

**Feminist Perspectives in Criminology:**

**A Review with Gen Y in Mind**

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Paper forthcoming in Eugene McLaughlin and Tim Newburn (Eds.), *The Handbook of Criminal Theory*. London: Sage.

28 September 2008

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What does *feminism* mean to Generation Y? Born in affluent western nations between 1980 and 1992, Gen Y is in their late teens and twenties, the age range of those reading texts like this.<sup>1</sup> A UK study suggests that for Gen Y members, ‘the cultural and economic enfranchisement of women is deep rooted and irreversible’, and Gen Y men and women hold similar attitudes ‘not only to work and politics but even to feminism itself’ (Wynter, 2006, p. 145, quoting Demos Foundation). In fact, many (most?) Gen Y women do not call themselves feminists. I am confronted, then, with a problem: what does a chapter on feminist perspectives in criminology mean to readers for whom feminism or feminist perspectives are viewed as irrelevant?

Another way to view the situation is to assume that popularised versions of feminist ideas have already been absorbed by Gen Y. For that reason, young women have no need to join a social movement or to brand their ideas a certain way. This phenomenon holds for criminology: popularised versions of feminist ideas and concepts have seeped into common knowledge. Students generally understand and appreciate the circumstances of partner and sexual violence; they realise that many offenders have also been victimised; and they are aware of the double standard of treatment for male and female prisoners. These ideas, which are commonplace today, were new 35 years ago, when they were first introduced by feminist movement activists and academics. Since then, more sophisticated theories have been put forward by feminist scholars, including those in criminology. Although feminist movement activity is more quiet today, theory

and research with a focus on girls/boys, women/men, and sex/gender continues to flourish.

In this chapter, I present and discuss key feminist conceptual breakthroughs in criminology. For those familiar with popularised understandings, these new concepts and theories may encourage an interest to dive deeper, and to embark on more sophisticated understandings of sex/gender in crime, victimisation, and justice.

Although Gen Y members seem to be familiar, indeed appreciative, of feminist ideas, some may be uncertain about what it means to be 'a feminist' or what a 'feminist theory' is, or they may lack confidence in applying feminist concepts and ideas to criminological phenomena. If this chapter goes some way toward clearing up confusion and encouraging confidence, then it will have succeeded.

### **Student Engagement with Feminist Ideas**

I begin with two emails from students, who seek my views on feminism and criminology. Their questions show sources of confusion and a need for encouragement. I have preserved all the spelling, capitalisation, and misuses of grammar in their emails because this helps to see the mindset and emotion of the writer.

The first comes from L, a British female university student, in 2004. Following L's email is my response to her.

Hello,

My name is L and i attend the university of Lancaster in the UK. i am doing an essay on feminist approach to reconciliation instead of punishment within the criminal justice system. I came across an article you wrote on this topic, and i was wondering whether you are a feminist yourself. since you have a

considerable knowledge on this area i was wondering if you could direct me to other feminist writers who are and who are not in flavor of it.

Thank you soooooooooooooo much, and your time.

L

\*\*\*\*\*

L

See Oxford Handbook of Criminology for numerous references to my work on feminism and criminology. See my website (below) for articles on RJ and feminism, esp under part 2 of publications, forthcoming article in Violence Against Women on victim advocacy groups and the idea of RJ. I'm currently engaged in a major program of research on the race and gender politics of new justice practices, which includes RJ and Indigenous justice. I am surprised that you haven't heard of me and my work on feminism and criminology. I've been at it for over 20 years ...

Kathy

L surprises me with her question, 'I was wondering if you are a feminist yourself'. I wonder why she is uncertain. I like the image of being 'in flavor' of a particular view on a debate, and I smile when I see 'soooooooooooooooooo much'. That's real appreciation!

The second is from a male university student in California, whose home town, he tells me later, is near the Mexican border. We exchanged notes in 2007.

Hello Mrs. Daly,

I was wondering if you could help me with a school project. I am currently enrolled in a Feminist Course and my professor asked us to select and research a feminist so i have decided to choose you :) I

hope this is not an inconvenience for you. We are also required to select a film to study and i also chose  
\*\*\*MARIA FULL OF GRACE\*\*\* but in order to finish my project i need some information about you....

I was looking for information about you online but i just found books like Criminology at the crossroads :  
feminist readings in crime and justice....is there a homepage on you to get information....

BASICALLY i am going to apply the SOCIALIST FEMINISM VIEW for the film i saw and i just  
thought that maybe you can give me some FEEDBACK how you feel about SOCIALIST FEMINISM to  
help me write my paper. WHAT other special books have you written? How do you feel about  
SOCIALIST FEMINISM and oppression in LATIN AMERICAN COUNTRIES? HOW do you feel about  
socialist feminism and oppression???

PLEASE ANY INFORMATION IS GOOD... THANK YOU

G

\*\*\*\*\*

Dear G

Socialist feminism was the start of a multi-ethnic analysis, but today, you should read more  
recent analysis in critical race feminism. There are several readers out, and they have essays  
on latinas and feminism, which are relevant to Maria Full of Grace. See the reader edited by  
Adrienne Wing.

As for information about me, attached is my latest cv and some recent bio blurbs. I have a  
website (see below), although the cv and bio blurbs are a bit out of date. The very first article  
on the website is relevant in giving some biographical stuff as to why I came to Australia.

Where are you writing from?

best wishes, Prof Daly

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GOOD AFTERNOON,

THANK YOU VERY MUCH FOR ALL OF the information you provided. This will surely help my understandings of feminism and broaden my knowledge as well. I Appreciate everything that you have done for me. I am writing from CALIFORNIA STATE UNIVERSITY IN SAN BERNARDINO but i reside in a small little COMMUNITY named IMPERIAL, CALIFORNIA close to the border with MEXICALI, MEXICO adjacent to SAN DIEGO CALIFORNIA and TIJUANA MEXICO!! :) THANK YOU AGAIN FOR EVERYTHING...

G

Several things strike me about G's note. He is taking a feminist course in a university, and he is using 'socialist feminism' and 'oppression' not distantly, but in ways that suggest the terms are meaningful to him. He wonders if they would be appropriate in analysing 'Maria Full of Grace'. He is right to think they would be because the film is about a Colombian girl, who, after being fired from her job at a flower factory, agrees to work as a drug mule, transporting cocaine to New York City. It is not surprising that G finds this film compelling, in light of where he lives. Finally, G is so appreciative of the small direction and advice I offer: he thanks me three times in the second email.

I draw four points about Gen Y and my exchanges with L and G. First, as Wynter (2006) suggests, feminism as a social movement in the 1960s and 70s, has less visibility and salience to Gen Y. At the same time, a range of popularised ideas generated from feminism—about women and girls, men and boys, and sex/gender—has been absorbed into mainstream Gen Y thinking. But second, I would distinguish these *popularised* ideas from those *theories or concepts* that help us to understand how sex/gender works in complex ways in society and daily life. In other words, it is important to distinguish the *relevance of feminism as a social movement* from *conceptual frameworks to analyse*

*sex/gender*. Although feminism as a social movement may have diminished, at least for some age groups living in affluent western nations, the relevance and need for the latter has not diminished.

Third, it can be difficult to ‘spot the feminist’ or ‘a feminist analysis’ because an author may not name the research or argument as ‘feminist’ or may be exploring domains that are not explicitly about sex/gender, even if the writer is known to be a feminist scholar. I suspect that the reason L asked me, are ‘you a feminist yourself’, despite my having produced a substantial body of feminist work for over two decades, was that in the article she was reading, I gave no explicit mention of feminist arguments or theories. She may have assumed that feminist scholars have to consistently brand themselves in certain ways, or announce themselves to the reader, or always focus their arguments on sex/gender. This is not necessary, of course, but it can be a source of confusion for those new to the field. Further confusion can arise because the criminological field today is characterised by both feminist and non-feminist analyses of men, women, and crime (see review in Daly, 1998). Thus, just because what you read may have gender content does not mean that the researcher is using, or is even aware of, feminist perspectives. Fourth, some men are comfortable using feminist perspectives in criminological research, and many have done so in analysing masculinities; whereas many women are not.<sup>2</sup> Unlike the 1970s and 1980s, where it was only women who were utilising and discussing feminist perspectives in criminology, this situation has changed. G is a good example of a man, who is struggling to understand race and gender oppression analytically. This would have been unimaginable when I was an undergraduate and graduate student in the 1970s and early 1980s.

## **Feminist Theories and Perspectives Today**

There is extraordinary range and sophistication in feminist work. This is a consequence, in part, of the generalist or specialist orientations of researchers (Davis, 2008), and in part, of the disciplinary breadth in feminist knowledge: it ranges across all the disciplines in the humanities, arts and performing arts, education, law, social sciences, natural sciences, engineering and technology, and medical and mental health. In the last 10 to 15 years, there has been considerable international expansion, i.e., beyond advanced capitalist societies of the developed world. Articles in English-language feminist journals such as *Signs*, *International Women's Studies International Forum* (formerly *Women's Studies International Quarterly*), *European Journal of Women's Studies*, *Journal of International Women's Studies*, *Feminist Studies*, *Feminist Theory*, and *Feminist Review*, among others, show that areas of great growth today lie in feminist analyses of social conditions in the developing world. If some affluent western women of Gen Y think that feminism is largely irrelevant, women in the developing world do not. Equality and rights are very much on the agenda for most of the world's female population, although their analyses are shaped and coloured by varying conditions and contexts.

What, then, are the elements associated with feminism or feminist perspectives in criminology? Quoting Gelsthorpe (2002, p. 135, emphasis in original), they are as follows:<sup>3</sup>

- a focus on *sex/gender* as a central organising principle in social life;
- recognition of the importance of *power* in shaping social relations;



- sensitivity to the influence of social *context* on behaviour;
- recognition that social reality is a *process* and that research methods need to reflect this;
- a political commitment to *social change*;
- personal and theoretical reflexivity on epistemological, methodological, and ethical choices and commitments; and
- openness and creativity in thinking about producing and evaluating knowledge.

When scanning this list, we see many points of overlap between feminist perspectives in criminology and those in critical criminology (Stubbs, 2008; see Anthony and Cunneen, 2008a, more generally). In fact, a significant impact of social movement politics of the 1960s and 1970s was the emergence, in the 1980s, of a cohort of students and researchers with shared interests to expose ‘dominant crime discourse and interests it represents’ (Anthony and Cunneen, 2008b, p. 2) and to identify alternatives for social change. There is a good deal of affinity and crossover between feminist perspectives in criminology and those termed critical, anti-racist, multi-ethnic, or cultural criminology. Differences do exist in the focus of research, theories used, and preferred epistemologies and methodologies. However, extrapolating from Cain’s (1990a) vision of feminist criminology, the shared enterprise is ‘transgressing’ and ‘transforming’ the field of criminology.

### **Feminist Perspectives in Criminology: A Brief Chronology**

Because the range and diversity of feminist contributions to criminology is large, those new to the field may feel overwhelmed with a sense of not knowing where to begin. A good place to start is to read retrospective reviews of the past three to four decades.

These provide a story of the emergence and development of differing trajectories of feminist work in criminology, as they were informed by the wider field of feminist and other social theories. Recent reviews by scholars in Australia (Carrington, 2008; Daly, 1997, 1998; Daly and Maher, 1998b; Naffine, 1997; Stubbs, 2008), Britain (Gelsthorpe, 2002; Heidensohn and Gelsthorpe, 2007), the United States (Britton, 2000; Burgess-Proctor, 2006; Miller and Mullins, 2006), and Canada (Comack, 1999) contain schematics of differing types of feminist perspectives in, or engagements with, the field of criminology. The following schematizes the differing emphases and debates over time.

During the 1970s and early 80s, a general aim was to bring girls, women, and gender difference into the criminological frame, to ask ‘where are girls, women, and gender in theories of crime, victimisation, and justice?’<sup>4</sup> One focus was to redress the lack of empirical knowledge on female offending and criminalisation, but there was also keen interest to depict and politicize ‘everyday violence’ in women’s lives (Kelly, 1988; Rafter and Stanko, 1982; Stanko, 1990). In the mid 1980s, this early focus gave way to reflecting upon and analysing *differences* among girls and women, particularly with respect to class, racial, and ethnic identities and subjectivities. This shift was prompted by a significant wave of critique by women of colour, beginning in the early 1980s, which argued for more complex analyses of race relations and positionalities between and among men and women. Their critique challenged any simple idea of a ‘woman’s perspective’ and any unified feminist politics for change. Other sites and sources of difference among women were named and brought forward, including those related to sexual identities, nation, disabilities, among others. Connected to and running parallel

with this critique, epistemological questions were raised about what constituted authoritative knowledge, or what Harding (1986) termed the 'science question' for feminism. For feminists in criminology, this meant a reflection on methodological assumptions and ethical questions in generating knowledge.

Gelsthorpe (2002) offers an accessible review of three methodological and epistemological orientations taken by feminist scholars: empiricism, standpointism, and deconstruction. Empiricism refers to studies of the 'real world out there', and it takes a variety of forms, ranging from non-critical to critical and post-positivist orientations, such as realism and social constructionism. Standpointism refers to knowledge that is explicitly generated from a 'point of view' or positionality, as for example, a 'black feminist standpoint' by Collins (1990) or a 'feminist standpoint' in criminology by Cain (1990b). Deconstruction refers to analyses that break down categorical thinking, challenge binary oppositions, and reveal meaning in language and discourse. By the end of the 1980s, it was no longer possible to speak of girls or women (or boys and men) as unified categories, nor was it possible to represent any group from one standpoint alone, and certainly not from a 'neutral' position. Binary thinking (as in strong claims of gender difference) and universalist claims (as in 'most girls act this way') became less tenable.

Several important streams of empirical and theoretical work began to emerge at the turn of the 1990s. One stream, informed by empirical research, was interested to depict ethnographically rich 'real women', i.e., the viewpoints, 'experience' (Scott, 1992), and life worlds of girls and women as offenders and victims (Daly, 1992; Daly and Maher,

1998b; Miller, 1998, 2001), including their treatment in criminal courts and prison systems (H. Allen, 1987; Daly, 1994a; Rafter, 1990). Reflecting broader currents in feminist theory to invest girls and women with greater 'agency', concerns were raised about the representation of girls and women as victims and volitional actors (Daly, 1992; Maher, 1997). A second stream drew upon emerging sociological, psychoanalytical, and feminist theories of masculinity to address more fully what J. Allen (1989) has termed the 'maleness of crime' (Messerschmidt, 1993) and to problematize the taken-for-granted subject of criminological theorising: boys and men (Collier, 1998; Jefferson, 1997). A third stream, which drew from poststructuralism and deconstructive approaches, focused on 'women of discourse', i.e., the ways in which women and sexual difference were constituted in and by criminological, legal, and social discourses (Howe, 1994; Smart, 1989; Worrall, 1990; Young, 1996). A related fourth stream, anticipated early by Smart (1990, 1995) explored women as 'sexed subjects' in law (Naffine and Owens, 1997) and 'the body' and 'sexed bodies' as discursively created (Collier, 1998).

### **Sex and Gender: A Seismic Shift in Feminist Thought**

A significant shift occurred in feminist scholarship in the 1990s, with a rethinking of the relationship between sex and gender. To date, this shift has had a minimal impact on feminist work in criminology, but I expect that this will change. Because the shift is relatively recent, I consider the conceptual breakthroughs associated with it toward the end of the chapter. However, I outline it here because it informs my understanding of sex and gender today.

In the 1970s, the received feminist wisdom was that sex was a biological category, in the realm of the 'natural', which distinguished male and female. By comparison, gender was a social category, in the realm of the 'cultural', referencing a diversity of meanings, associations, and identities, that were connected to, but not simply derived from sex difference. As Harrison (2006, p. 35) suggests, the point of making a distinction between sex and gender 'was not to create two concepts, but to allow the concept of gender to take off'. By 'gender taking off', she means that while sex is typically conceived as male or female, i.e., two ways of being in nature, gender could reference a wider and more fluid field of relations, differences, and identities. Further, because sex differences in contemporary society are 'drawn into a dualistic frame of reference' (Smart, 1990, p. 204), where male and female 'traits' are arrayed hierarchically, with the male represented as the 'universal' and the female as the 'difference', or the 'mark of sex' (Harrison, 2006, pp. 36-38, discussing Delphy, 1984), the concept of *gender* was a liberating force for change, a way to imagine 'overcoming' sex difference and inequality.

In the early 1990s, this conventional wisdom began to change. Rather than viewing sex as a pre-social biological concept, theorists argued it too was socially and discursively constructed (Butler, 1990, 1993). By this is meant that particular body parts and capacities (such as genitals and reproductive capacities) are given a particular social significance in language and culture; moreover, specific understandings of sex difference are not the same across time and culture, but variable. Associated with this shift in seeing both sex and gender as socially and discursively created, was a rethinking of 'the body'. Rather than seeing the body as a biological given, as residing on the

subordinate side of a mind ('culture') and body ('nature') dualism, scholars wished to break this dualism by using terms such as 'embodied subjectivity', 'psychical corporeality' (Grosz, 1994, p. 22), and 'embodied experience' (Lacey, 1997, p. 74).

What are the benefits of making such a break? One is that we can imagine and recognise diverse 'embodied experiences' or subjectivities, not just two categories of male and female. Second, we may also recognise that sex and gender may 'in practice' be 'indistinguishable from one another' (Harrison, 2006, p. 46). Harrison draws from Wacquant's (2003) account of becoming a boxer, where training 'involves not only the creation of a particular kind of body but also the shaping of a whole moral and psychological universe inhabited by the boxer' (p. 47). She argues that we need to think of 'body and mind – musculature and skill, fantasy and conceptualization – [as] indivisible ... more than mere morphology. It has to be taken right through to the biochemistry of body and brain' (Harrison, 2006, p. 47). In so doing, there is an 'incorporation', perhaps a fusion, of the biological and cultural: there are particular ways of 'incarnating masculinity, femininity, or even a transgendered status, in the body. We shape ourselves at the very moment in which we are shaped' (p. 47).

Harrison (2006) is right, I think, to see sex and gender as 'incorporated': at times they may be 'indistinguishable', and at other times, incorporation can produce multiple subjectivities, subject positions, and sexed bodies.<sup>5</sup> To keep that complexity in mind, I use sex/gender to reference an incorporation, not a dualism or binary; and I use this term in writing from my current perspective as a feminist thinker. Up to the mid to late 1990s, however, virtually all feminist contributions to criminology, including mine,

used terms such as gender, gender difference, and gendered phenomenon. Sex was absent, and there was a presumed separation of sex and gender. In my review of feminist conceptual breakthroughs, I present the terms as they were discussed at the time, i.e., with a sole focus on gender. However, be aware that sex/gender terms are now shifting in use and meaning.

### **Feminist Conceptual Breakthroughs in Criminology**

Few feminist scholars are interested to devise a grand theory of crime. Indeed, the trend across the criminological spectrum today is to view such a quest as misguided, a product of earlier modernist ideals in criminology (Garland, 2002). All researchers recognise that their work is part of a larger mosaic of knowledge and that one theory is incapable of explaining the complexity and diversity of individual, occupational, organisational, and state crime. I present a selected set of feminist concepts and conceptual breakthroughs, which give the feminist project in criminology its distinctive signature.<sup>6</sup> Some concepts reveal theoretical problems for criminology and how it constructs knowledge about women (or men) and sex/gender; whereas others may be applied in analysing crime, victimisation, justice, or institutions of social control. For simplicity, the examples I give focus largely on crime and offending.

#### *The generalisability problem and the gender ratio problem*

In 1988, two problems were identified in building theories of gender and crime (Daly and Chesney-Lind, 1988). One, the generalisability problem, asked if theories of crime, which at the time were drawn exclusively from research on boys/men, could be applied to girls/women. The second, the gender ratio problem, asked why boys/men were more

likely to commit crime than girls/women. The conceptual breakthrough was to distinguish these as separate theoretical problems. For example, Merton's (1938) strain theory or elements in various social control theories may explain variation *among* girls' or women's rates of offending (although some terms and concepts would need to be changed), but they could not explain differences in the rates of men's and women's offending. By pointing out that the generalisability problem and the gender ratio problem were distinctive theoretical and empirical tasks, the ground was cleared for people to think more precisely about what they were trying to explain: variability within or differences between groups.

During the 1970s and early 1980s, feminist critiques exposed the omission of girls and women in so-called 'general' theories of crime; and when girls/women were studied, critics noted that biological explanations were more often used to explain women's than men's offending. Although critiques of crime theories formed one wedge of feminist inquiry in this early phase, of greater significance was bringing to light women's victimisation, in particular, physical and sexual violence by men they knew.

#### *Blurred boundaries of victimisation and criminalisation*

Connections began to be made between girls' and women's experiences of victimisation and their subsequent offending or criminalisation. It became clear that offender and victim groups were not distinctive, but often overlapped. The concept of 'blurred boundaries of victimisation and criminalisation', which collectively emerged in the 1980s and early 1990 (e.g., Carlen, 1987; Chesney-Lind and Rodriguez, 1983; Daly, 1992; Gilfus, 1992; Klein, 1988; Maher and Curtis, 1992) captures these ideas. For



example, girls may run away from abusive homes to the streets, where their efforts to survive are criminalised (Chesney-Lind, 1989; Gilfus, 1992). Living rough on the street, young women are not only pulled into lawbreaking, but also they are subject to high levels of abuse and violence (Hatty, 1997, p. 212). Women in violent relationships may see killing an abusive partner as their only exit option (Browne, 1987); or they may fight back to protect themselves from abusive mates (Dobash and Dobash, 2004, pp. 341-42).

The 'blurred boundaries' concept offers a more holistic picture of the developmental, biographical, and situational contexts of victimisation and offending. At the same time, it raises questions about the meaning of 'responsibility' or 'culpability' for crime when offending is viewed as arising, in part, from immediate or past victimisation. One potential problem with 'blurred boundaries' is that it may promote explanations for offending that focus mainly on victimisation, which leaves little room for agency or responsibility (Daly, 1992, pp. 48-49). Research is exploring the complex developmental relations of victimisation and offending (Simpson et al., 2008; Teague et al., 2008). Meanwhile, studies of imprisoned women show that victimisation is a dominant motif in their lives (Richie, 1996).

#### *Woman of discourse and real women*

During the late 1980s, two distinctive trajectories emerged within feminist research in criminology: 'woman of discourse' and 'real women' (Daly and Maher, 1998b). Both were prompted by major challenges to feminism in the 1980s: one, from within (black and racialized women's critiques of dominant white analyses in feminist thought); and

the other, from without (poststructuralist critiques of positivist social science and dualisms in western thought) (see Daly, 1997). The terms 'woman of discourse' and 'real women' are metaphors to describe differing ways of theorising women (and men) in the social world. Although they are not incompatible, they reflect different emphases and theoretical orientations.

The woman of legal discourse, developed by Smart (1992), proposes that 'Woman is a gendered subject position which legal discourse brings into being' (p. 34). There is more to her argument and its implications than I have space to explore here. My aim here is to situate Smart's argument as one type of theoretical approach that is concerned with how women (or men and sex/gender) are constituted in and by legal, criminological, and social discourses; and with how disciplines themselves (e.g., law and criminology) discursively construct women, men, and sex/gender. (Other examples are Howe, 1994; Young, 1996, chap 2.) With respect to the male-centred or masculine-valued qualities in criminology, early feminist critiques were made by Klein (1973), Naffine (1987), and Smart (1976). However, Smart's (1992) more recent poststructuralist argument departs from these by suggesting that law (or criminology) is not 'monolithic and unitary' (p. 40), nor does it produce women in 'some predetermined, calculated, powerless form' (p. 41).

By 'real women' is meant feminist social science studies that explore women as agents in constructing their life worlds, including lawbreaking and victimisation. These may include interview, observational, or ethnographic studies of girls' or women's behaviour, 'talk', and 'accounts'. They include a range of critical empirical inquiries on

the shifting constraints, material conditions, decisions and actions, and possibilities of girls' and women's lives. Examples are Carlen (1988), Maher (1997), Miller (2001), and selections in Daly and Maher (1998a).

One cannot fully depict 'real women' without reference to the discursive fields by which girls and women are constructed and construct themselves. Likewise, one cannot assume that analyses of 'women of discourse' necessarily reflect girls' and women's identities and the lives they lead. Ideally and depending on the focus of inquiry, theory and research should attempt to interpolate 'the discursive' and 'the real', as Smart (1995, p. 231) also acknowledges. The problem is that each approach comes with its own set of theoretical referents and specialized vocabularies, and researchers tend to specialize in one or the other. There are some exceptions (see, e.g., Bosworth, 1999; Maher, 1997; Mason, 2002; Miller, 2001), and we should see more in the future.

*Gendered pathways, gendered crime, and gendered lives*

Based on studies carried out in the 1980s and 1990s, which typically used a 'real women' frame of reference, I identified several directions of feminist research on crime (Daly, 1998). I suggested that gender differences in rates of arrest or criminalisation (the 'gender ratio problem') should not be the sole focus of inquiry. There were other directions (Daly, 1998, pp. 94-95):

- *Gendered pathways to lawbreaking*: What is the nature of, and what explains the character of girls'/women's and boys'/men's pathways to lawbreaking? What brings people to the street, to use illegal drugs, to become involved in workplace crime, or to be arrested and prosecuted for crime? How do boys/men

and girls/women move in and out of foster homes, conventional work, jails and prisons, hospitals, and halfway houses?

- *Gendered crime*: What are the contexts and qualities of boys'/men's and girls'/women's illegal acts? What is the social organisation of specific offences (e.g., drug dealing, prostitution, and credit frauds)?
- *Gendered lives*: How does gender organise the ways in which men and women survive, take care of themselves and their children, and find shelter and food? How does gender structure thinkable courses of action and identities?

Miller and Mullins (2006) review and discuss this conceptual scheme, with an extended analysis of masculinities and crime, adding new references and research. I commend their review for those interested.

Gendered pathways emphasises biographical elements, life course trajectories, and developmental sequences. There are non-feminist versions of the pathways idea, for example, the life course analyses of Sampson and Laub (1993) and the criminal career orientation of Blumstein, Cohen, and Farrington (1988).<sup>7</sup> Feminist versions give analytical attention to girls' routes to the street, likely forms of income generation, and relationships with other women, men, and children, at times applying the 'blurred boundaries' theme. In Daly (1992), I identified a leading feminist scenario of women's lawbreaking, that of 'street women', who run from abusive families, whose efforts to survive on the street are criminalised, and who may use illegal drugs, which leads to further lawbreaking and time spent in and out of jail. From a review of defendants' files in a New Haven felony court, I found that 'street women' was one of several major pathways to court, but there were others. Simpson et al. (2008) applied my pathways

typology to over 350 women awaiting trial in a Baltimore Detention Centre. Their study found 'substantial overlap' (p. 102) in several New Haven and Baltimore women's pathways; but they also identified new pathways and differences in pathways, depending on when a woman first offended (in childhood, adolescence, or adulthood).

Gendered crime refers to (1) the ways in which street life, drugs and sex markets, informal economies, crime opportunities, and crime groups are ordered by gender and other social relations and (2) variation in the sequencing and contexts of boys'/men's and girls'/women's lawbreaking, including their offence roles, accounts of themselves, and how their acts are translated into official crime categories.<sup>8</sup> There are several ways to research gendered crime. Offence elements, such as the size of the crime group and a person's role in the offence can be counted and compared, although we know that elements alone do not grasp the subtleties and gestalt of crime (Daly, 1994a, pp. 96, 99, 108). Ethnographies of 'the street' and the informal drug economy can show its sexed and gendered character (Maher, 1997). By taking a 'doing gender' approach, one can analyse crime as a flexible repertoire of situated and structured actions (see section below on 'doing gender').

Gendered lives refers to the different ways that men and women experience society. Fineman (1990) developed the concept of women's gendered lives to counter gender-neutral legal theories. She observes that women's existences are constituted by a variety of experiences: material, psychological, physical, social, and cultural. Some have a biological basis, and others are rooted in culture and custom (Fineman, 1995, p. 45). Applying this idea to criminology means to examine the wider picture of how the

‘gender-related conditions of life’ (Bottcher, 1995, p. 37) create the potential for delinquent and non-delinquent actions and identities. Using this approach, one is also likely to explore gendered pathways, gendered crime, or both.

In her first study, Bottcher (1995) conceptualised gender ‘as social control’, using individuals as the unit of analysis; but in a later study, she shifted her focus by conceptualising gender as a ‘process of social life’, using ‘social practices of gender as a unit of analysis’ (Bottcher, 2001, p. 924), drawing from Giddens (1984). Bottcher’s ‘social practices of gender’ shares affinities with gender as situated action (‘doing gender’), but it identifies a particular set of social practices that create and reproduce the ‘gender ratio of crime’. Specifically, three significant areas in young people’s lives are explored: ‘making friends and having fun, relating sexually and becoming parents, and surviving hardship and finding purpose’ (Bottcher, 2001, p. 905), each of which is associated with sub-sets of social practices. She identifies the following dimensions as most salient in explaining gender differences in ‘high risk’ youths’ delinquency:

... teenage children and parental responsibilities, assumed largely by the females; highly sex-segregated friendship groups; more crime-prone activities for males than for females; male dominance in virtually all adolescent activities; differences in the timing of transition to adulthood; and limited social support for female delinquency, compared with male delinquency (Bottcher, 2001, p. 923).

Her findings were drawn from interviewing young people, asking them about their daily routines, what they did, who they spent time with, and what their most dangerous experience was, among other items.

Bottcher's theory and method departs significantly from standard criminological approaches that attempt to devise and test theories of the gender ratio of crime. Such efforts are limited because they display little understanding of girls'/women's or boys'/men's day-to-day routines and life worlds, they contain poorly conceived or popularised ideas about gender, or there is little or no attention is paid to gender practices and power relations. Her approach shows the value of building theories from 'outside' criminology and from the bottom up: starting from gendered social practices (or other theories of sex/gender) and relating these to delinquency and crime. This approach is more promising than starting with existing criminological theories and attempting, then, to 'add' girls, women, or sex/gender. These latter approaches often have ill-founded assumptions about sex/gender, use variables that are not dynamic or interactive, or employ quantitative-only designs that are not amenable to interpreting social processes.

#### *Class-race-gender and intersectionality*

A significant body of work emerged in the 1980s that addressed the multiple, cross-cutting, and contingent influences of class, race, gender, and other relations in social phenomenon (Daly, 1993, 1997). In time, the theoretical concept came to be termed 'intersectional analysis' or 'intersectionality'. It is used widely today in all areas of feminist inquiry, including criminology, becoming as Davis (2008, p. 75) suggests, a 'buzzword' for feminist inquiry. The editors of a special issue of the *European Journal of Women's Studies* on 'intersectionality' (Phoenix and Pattynama, 2006, p. 187) suggest that the concept is popular because it is 'a handy catchall phrase that aims to

make visible the multiple positioning that constitutes everyday life and the power relations that are central to it’.

An intersectionality perspective assumes that everyone is located in a matrix of multiple social relations, and that these operate at different levels: macro (society or institutions), meso (neighbourhoods, streets), and micro (individual). Particular social relations or identities may be more salient in one context than another. Structural relations are not additive, but interactive, contingent, and inflected by other social relations. Because everyone is located in a social matrix, an intersectional analysis is just as relevant to middle-class white men as it is to working-class black women.

Intersectional analyses can also be used to politicize and problematize the construction of knowledge, in light of the different world views or lenses that participants bring to encounters.

In criminology, as in other fields, researchers may conceptualise intersectionality in different ways. Some foreground structure and multiple inequalities, whereas others examine context and contingency of multiple identities. These different approaches have been termed, respectively, ‘systemic intersectionality’ and ‘constructionist intersectionality’ (Prins, 2006), but they do not exhaust the range of approaches taken (Phoenix and Pattynama, 2006, p. 188). How one conducts an intersectional analysis—what methods to use—is open to debate (compare, e.g., Davis, 2008; McCall, 2005; and Simpson and Gibbs, 2006), as is the potential for intersectional analyses to ‘inspire political action and policy development’ (Phoenix and Pattynama, 2006, p. 189).



Intersectionality is a significant conceptual development in feminist criminology. Although many analysts *advocate* taking an intersectional perspective (see, e.g., Burgess-Proctor, 2006, pp. 39-43), *actually doing so* is harder and more challenging (Daly, 1993, pp. 64-66; Daly, 1994b, p. 433). With some notable exceptions (e.g., Maher, 1997, chapter 7), intersectional analyses in criminology are more an aspiration for the future than a research practice today.

### *Doing gender*

Drawing from social theories of 'situated action', West and Zimmerman (1987) popularised the concept of 'doing gender', which describes gender as a 'situated accomplishment' (p. 126). Rather than seeing gender as a trait, role, or variable (p. 129), they conceptualised it as 'an emergent feature of social situations':

[It is] an outcome of and a rationale for ... social arrangements ... a means of legitimating [a] fundamental division ... of society. [Gender is] a routine, methodical, and recurring accomplishment (p. 126).

Gender is thus socially constructed and 'produced' in interaction. It is behaviourally generated, involving action, movement, and accomplishment, along with attributions of that behaviour by onlookers. West and Zimmerman's conceptualisation, while sharing some affinities with Smart (1992) in seeing gender as 'produced', differs from hers because Smart is concerned with law's *discursive* production of sex/gender.

Miller (2002) reviews research that takes a 'doing gender' in criminology, clarifying theoretical elements, and critiquing some applications of the concept. Her review essay, coupled with Miller and Mullins (2006), offers a comprehensive analysis of theoretical

developments in this area, including recent sociological theories of gender (e.g., Connell, 2002a). Miller (2002) takes a 'situated/structured action' to 'doing gender', which means she is interested not only in gender difference and inequalities, but also those based on 'race, sexuality, and generation' (p. 439).

The first empirical applications of 'doing gender' in criminology focused on masculinities and crime (Messerschmidt, 1993), drawing on Connell's (1987) theorisations of gender. Messerschmidt's (1993, p. 85) early argument, in a nutshell, was that crime may be 'invoked as a practice through which masculinities (and men and women) are differentiated from one another. Moreover, crime is a resource that may be summoned when men lack other resources to accomplish gender'. Messerschmidt identified a range of masculinities: hegemonic, accommodating, and oppositional, to account for the fact that boys and men are differently positioned (by race, class, and age) in the social order. However, one major problem with his early formulation was that hegemonic masculinity<sup>9</sup> was used as both a cause and an effect of crime (Collier, 1998, p. 21). A second problem was that crime as 'doing masculinity' over-determined men's offending. Hood-Williams (2001, p. 44) puts it this way:

In the famous phrases that echo around the masculinities literature, doing crime is doing masculinity; crime is a resource for doing gender; crime is men's work. The question remains, however, why it is that only a minority of men need to produce masculinity through crime rather than through other, non-criminal, means? Messerschmidt's theoretical scheme offers no formal mechanism that makes the discrimination.<sup>10</sup>

To be fair, the analogous problem occurs when it is said that ‘poverty causes crime’. Although higher proportions of economically dispossessed than affluent people may commit common crime, most do not. Likewise for gender: a higher share of men than women commit crime, but most men do not. On this, I would add that whereas ‘doing masculinity’ has intuitive appeal, most people would find ‘doing poverty’ to be in bad taste. This anticipates a third major problem with doing gender: how to apply the concept to people who are differently arrayed ‘within hierarchies of structural position’ (e.g., gender, race, class, sexuality) (Miller, 2002, p. 439).

The problem is addressed by Miller (2002, pp. 441-49) in some detail, and I can only gloss it here. She explores how ‘doing masculinity’ and crime may apply to girls and women, in particular, to the girls in the ‘majority-male, mixed-gender youth gangs’ (p. 445) she studied. She finds that those gang girls who are accorded the most respect are ‘one of the guys’. They achieve this status by ‘gender crossing’, more specifically by distancing themselves from a ‘denigrated sexual identity’ as ‘ho’ or ‘slut’ (p. 446). For example, one girl, Latisha, described herself as ‘like a dude in a girl’s body’. Latisha emphasised that the boys respected her (and other girls) ‘*as females ...*, [but] we just so much like dudes that they just don’t trip off of it’ (p. 446, emphasis in original). Being treated ‘like a dude’ meant that the girls were not treated in ‘overly sexualized ways’ (p. 446); this status was actively sought by the girls to address gender inequalities, not to accomplish ‘femininity’. Because gender relations and constructs of masculinity and femininity are not symmetrical but are based on an organising principle of men’s superiority, ‘there are greater rewards and incentives for women to “cross” into culturally defined masculine terrain than there are for men to cross into feminine

terrain' (p. 445). The implications of this point are crucial for understanding girls' and women's 'situated action', including crime. Miller suggests that 'it is as much a response to and negotiation with gender inequality as it is a resource for accomplishing gender', drawing on Kandiyoti's (1988) evocative phrase of 'bargaining with patriarchy' (p. 452). Specifically, we may see a range of 'gender strategies for navigating within male-dominated terrains' (p. 452) that are used by girls and women in participating (or not) in crime. For example, in committing robberies, some women may explicitly 'use' female sexuality (as when they feign sexual interest in a man); whereas others may hide their bodies and instead dress 'like a man' (see Miller, 1998). In the mixed gang context, girls may participate with boys as a way to reduce police suspicion of the boys' criminal activity; and they may rely on the boys 'for protection' in dangerous environments, despite their status as 'one of the guys'.

Miller's (2002) analysis shows that girls and women use a flexible repertoire of situated actions that may (or may not) be principally concerned with accomplishing normative femininity. She argues that gender dualisms should be avoided because they limit an appreciation of gender 'crossing', and that doing gender does not occur in a symmetrical way for boys/men and girls/women in light of gender inequalities. Although the application of 'doing gender' and crime was initiated in the early 1990s as one way to theorise boys and men, masculinities, and crime,<sup>11</sup> it has moved further, with greater theoretical complexity, when applied to girls and women, femininities, and crime.

*Sexed bodies and sexed subjects*

The concepts of 'sexed bodies' and 'sexed subjects' emerged at the turn of the 1990s as feminist scholars re-examined sex and gender (the 'seismic shift' above). These concepts are used in different, and often complex ways, which I shall try to simplify. Although I sketch different approaches, a common element is to view sex/gender not as a dualism, where one is 'biological' and the other 'cultural', but rather as a socially produced embodiment.

One approach uses 'sexed bodies' to explore the 'sexed subjectivity' of men: 'subjectivity understood as embodiment, subjectivity as the lived experience of a (specifically masculine) body as it is socially and culturally inscribed' (Collier, 1998, p. 32). Collier is critical of Messerschmidt's 'doing gender' approach to masculinities and crime because it ignores the 'specificities of male and female bodies' (p. 25). He argues that 'sexed bodies' is a more satisfactory way to depict and theorise men's crime because it explicitly addresses 'ideas of the body, sexual difference, and subjectivities' (p. 33) which are otherwise 'silenced' in debates on masculinities and crime. He argues that we should analyse the particular 'system of signification' within which 'particular sexed bodies of men [are] valorised', rather than the behaviourally-oriented approaches, which examine gender only, not sex/gender as 'embodied subjectivity'.

Another approach, taken by Smart (1990), argues that law, as one of several major discourses, constructs 'taken-for-granted natural differences [that] reinforce our "experience" as men and women' (p. 204). What appears to be 'natural' or biological sex difference is, in fact, socially produced through language. Smart further suggests

that women are constructed in legal discourse, *as* 'the sexed body', as 'biological womanness' ... 'in a sexualized and subjugated form' (1990, pp. 203, 204). She calls for the need 'to deconstruct the biological/sexed woman' (p. 208), although she recognises that this will be difficult. In a more recent essay, Smart (1995, ch. 13) describes legal practices as 'gendering practices' which work alongside 'sexing practices' (pp. 228-29). She views the body as 'the site of both sex and gender: bodies do not exist which have not already been subject to both sexing and gendering' (p. 229). (This is how I view sex/gender, as incorporation.) Likewise, Smart (1995, p. 231) reflects on the need to analyse both the woman of legal discourse and real women (although she does not use these terms).

Whereas Collier is concerned with analysing the 'embodied subjectivity' of men, Smart analyses the discursive construction of sexed (and gendered) bodies in law. Other feminist legal scholars are analysing the 'sexed subjects' of law (see contributors to Naffine and Owens, 1997), with varied concerns and emphases (e.g., Davies, 1997; Lacey, 1997).

'Sexed bodies' and 'doing gender' emphasise differing elements of sex/gender: the former focuses on embodied subjectivities and the discursive construction of sex/gender; and the latter focuses on the performance and accomplishment of gender. In practice, however, we know that it is difficult to separate the two, whether in our daily lives or the study of crime. Recall the examples above of the two women committing robbery: one 'used' sexual difference, her 'sexual appeal' as a woman to a man; whereas the other hid sexual difference. Common to both perspectives is that

theorists call attention to a wider social and culture sphere which, in a sense, regulates or conditions our understandings and interpretations of sex/gender. Those employing 'sexed bodies' use the term 'system of signification' to reference the ways in which bodies and sex difference are imbued with specific meanings, which are historically and culturally variable. 'Doing gender' analysts use the term 'gender attribution' to reference the selective perception and interpretation by individuals (an audience) of what others are 'doing' when doing gender (see Miller, 2002, p. 455). Thus, adherents of both perspectives would say that we cannot contemplate 'bodies', 'accomplishments', or sex/gender outside of the language we use or the culture and time we live in.

### **Reflections and Directions: Diving Deeper**

This chapter reveals considerable scope and variety in applying feminist and related theories to criminology. There are significant differences in how feminist scholars conceptualise sex/gender and conduct research, which I have endeavoured to highlight in an accessible way. Crime, victimisation, justice, and law—the stuff of criminology—are productive sites to analyse sex/gender *in* society. And, as we have learned from an intersectional perspective, these sites are structured by multiple social relations and identities (including gender, class, race-ethnicity, age, sexuality), which may assume more or less salience, depending on context. Girls/women, boys/men, and sex/gender cannot be grasped as 'real' entities unmediated by culture, history, or language. Sexed/gendered meanings and behaviours are constituted in the fibre of society, culture, and social institutions; and at the same time, they are enacted and

created, produced and reproduced, and contested and subverted by 'real' individuals, groups, and institutions.

Popularised understandings of sex/gender play at the surface of 'real' boys/men and girls/women, and 'discursive' constructions of sex/gender. The astute student of criminology will need to move from popularised understandings that play at the surface, diving deeper and using a more sophisticated set of conceptual tools. Those in Gen Y are well conditioned to take the plunge.

Within the broad church of feminist approaches in criminology, differences are apparent in theoretical and methodological preferences, e.g., positivist, phenomenological (or social constructionist), post-positivist realist, and poststructuralist. Because the feminist enterprise is creative and open to new ideas, there is interest to apply new concepts and to be in the forefront of theoretical developments. There is also interest to display a synthetic knowledge, which may weave together disparate theoretical strands. All of this bodes well for energetic, dynamic, and transformative theories and research. At the same time, there are dangers in not respecting the epistemological and methodological assumptions inhering in some concepts, i.e., they can be misused or misappropriated. This occurs when researchers have large datasets and attempt to apply quantitative analyses to concepts that in fact require a qualitative understanding of process and interaction. For example, Heimer (1995) argues for an 'interactionist' model of delinquency that attends to how the 'meaning of behaviour ... varies across gender' (p. 167), but she tries to develop it with a multivariate analysis of survey data. Simpson and Elis (1995) attempt to employ a 'doing gender' perspective from a quantitative



analysis of self-reported delinquency. In each case, the desired theoretical objective (to depict social interaction or doing gender) is not congruent with the chosen method of data gathering and analysis.

That is not to say that quantitative studies are not relevant to feminist work in criminology because they are. It is to say that such studies can tell us little about social processes and how meaning is produced in interaction. Theoretical development may be better served by using mixed research designs (Creswell and Clark, 2007) or researcher partnerships, which try to balance or mediate conflicting epistemological assumptions, if that is the aim. This may help to overcome theoretical incoherence of the sort evinced by Steffensmeier and Allen (1996, p. 100), who call for a ‘gendered approach’ to theories of crime, but one that is ‘gender-neutral’. It is difficult to fathom what this means: if crime is gendered, how is a gender-neutral theory possible?

Criminology is dominated by quantitative and experimental research designs that value large datasets, categorical variables, and predictive models; and many students are encouraged in this direction (see McElrath, 2001). Among the many challenges that feminist perspectives pose to criminology is to suspend belief on superficial, popularised understandings of sex/gender, which are often embedded in quantitative and experimental designs. The need to dive deeper is not confined to Gen Y.

### **Endnotes**

<sup>1</sup> Many would resist the categories of Boomer, Gen X, and Gen Y because they imply a homogeneity of outlook and perspective, when there is a good deal of diversity within

age cohorts. I appreciate this view, but want to reflect on the relevance of feminist ideas, which were formed from social movement activism of the 1960s and 1970s, to criminology students today (that is, in 2008, the time of this writing). See Snyder's (2008) review essay on third-wave feminism, the practices of Gen Y feminists.

<sup>2</sup> One reason for this discomfort, particularly for Gen Y heterosexual women, is that being a 'feminist' may be associated with man-hating women who wear horns or other negative elements that may make them unattractive to men.

<sup>3</sup> See also Daly and Chesney-Lind (1988, p. 504) for a set of elements that can be used to distinguish feminist from non-feminist inquiry. I have changed gender to sex/gender in Gelsthorpe's list; this is explained below in the 'seismic shift' section.

<sup>4</sup> I would emphasise here that the focus was on *gender* difference, not sex/gender or sex and gender difference. See discussion under 'seismic shift'.

<sup>5</sup> This is one of a variety of ways that scholars are re-conceptualising sex/gender; see, e.g., the contributors to Naffine and Owens (1997). Griffin (2006) discusses the implications of sex/gender for 'gender bending' and considers the impact of the biological destabilisation of 'the body'.

<sup>6</sup> This is a selected set of conceptual breakthroughs. Others that I do not include are women's different voice and the ethic of care (see reviews in Davis, 1992; Tronto,

1987); the difference and dominance debates in feminist legal theory (beginning with Marcus et al., 1985); gendered organisations (Acker, 1990); and law as sexist, white, gendered, and gendering strategy (Smart, 1992). I use the term concepts rather than constructs or theories for simplicity. Ultimately, all concepts are, in a sense, theoretical.

<sup>7</sup> The more recent developmental pathways literature pays greater attention to sex/gender, although not necessarily through a feminist lens (see, e.g., France and Homel, 2006).

<sup>8</sup> The term ‘gendered crime’ is also misleadingly used to reference simple male-female differences in rates of arrest, when it is more properly used to reference the myriad ways in which sex/gender structures crime groups, street life, informal economies, crime as situated action, among other examples given above.

<sup>9</sup> This term cannot be defined simply. As elaborated by Connell (2002b, pp. 90-91), the term recognises ‘the connection between two social patterns, hierarchy between men and women, and hierarchy among men; ... the historically mutable character of these relationships, the possibility of struggle for the hegemonic position, and contestation of hegemony ...’ As a relational concept to ‘marginalized, subordinated, or complicit masculinities ... the most visible form of [the dynamic of hegemonic masculinity] is the circulation of models of admired masculine conduct, which may be exalted by churches, narrated by mass media, celebrated by the state, or embedded informally in local cultures [although these] distort the everyday realities of social practice’. Hegemonic

and other masculinities 'do not occur in ... generalized imagery' alone but also in institutions such as families, schools, and corporations.

<sup>10</sup> In response to early critiques, Messerschmidt (2000, 2004) has since revised his ideas.

<sup>11</sup> There are other ways to theorise masculinities and crime than 'doing gender'. See, e.g., Gadd and Farrall (2004) and Jefferson (1994, 1997, 2002).

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