threat of sanction and (2) male-female crime rates. According to her theory, men often make moral decisions based on an “ethic of justice,” while women employ a model of decision making based on an “ethic of care.” The former is a more abstract model, expressed as a set of principles defining rights and rules (e.g., Kohlberg, 1981). In the latter, decisions are governed by “a psychological logic of relationships, which contrasts with the formal logic of fairness that informs the justice approach” (Gilligan, 1982:73).

A woman’s decision to violate the law will depend on her definition of the moral domain (i.e., how will my act affect those around me, those who count

on me). It is not surprising that in some deterrence studies (Finley and Grasmick, 1985) women score significantly higher than men on measures of internalized guilt. Because women are responsible for the care of relationships, any act that may result in their removal from that role is apt to produce a tremendous sense of guilt. Guilt may be negated if the needs of the family (for food or other valued items) outweigh the "immorality" of breaking the law to obtain them or if others are available to take on the responsibilities of care.

Gilligan's theory can be used to explain why most women do not violate the law and why they score higher on most measures of deterrence. It can also explain class and race differences in female crime rates. Lower-class and minority women are more apt to find themselves in situations that require a renegotiation of the moral domain and, given their kinship networks, they have a greater chance of finding care substitutes (Miller, 1985). Not surprisingly, Finley and Grasmick (1985) report that blacks score lower on certainty and severity of guilt than their white counterparts.

Some critics suggest that Gilligan's findings are biased (she interviewed mostly middle-class students) or that they may be a function of subordinate female social position, not real differences in ethical philosophies (Tronto, n.d.). These are important criticisms that must be addressed before we proceed too enthusiastically. Gilligan's conceptualization of differences in gender-based moral reasoning, however, are an important contribution and warrant further research.

CONCLUSION

Feminist criminology has changed dramatically since Klein (1973) and Smart (1976) first called attention to it. Replicating the same political and analytical development as the broader feminist movement, feminist contributions to the study of crime and justice began with more liberal approaches and have recently been giving way to more radical critiques. Liberal feminist dominance rests, in part, in ideological coherence—these approaches correspond closely with the ideas and beliefs embodied in most capitalist democracies. Thus, liberalism in any form is less threatening and more acceptable than a feminism that questions white, male, and/or capitalist privilege.¹¹ Additionally, liberal feminists speak in the same voice as a majority of social scientists, that is, they are rational, objective, and (typically) quantitative. Consequently, their data and interpretations carry more weight within the scientific community and among their peers.

11. Stacey and Thorne (1985:308) argue that more radical feminist thinking has been marginalized—ghettoized within Marxist sociology, which ensures that feminist thinking has less of a chance to influence mainstream sociological paradigms and research.

Though liberal/quantitative approaches offer important insights into gender as a "variable" problem (Stacey and Thorne, 1985), criminologists need to be more ecumenical in studying gendered society. If we emphasize qualitative (e.g., Campbell, 1984; Carlen, 1986; Eaton, 1986; Miller, 1985), historical (Gordon, 1988; Freedman, 1981; Rafter, 1985), and subjectivist (Stacey and Thorne, 1985) approaches in addition to quantitative, the detail and texture of how crime and justice are gendered will lead to richer theory and better criminology.

There are areas in criminology into which feminists have only marginally ventured or in which their contributions have been of little consequence. In their review of feminist criminology, Daly and Chesney-Lind (1988:512-513) discuss the problems that feminists have had building and developing theories of female crime. It is not coincidental that the areas targeted for further research in this paper (e.g., race and crime, elite crime, and deterrence) all focus on this problematic area. Until we can better deal with the empirical complexities of criminal offending, it will be too easy for our critics to dismiss feminist contributions to the study of crime as facile, rhetorical, and/or atheoretical.

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