
THEORETICAL PERSPECTIVES ON FEMALE CRIMINALITY

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ABSTRACT

Most of what criminology says about crime was worked out on men. Women were added afterwards, and the explanations offered for them often amounted to a list of the ways in which they differed from the male norm. This paper looks at how the discipline has tried to explain women's offending and at the points where those attempts give way. It reviews biological and psychological accounts, strain, social learning, control, labelling and opportunity theories, the masculinisation (emancipation) and marginalisation thesis, and chivalry theory, and it tests each against three facts that any account of female crime has to meet: the lower rate, the different pattern, and the particular settings in which women offend. It then turns to feminist criminology and, within it, to the gendered pathways approach, which ties women's offending to abuse, trauma, poverty, substance dependence and narrowed choices. The paper argues that no single theory is enough. A workable explanation has to combine pathways research with an intersectional reading of class, caste, race and sexuality, and the justice system's response has to be built on the same understanding. Indian law and prison data are used throughout to show what is at stake for prevention, sentencing and rehabilitation.

Keywords: female criminality, feminist criminology, gender, gendered pathways, women prisoners, India.

1. Introduction

Crime is mostly committed by men. This pattern is true for nearly every society that keeps records. The criminology as a discipline grew up around this observance.¹ The classic theories were framed with male delinquents in mind, tested on male samples and later stretched, with mixed results, to cover women.² What came out is a literature in which women's offending is something to be explained away. A departure from the male norm, and not conduct with causes of its own. The numbers show why the problem is easy to overlook. On 31 December 2024, India held 511,542 prisoners, of whom 21,183 were women, about 4.1 per cent of the total.³ Only 34 prisons in the country were women's jails, located in 15 States and Union Territories, and 1,196 women were living inside prison with 1,397 children.⁴ A group that small is easy to design around. Prison buildings, bail practice, sentencing and rehabilitation programmes are shaped by the needs of the larger male population, and women's needs arrive later as exceptions. The women who do reach the criminal process are also rarely the offenders those systems have in mind. Research from several jurisdictions finds that they are disproportionately poor, that many have histories of physical or sexual abuse, and that drug and alcohol problems are common.⁵ These findings sit awkwardly beside theories that explain crime through blocked ambition, delinquent peers or weak self-control.

This paper examines the main explanations offered for female criminality. The biological and psychological, strain and anomie, social learning, control, labelling, opportunity, masculinisation or emancipation, marginalisation, and chivalry theories. It then examines the feminist critique of those accounts and the gendered pathways approach that grew out of it. The argument is that none of them is sufficient by itself, and that an integrated, intersectional and gender-responsive framework is needed, both to understand why women offend and to judge how the justice system treats them. Indian law and data serve as the reference point, because the argument has practical consequences for how women are arrested, bailed,

¹Darrell Steffensmeier & Emilie Allan, "Gender and Crime: Toward a Gendered Theory of Female Offending" 22 Annual Review of Sociology 459 (1996).

²Carol Smart, *Women, Crime and Criminology: A Feminist Critique* (Routledge & Kegan Paul, London, 1976).

³National Crime Records Bureau, *Prison Statistics India 2024* (Ministry of Home Affairs, Government of India, New Delhi, 2026).

⁴*Ibid.*

⁵Joanne Belknap, *The Invisible Woman: Gender, Crime, and Justice* (Thomson Wadsworth, Belmont, 3rd edn., 2007); Meda Chesney-Lind & Lisa Pasko, *The Female Offender: Girls, Women, and Crime* (Sage Publications, Thousand Oaks, 3rd edn., 2013).

sentenced and rehabilitated.

1.1 Statement of the Problem

Daly and Chesney-Lind identified two difficulties that mainstream theory has never settled. The first is the generalisability problem: can theories built to explain men's crime explain women's? The second is the gender ratio problem: why do women commit so much less crime than men?⁶ The two are linked. A theory that explains male offending by blocked ambition or weak social bonds has to say why women, who also meet blocked ambition and weak bonds, offend far less often. Most of the theories discussed below do not say. Where women do offend, the circumstances tend to differ from men's. Women's offences are more often minor property or drug-related offences, and they are more often tied to relationships, economic dependence and earlier victimisation.⁷ An explanation that leaves out those circumstances may fit a statistical average but misses the individual woman before the court. The Indian literature is smaller still. An early empirical study of women offenders in India was published by Ram Ahuja in 1969,⁸ and later official reports have concentrated on prison conditions, which is a different question from causation.⁹ Courts have occasionally stepped in, as when the Supreme Court issued directions on the treatment of women held in police custody,¹⁰ but judicial directions respond to abuses as they surface and do not amount to a theory of why women come into the system. The problem is therefore twofold. As a matter of theory, there is no settled account of why women offend that both fits the evidence on rate, pattern and context and has been tested outside Western samples. As a matter of policy, a justice system built on male-centred accounts risks one of two errors: treating women as if they were men, or treating them as exceptional on the strength of stereotypes. This paper asks how far existing theory can be relied on to avoid both.

1.2 Research Questions

1. To what extent do the major biological, psychological and sociological theories of crime

⁶Kathleen Daly & Meda Chesney-Lind, "Feminism and Criminology" 5 Justice Quarterly 497 (1988).

⁷Belknap, *supra* note 5; Chesney-Lind & Pasko, *supra* note 5.

⁸Ram Ahuja, *Female Offenders in India* (Meenakshi Prakashan, Meerut, 1969).

⁹Ministry of Women and Child Development, Government of India, *Women in Prisons* (New Delhi, 2018); Government of India, Ministry of Home Affairs, *Report of the All India Committee on Jail Reforms 1980-83* (New Delhi, 1983).

¹⁰*Sheela Barse v. State of Maharashtra*, (1983) 2 SCC 96.

explain women's offending, and where do they fail?

2. How well do the masculinisation (emancipation), marginalisation and chivalry theories account for the rate and pattern of female crime and for the way women are treated by the criminal justice system?
3. How do feminist criminology and the gendered pathways approach explain the link between abuse, trauma, poverty, substance use and women's involvement in crime?
4. What would an integrated, intersectional and gender-responsive framework require of prevention, sentencing and rehabilitation policy, with particular reference to India?

1.3 Hypothesis

The paper proceeds on two linked hypotheses.

1. Theories developed mainly on male offenders explain women's offending only in part, because they do not account for gender-specific conditions such as victimisation, caregiving burdens and economic dependence.
2. Gendered pathways theory, read together with an intersectional analysis of class, caste, race and sexuality, explains women's offending better than any single mainstream theory and gives a sounder basis for policy.

The null hypothesis is that mainstream theories, applied without modification, explain female offending as well as they explain male offending, so that a separate gender-responsive framework adds nothing.

1.4 Research Methodology

The study is doctrinal and analytical. It reads criminological theory and legal sources closely, compares what each theory predicts with what the evidence shows, and tests the result against Indian material.¹¹ No fieldwork was undertaken.

¹¹Terry Hutchinson & Nigel Duncan, "Defining and Describing What We Do: Doctrinal Legal Research" 17 *Deakin Law Review* 83 (2012); S.K. Verma & M. Afzal Wani (eds.), *Legal Research and Methodology* (Indian Law Institute, New Delhi, 2nd edn., 2001); Mike McConville & Wing Hong Chui (eds.), *Research Methods for Law* (Edinburgh University Press, Edinburgh, 2007).

Primary sources are statutes, Supreme Court decisions, official reports and international instruments. Secondary sources are books from academic and university presses and articles in peer-reviewed journals. Theories were selected because they are the ones most often used in the literature to explain female offending, and each is assessed on three tests: whether it explains the gender gap in offending, whether it explains the pattern of women's offences, and whether it can account for the circumstances women describe. Citations follow the Indian Law Institute style.

The method has limits. Much of the theoretical literature comes from the United States and the United Kingdom, and its findings may not carry over to India without testing. Prison statistics also describe only the women who were caught, prosecuted and held in custody on a given date, not all women who offend.¹² Conclusions drawn from them are used with that caution.

1.5 Literature Review

Early work explained female crime through the body and the mind. Lombroso and Ferrero described offending women as showing male physical and temperamental traits,¹³ and Pollak argued that women's crime was hidden by their capacity for deceit and by the leniency of male officials.¹⁴ Smart's critique showed these accounts to be built on stereotype.¹⁵ Mainstream sociology came next, and it was built on men. Merton traced deviance to the gap between cultural goals and legitimate means,¹⁶ and Agnew's general strain theory added negative treatment and anger.¹⁷ Sutherland argued that crime is learned in intimate groups.¹⁸ Hirschi's control theory rested on a sample of boys,¹⁹ while Hagan, Gillis and Simpson's power-control theory was the one mainstream account to put gender, and the patriarchal family, at its centre.²⁰ Each explains part of the gender gap, mainly through supervision, socialisation or opportunity. None explains well why the women who do offend do so in the circumstances they do. Two further theories tried to account for change in women's crime. Adler and Simon argued that

¹²The figures in the National Crime Records Bureau report describe persons in custody on a single date and do not measure offending in the population; see *supra* note 3.

¹³Cesare Lombroso & William Ferrero, *The Female Offender* (D. Appleton and Company, New York, 1895).

¹⁴Otto Pollak, *The Criminality of Women* (University of Pennsylvania Press, Philadelphia, 1950).

¹⁵Smart, *supra* note 2.

¹⁶Robert K. Merton, "Social Structure and Anomie" 3 *American Sociological Review* 672 (1938).

¹⁷Robert Agnew, "Foundation for a General Strain Theory of Crime and Delinquency" 30 *Criminology* 47 (1992).

¹⁸Edwin H. Sutherland, *Principles of Criminology* (J.B. Lippincott Company, Philadelphia, 4th edn., 1947).

¹⁹Travis Hirschi, *Causes of Delinquency* (University of California Press, Berkeley, 1969).

²⁰John Hagan, A.R. Gillis & John Simpson, "The Class Structure of Gender and Delinquency: Toward a Power-Control Theory of Common Delinquent Behavior" 90 *American Journal of Sociology* 1151 (1985).

women's liberation would bring women's offending closer to men's.²¹ The arrest data did not bear this out: Steffensmeier found that the rise was concentrated in petty property offences,²² and Box and Hale linked it to economic marginalisation, not emancipation.²³ The chivalry thesis, that courts treat women leniently, has a more mixed record, and reviews of the evidence find it uneven.²⁴ Feminist criminology reframed the question. Daly and Chesney-Lind identified the generalisability and gender ratio problems and argued that women belong at the centre of inquiry.²⁵ The gendered pathways approach followed, tying women's offending to abuse, trauma, poverty and substance use. Daly described distinct routes into felony court,²⁶ Gilfus traced the passage from childhood abuse to street crime,²⁷ and Salisbury and Van Voorhis found quantitative support.²⁸ Crenshaw's concept of intersectionality added that race and gender combine in ways neither captures alone.²⁹ Indian scholarship is thin. Ahuja's study from 1969 was an early contribution,³⁰ official reports have concentrated on prison conditions,³¹ and national statistics record that women are about 4.1 per cent of prisoners without recording why they offended.³²

There are two gaps. Firstly, no single theory explains the rate, pattern and context of women's offending together. Secondly, the pathways and intersectional literature has been tested mostly on Western women. This paper addresses both by assessing the theories in turn and testing them against Indian law and data.

²¹Freda Adler, *Sisters in Crime: The Rise of the New Female Criminal* (McGraw-Hill, New York, 1975); Rita James Simon, *Women and Crime* (Lexington Books, Lexington, 1975).

²²Darrell J. Steffensmeier, "Crime and the Contemporary Woman: An Analysis of Changing Levels of Female Property Crime, 1960-75" 57 *Social Forces* 566 (1978).

²³Steven Box & Chris Hale, "Liberation and Female Criminality in England and Wales" 23 *British Journal of Criminology* 35 (1983).

²⁴Ilene H. Nagel & John Hagan, "Gender and Crime: Offense Patterns and Criminal Court Sanctions" 4 *Crime and Justice* 91 (1983).

²⁵Daly & Chesney-Lind, *supra* note 6.

²⁶Kathleen Daly, "Women's Pathways to Felony Court: Feminist Theories of Lawbreaking and Problems of Representation" 2 *Southern California Review of Law and Women's Studies* 11 (1992).

²⁷Mary E. Gilfus, "From Victims to Survivors to Offenders: Women's Routes of Entry and Immersion into Street Crime" 4 *Women & Criminal Justice* 63 (1992).

²⁸Emily J. Salisbury & Patricia Van Voorhis, "Gendered Pathways: A Quantitative Investigation of Women Probationers' Paths to Incarceration" 36 *Criminal Justice and Behavior* 541 (2009).

²⁹Kimberlé Crenshaw, "Mapping the Margins: Intersectionality, Identity Politics, and Violence against Women of Color" 43 *Stanford Law Review* 1241 (1991).

³⁰Ahuja, *supra* note 8.

³¹Ministry of Women and Child Development, *supra* note 9; Government of India, Ministry of Home Affairs, *supra* note 9.

³²National Crime Records Bureau, *supra* note 3.

2. Mainstream Theoretical Explanations

2.1 Biological and psychological explanations

The earliest explanations were biological. Lombroso and Ferrero's *The Female Offender*, which first appeared in Italian in 1893, held that offending women showed physical and temperamental traits of the male type and that the born female criminal was rarer than her male counterpart. They treated prostitution as the female equivalent of crime.³³ Thomas moved the focus to psychology. He described girls' delinquency, much of it sexual, as an attempt to satisfy wishes for new experience and security that their circumstances left unmet.³⁴ Pollak argued in 1950 that women commit far more crime than the statistics show, because their offences are better concealed, less often reported and more leniently handled by male police and judges. He tied the concealment to women's physiology and social roles, which he said trained them in deception.³⁵

Smart's critique remains the standard one. These accounts take stereotypes about women as fact, treat the offending woman as abnormal in a way the offending man was not, and leave social conditions out altogether.³⁶ Heidensohn had made a related point earlier: the sociology of deviance had little to say about women, and their conformity was assumed rather than explained.³⁷ Contemporary psychological work has dropped the hereditary claims. It looks instead at trauma, mental illness and substance dependence, which brings it close to the pathways research discussed below.³⁸

2.2 Strain and anomie theory

Merton's 1938 paper explained deviance as the product of a gap between culturally approved goals, chiefly material success, and the legitimate means of reaching them.³⁹ The argument was about class position, not gender, and it does not explain why women, who often have less access to income, are convicted less often. Agnew's general strain theory widened the account to include the loss of valued things and exposure to noxious treatment, with anger as the emotion

³³Lombroso & Ferrero, *supra* note 13.

³⁴W.I. Thomas, *The Unadjusted Girl* (Little, Brown and Company, Boston, 1923).

³⁵Pollak, *supra* note 14.

³⁶Smart, *supra* note 2.

³⁷Frances Heidensohn, "The Deviance of Women: A Critique and an Enquiry" 19 *British Journal of Sociology* 160 (1968).

³⁸Salisbury & Van Voorhis, *supra* note 28.

³⁹Merton, *supra* note 16.

that carries strain into crime.⁴⁰ Broidy and Agnew applied it to gender. They argued that women experience a great deal of strain, much of it arising in family and close relationships, but that they are more likely to respond with depression, guilt and anxiety than with outward anger, and that their social ties and moral beliefs make criminal coping less available.⁴¹ The extension is useful because it takes women's strains seriously. Its limit is that it describes why women offend less, and says less about why some women offend in the ways they do.

2.3 Social learning theory

Sutherland's differential association theory holds that criminal behaviour is learned in intimate groups, where an excess of definitions favourable to breaking the law outweighs definitions unfavourable to it. He explained the gender gap largely by the closer supervision of girls, which limits their exposure to such definitions.⁴² Akers's social learning theory added imitation and reinforcement and has been applied to samples of both sexes.⁴³ Both accounts rest the gender difference on unequal exposure, which is plausible but incomplete, since it leaves open why exposure differs in the first place. Neither says much about offending that has little to do with peers: a woman who commits an offence under the direction or pressure of a male partner, or one who steals or sells drugs to feed her children, is not easily described as having learned a favourable definition of crime.

2.4 Control theory

Hirschi's social bond theory explains delinquency by weak attachment, commitment, involvement and belief.⁴⁴ His original study was of boys, so the first full statement of the theory was never tested on girls. Gottfredson and Hirschi later located the cause in low self-control formed in early childhood and accounted for the gender gap by differences in socialisation and supervision.⁴⁵ The explanation is economical, but it treats gender as a variable to be controlled for, not as a structure that shapes the choices open to a woman.

⁴⁰Agnew, *supra* note 17.

⁴¹Lisa Broidy & Robert Agnew, "Gender and Crime: A General Strain Theory Perspective" 34 *Journal of Research in Crime and Delinquency* 275 (1997).

⁴²Sutherland, *supra* note 18.

⁴³Ronald L. Akers, *Social Learning and Social Structure: A General Theory of Crime and Deviance* (Northeastern University Press, Boston, 1998).

⁴⁴Hirschi, *supra* note 19.

⁴⁵Michael R. Gottfredson & Travis Hirschi, *A General Theory of Crime* (Stanford University Press, Stanford, 1990).

Power-control theory is the one mainstream account built around gender. Hagan, Gillis and Simpson linked the gap to the structure of the family. Where fathers work outside the home and mothers manage it, daughters are supervised more tightly than sons and learn to avoid risk; where parents share power more equally, the gap narrows.⁴⁶ The theory is concerned mostly with minor delinquency in two-parent households. It says little about the serious offending that brings women to prison, or about women whose lives are marked by poverty, abuse or the absence of a stable household.

2.5 Labelling theory

Becker argued that deviance lies in the reaction of others and not in the act,⁴⁷ and Lemert distinguished the primary deviance that anyone may commit from the secondary deviance that follows once a person takes on the deviant label.⁴⁸ The approach fits some of what is known about women. Chesney-Lind showed that girls were drawn into the juvenile justice system for status offences such as running away, often as a response to abuse at home, and that their sexual conduct was policed in ways boys' conduct was not.⁴⁹ In India, the offence of soliciting under the Immoral Traffic (Prevention) Act, 1956 can place women who are themselves exploited in the position of the accused.⁵⁰ The weakness of labelling theory is that it explains reaction better than initial conduct. It has little to say about why a woman first commits an offence.

2.6 Opportunity theory

Cloward and Ohlin argued that delinquent subcultures form where legitimate and illegitimate opportunities are unequally spread.⁵¹ Their account was about male gangs. Women have historically had less access to the networks that organise crime. Steffensmeier's study of the underworld found that those networks are sex-segregated and that women are kept to their margins, which holds down both the volume and the seriousness of female offending.⁵² Simon approached the question from the other side. As women entered paid work, she argued, they

⁴⁶Hagan, Gillis & Simpson, *supra* note 20

⁴⁷Howard S. Becker, *Outsiders: Studies in the Sociology of Deviance* (Free Press, New York, 1963).

⁴⁸Edwin M. Lemert, *Social Pathology: A Systematic Approach to the Theory of Sociopathic Behavior* (McGraw-Hill, New York, 1951).

⁴⁹Meda Chesney-Lind, "Girls' Crime and Woman's Place: Toward a Feminist Model of Female Delinquency" 35 *Crime & Delinquency* 5 (1989).

⁵⁰The Immoral Traffic (Prevention) Act, 1956 (Act 104 of 1956), s. 8.

⁵¹Richard A. Cloward & Lloyd E. Ohlin, *Delinquency and Opportunity: A Theory of Delinquent Gangs* (Free Press, Glencoe, 1960).

⁵²Darrell J. Steffensmeier, "Organizational Properties and Sex-Segregation in the Underworld: Building a Sociological Theory of Sex Differences in Crime" 61 *Social Forces* 1010 (1983).

gained the access to money and positions of trust that fraud and embezzlement need.⁵³ The two points fit together. Opportunity narrows or widens with a woman's place in the legitimate economy and in the illegitimate one, and a full account has to explain why that place is what it is.

3. Emancipation, Marginalisation and Chivalry

3.1 Masculinisation and emancipation theory

Adler argued in 1975 that the women's movement was producing a new female criminal, more violent and more like her male counterpart, as the social restraints on women loosened.⁵⁴ Simon's version was narrower: wider economic opportunity would raise women's property and white-collar offending, but not violent crime.⁵⁵ The thesis attracted attention and little support. Steffensmeier's analysis of United States arrest figures from 1960 to 1975 found that the rise in female arrests was concentrated in petty property offences such as larceny and fraud, and that women's share of serious and violent crime had barely moved.⁵⁶ Box and Hale, working with data for England and Wales, found no link between indicators of women's liberation and the rate of female crime.⁵⁷ Chesney-Lind pointed out that the women being arrested were hardly the beneficiaries of liberation.⁵⁸ The thesis also assumed that equality means becoming like men, and that crime is a male activity to which women would aspire once allowed. Neither assumption has been shown.

3.2 Marginalisation theory

The competing reading is that women's crime follows poverty and insecure work. Box and Hale tied the increase in female convictions to rising unemployment and the growing share of women among the poor, not to emancipation.⁵⁹ Carlen's study of women offenders in Britain placed their offending in the deprivations of class and gender together, in lives short of rewarding work and of secure family attachment.⁶⁰ Steffensmeier and Allan drew such points into a gendered theory of offending. It identifies differences in gender norms, moral and

⁵³Simon, *supra* note 21.

⁵⁴Adler, *supra* note 21.

⁵⁵Simon, *supra* note 21.

⁵⁶Steffensmeier (1978), *supra* note 22.

⁵⁷Box & Hale, *supra* note 23

⁵⁸Meda Chesney-Lind, "Women and Crime: The Female Offender" 12 Signs 78 (1986)

⁵⁹Box & Hale, *supra* note 23

⁶⁰Pat Carlen, *Women, Crime and Poverty* (Open University Press, Milton Keynes, 1988).

relational concerns, social control, physical strength and sexuality, among others, as the sources of the gap between men's and women's crime and of the distinct form women's offending takes.⁶¹ Marginalisation theory is strong on economics. It is thinner on abuse, on the role of intimate partners, and on women's own decisions.

3.3 Chivalry theory

Pollak's claim that a male-dominated justice system treats women gently gave the chivalry thesis its name.⁶² The evidence is mixed. Nagel and Hagan's review of the research concluded that the support for leniency was uneven and depended heavily on the stage of the process, the offence and the offender's background.⁶³ Daly's study of American court decisions suggested that what looks like chivalry is better explained by concern for dependants: defendants with family responsibilities, men among them, were treated more leniently.⁶⁴ The converse claim is that women who offend are judged against their gender role as well as against the law, and may be dealt with more harshly for failing to meet it.⁶⁵ In Indian law chivalry has a statutory form. A woman accused of an offence punishable with death or imprisonment for life may be released on bail,⁶⁶ the execution of a death sentence on a pregnant woman is postponed,⁶⁷ and a woman may not, save in exceptional circumstances, be arrested between sunset and sunrise.⁶⁸ The Constitution allows special provision for women.⁶⁹ These measures answer real disadvantages. The Supreme Court has nevertheless warned that protection resting on stereotypes can turn into a restraint. In *Anuj Garg* it struck down a prohibition on employing women where liquor was served, on the ground that the law rested on paternalistic assumptions about women's vulnerability.⁷⁰ In *Joseph Shine* it struck down the offence of adultery, a provision that among other things exempted the wife from punishment, because the law treated a married woman as her husband's property.⁷¹ Chivalry and paternalism are close relatives, and the same provision

⁶¹Steffensmeier & Allan, *supra* note 1.

⁶²Pollak, *supra* note 14.

⁶³Nagel & Hagan, *supra* note 24.

⁶⁴Kathleen Daly, *Gender, Crime, and Punishment* (Yale University Press, New Haven, 1994).

⁶⁵Frances Heidensohn, *Women and Crime* (Macmillan, London, 2nd edn., 1995).

⁶⁶The Code of Criminal Procedure, 1973 (Act 2 of 1974), s. 437(1), first proviso. The Code has since been replaced by the Bharatiya Nagarik Suraksha Sanhita, 2023 (Act 46 of 2023), in force from 1 July 2024, and the Indian Penal Code, 1860 (Act 45 of 1860) by the Bharatiya Nyaya Sanhita, 2023 (Act 45 of 2023). The earlier enactments are cited because the decisions and literature discussed here arose under them.

⁶⁷*Ibid.*, s. 416.

⁶⁸*Ibid.*, s. 46(4).

⁶⁹Constitution of India, 1950, art. 15(3)

⁷⁰*Anuj Garg v. Hotel Association of India*, (2008) 3 SCC 1.

⁷¹*Joseph Shine v. Union of India*, (2019) 3 SCC 39; The Indian Penal Code, 1860 (Act 45 of 1860), s. 497.

can protect a woman in one case and confine her in another.

4. Feminist Criminology and Gendered Pathways

4.1 Feminist criminology

Feminist criminology began as a critique. Daly and Chesney-Lind set out its common ground in five points: gender is socially constructed and not a natural fact; it organises social institutions; relations between men and women are unequal and rest on male dominance; systems of knowledge reflect men's view of the world; and women should be at the centre of inquiry, not at its edge.⁷² Within that shared ground there are differences. Liberal feminists asked for equal treatment and better data on women. Radical feminists located the source of the problem in patriarchy and male violence. Marxist and socialist feminists combined class and gender. Messerschmidt's socialist feminist account, for example, placed offending within the interaction of capitalism and patriarchy, so that the crime of men and women follows from their different positions in both.⁷³ Naffine and Morris examined how criminology had constructed women as subjects and what that meant for the way they were treated by courts.⁷⁴ Gelsthorpe and Morris cautioned that feminist criminology should not be spoken of as one position, since its adherents disagree about both theory and strategy.⁷⁵

4.2 Gendered pathways theory

The pathways approach turns the feminist critique into an explanation. Daly worked from court records and interviews with women before an American felony court and described five routes into lawbreaking: street women, battered women, harmed-and-harming women, drug-connected women and a residual group whose offending was economic.⁷⁶ Gilfus's interviews with women in prison traced the passage from childhood abuse through running away to survival on the street and into theft, drug use and prostitution.⁷⁷ Richie described what she called gender entrapment: battered Black women who were pushed into crime by the violence

⁷²Daly & Chesney-Lind, *supra* note 6.

⁷³James W. Messerschmidt, *Capitalism, Patriarchy, and Crime: Toward a Socialist Feminist Criminology* (Rowman & Littlefield, Totowa, 1986).

⁷⁴Ngairé Naffine, *Female Crime: The Construction of Women in Criminology* (Allen & Unwin, Sydney, 1987); Allison Morris, *Women, Crime and Criminal Justice* (Basil Blackwell, Oxford, 1987).

⁷⁵Loraine Gelsthorpe & Allison Morris, "Feminism and Criminology in Britain" 28 *British Journal of Criminology* 93 (1988).

⁷⁶Daly (1992), *supra* note 26.

⁷⁷Gilfus, *supra* note 27.

of partners and by the lack of anywhere safe to go.⁷⁸ Widom's prospective study found that abused and neglected children, girls included, were more likely than comparison children to be arrested later.⁷⁹

Quantitative work has largely supported the pathways idea. Salisbury and Van Voorhis, using data on women probationers, found several routes to incarceration, including one that ran from childhood victimisation through mental illness to substance abuse, and others driven by troubled intimate relationships and by low social and human capital.⁸⁰ Brennan and colleagues, using a person-centred analysis, found that women's offending is not explained by a single route: some groups fit the abuse and mental illness pattern, while others look more like conventional high-risk offenders.⁸¹ This finding matters. A fair reading of the literature is that pathways theory explains a large and important group of women but should not be turned into a single story about all women who offend, or into one that casts women only as victims and leaves no room for their agency.

4.3 Intersectionality

Intersectionality adds the second element. Crenshaw showed that race and gender combine in ways that neither category captures alone, so that the position of women of colour cannot be read off from either the experience of white women or that of Black men.⁸² The point carries over to India, where caste, religion and class shape who is policed, who can afford a lawyer, and who is released on bail. Pathways research of this kind has been done mostly in Western settings, and testing it on Indian women prisoners is among the more pressing gaps in the field.

5. The Indian Context

Indian writing on women offenders is thinner than the Western literature and more concerned with conditions of detention than causes of crime. Ahuja's early study remains an important reference point for the characteristics of Indian women offenders.⁸³ The report of the All India

⁷⁸Beth E. Richie, *Compelled to Crime: The Gender Entrapment of Battered Black Women* (Routledge, New York, 1996).

⁷⁹Cathy Spatz Widom, "The Cycle of Violence" 244 *Science* 160 (1989).

⁸⁰Salisbury & Van Voorhis, *supra* note 28.

⁸¹Tim Brennan et al., "Women's Pathways to Serious and Habitual Crime: A Person-Centered Analysis Incorporating Gender Responsive Factors" 39 *Criminal Justice and Behavior* 1481 (2012).

⁸²Crenshaw, *supra* note 29.

⁸³Ahuja, *supra* note 8

Committee on Jail Reforms in 1983 dealt with women prisoners among its recommendations,⁸⁴ and the Ministry of Women and Child Development's 2018 report on women in prisons returned to many of the same concerns.⁸⁵ Judicial intervention in *Sheela Barse* produced directions on the custody of women,⁸⁶ but, as noted above, courts are not a substitute for an understanding of cause. The prison data point to the gap.⁸⁷ This suggests that most women prisoners are held in enclosures within prisons designed mainly for men. The data do not say why those women came to be there, and that is the question a pathways analysis would ask.

6. Towards an Integrated, Gender-Responsive Framework

Each theory explains something about women's offending, and each leaves a part of it unexplained. Three points to follow are following. *First*, the older theories explain the gender gap in offending reasonably well, mainly through differences in supervision, socialisation and opportunity. But they explain the contexts of women's offending badly. *Second*, the emancipation thesis has not survived testing, while the marginalisation account has done better and sits closer to what the pathways research shows. *Third*, the feminist literature supplies what the others lack, an account of why women offend in the circumstances they do. But it has been tested mostly on Western women and only rarely on Indian ones. An integrated framework would keep what the mainstream theories do well, draw on pathways research for the contexts of offending, and read both against the structures of class, caste, religion and gender in which Indian women live. Bloom, Owen and Covington set out principles for a gender-responsive approach on those lines: acknowledge that women's pathways and needs differ from men's, create safe environments, treat trauma, mental health and substance abuse together, and attend to women's economic position.⁸⁸ The United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders, the Bangkok Rules, adopted by the General Assembly in 2010, apply a similar logic.⁸⁹

Prevention: If the main routes into offending run through abuse, poverty and substance

⁸⁴Government of India, Ministry of Home Affairs, *supra* note 9.

⁸⁵Ministry of Women and Child Development, *supra* note 9.

⁸⁶*Sheela Barse*, *supra* note 10.

⁸⁷National Crime Records Bureau, *supra* note 3.

⁸⁸Barbara Bloom, Barbara Owen & Stephanie Covington, *Gender-Responsive Strategies: Research, Practice, and Guiding Principles for Women Offenders* (National Institute of Corrections, U.S. Department of Justice, Washington D.C., 2003)

⁸⁹United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules), G.A. Res. 65/229, U.N. Doc. A/RES/65/229 (Dec. 21, 2010).

dependence, much of prevention lies outside the criminal law. It means responses to domestic and sexual violence that give women somewhere safe to go, access to livelihoods, treatment for substance dependence, and legal aid early enough to matter. This is an inference from the pathways literature and not a finding about Indian women, which is a further reason for the Indian research called for above.

Bail & Sentencing: The statutory protections for women accused of crime respond to real disadvantage, but they work best when they rest on the woman's actual circumstances, such as dependants, caring duties and a history of victimisation, and not on assumptions about her nature. *Anuj Garg* and *Joseph Shine* point the same way.⁹⁰ The Bangkok Rules ask courts to take into account women's histories of victimisation and caretaking responsibilities and to prefer non-custodial measures where suitable.⁹¹ The prison figures give the point practical weight: of the 1,537 women in prison with children at the end of 2022, 1,312 were undertrial prisoners.⁹² Decisions on bail for such women decide whether a child spends its early years in prison.

Rehabilitation: Kind of rehabilitation that ignores the pathway that brought a woman to prison is unlikely to hold. A programme limited to skills training will not help a woman whose offending followed abuse or addiction if those problems go untreated. Gender-responsive programmes combine trauma-informed counselling, treatment for substance use, mental health care, education or vocational training, and support for the relationship between mother and child.⁹³ In India this also means attention to the many women held in enclosures within prisons built mainly for men, where programmes designed for the larger male population may not reach them.

7. Conclusions

As far as question of how far existing theory explains why women offend and what the answer means for the justice system. On the first research question, the mainstream theories of crime each capture something about the gender gap, through supervision, socialisation, strain, bonds or opportunity, but they explain the circumstances of women's offending poorly. On the second, the emancipation thesis is not supported by the evidence, marginalisation fits it better,

⁹⁰*Anuj Garg, supra* note 70

⁹¹Bangkok Rules, *supra* note 89

⁹²National Crime Records Bureau, *supra* note 3

⁹³Bloom, Owen & Covington, *supra* note 88.

and chivalry is real in some decisions but uneven and often better described as concern for dependants or as paternalism. On the third, the feminist and pathways literature explains most directly why many women offend, by linking their crime to abuse, trauma, poverty, substance use and constrained choices. On the fourth, an integrated, intersectional and gender-responsive framework asks for prevention that reaches beyond the criminal law, bail and sentencing decisions based on circumstances and not stereotype, and rehabilitation that addresses the pathway behind the offence.

Both hypotheses are supported by the literature reviewed, with qualifications. Mainstream theories explain women's offending only in part. Gendered pathways theory, read intersectionally, explains more and gives a better base for policy, but it does not describe every woman who offends, and its application to India rests on inference more than on Indian evidence. The study is doctrinal and relies largely on Western research, so these conclusions are provisional. The most useful next step is empirical. Interviews with women in Indian prisons, and analysis of case records, would show which pathways Indian women actually follow and how caste, religion and class shape them. Until that work exists, theory and policy on female criminality in India will continue to borrow from studies of women elsewhere.