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## **Female Criminality – Gender Constructed Criminological Explanations**

**Prof. Sunishtha Moghe**

*Assistant Professor, Symbiosis Law School, Pune*

**Prof. Nupur Khanna**

*Assistant Professor, Symbiosis Law School, Pune*

### **Abstract**

*Crime does not limit the capacity of its perpetrator and does not require the identification of gender for it to be committed. Though crime can be committed by anyone irrespective of the gender, still the definition of criminal is gendered. This paper argues that the gendered approach to female criminality is reflected in the studies on criminal behavior. The general presumption is that criminality is supposed to be male affair and female offenders are taken to be exceptions. Drawing insights from the criminological account of the criminal behavior, the paper analyses that the female criminals are viewed as 'troubled' offenders, who act out of need, and not 'trouble-some' offenders, who act out of greed and reserved for male offenders. Ultimately, it suggests that there is a need to study female criminality from non-gendered spectacles and to discard the 'dot in the whole picture' approach to explain her criminal behavior.*

***Keywords: Female Criminality; Gender; Criminal behavior; Bias; Criminological Theories.***

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**Introduction:** Women in India which is almost half of the total Indian population had a significant role to play in the ancient society. However, rapid modernization and urbanization has led to a change in the way women are perceived in the society. Although the society has become progressive but there are certain *essential* attributes which still represent the entire women group. These attributes provide a gendered explanation to the crimes which they commit.

Although the transgression of values and criminal acts cannot be attributed to a specific gender or age group, still male wrongdoers are labelled as criminals. Those involved in enforcing the criminal law are influenced by gender in deciding who might have committed the crime and how they shall be punished. Such gendered orientation to female criminality also gets reflected in the studies on criminal behavior. Mostly the criminological theories

attributed all characteristics of criminality to men and did not take into consideration the experiences of women. Hence, a universal explanation of male criminality is applicable to women as well.

In the very first instance, a woman who enters the criminal justice system is considered 'incongruous', 'out of place', and 'invisible'. The 'explanations' for her presence in the criminal justice system are sought and are 'found' within the discourse of the 'pathological' and 'irrational', such as, menstruation, mental illness, poor socialization, and broken home. Men are not considered to be 'out of place' and consequently their criminality is explained in different ways, and found within the discourse of 'normality' and 'rationality': boredom, greed, peer pressure, provocation etc.

People who commit petty offences, like stealing food, water, books etc. to meet their needs or that of their families are considered as 'Troubled' offenders. Female offenders are generally labeled under this category, who are portrayed as stealing out of need rather than greed, in contrast to male counterpart, who are portrayed as 'trouble-some' offenders. The response to male criminals is 'punishing' them, but the response to female criminals is *norm-alizing* them, ensuring suitable behavior in future according to the socio-cultural expectations of not being violent and aggressive. The troubled image of a female criminal is furthered by the beliefs, notions, myths etc. regarding criminality amongst women.

**Theories of female criminality:** Female is generally overlooked in the explanation of criminality and are often marginalized in favor of discussion from a purely male perspective. The traditional theories of female criminality share certain assumptions about female criminality which are used in laying the groundwork for theories explaining the female criminality.

In the past certain authors have written on topics related to female criminality, beginning with the atavist explanation of female criminal by Lombroso and Ferrero in *The Female Offender (1895)*. Their study found that the female criminals approximate more to males, both criminal and normal, than to normal women. They failed to find the numbers of 'born female criminals' and argued that all women were less evolved than men, and thus closer to primitive types.

Other writers who can be included in such influential group of writings are *Thomas*<sup>1</sup>, *Freud*<sup>2</sup>, *Davis*<sup>3</sup>, *Pollak*<sup>4</sup>. Despite the differences in their analytical approach and theories, they represent a sexist and gender-oriented tradition in female criminality. Such a definition

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<sup>1</sup> William I. Thomas was an American sociologist who contributed to the study of women by his works *Sex and Society (1907)*, and *The Unadjusted Girl (1923)*.

<sup>2</sup> Sigmund Freud was an Austrian neurologist and founder of psychoanalysis, who created an entirely new approach to the understanding of the human personality.

<sup>3</sup> Kingsley Davis was an American sociologist and demographer who contributed to the study of women by his work on prostitution *The Sociology of Prostitution (1961)*.

<sup>4</sup> Otto Pollak was Austrian-American professor of sociology who contributed to the study of women by his work *The Criminality of Women (1950)*.

*Female Criminality – Gender Constructed Criminological Explanations* Sunishtha Moghe & Nupur Khanna reflects and reinforces the economic position of women as reproductive and domestic workers. Such tradition of sexually constructing the female criminality and resultant bias against female criminal has led to the emergence of this topic. It is important to explore in depth this tradition in order to understand what kind of gender-oriented construction has been given to explain female criminality. Thus, the present piece of work is an attempt to make such an exploration and to study the female criminality by breaking away from such tradition.

**Biological and Psychological Theories:** The writers under this group see criminality as the result of individual characteristics that are only peripherally affected by economic, social and political forces. Criminality is seen from individualistic lens as a result of which other social, economic factors are not taken into consideration. More importance to the biological reasons due which crime is committed by a woman.

The proponents of this theory suggest that certain women are born “abnormal” i.e they have certain innate bad characteristics. Then there is a second category of good woman, who are born with such characteristics to live a normal life.

Because these theories centered upon the individual, they all suggest a ‘cure’ based upon adjustments to the personality of an individual. Little consideration is given to the role, status, or socio-economic position of women in society. For the purpose of biological and physiological theories, the study of female criminality began with the work of Lombroso<sup>5</sup>, whose writing on the subject started in 1895.

**Cesare Lombroso:** Lombroso’s theories have their basis in the then relatively new and controversial arguments of Darwinism<sup>6</sup>. It is therefore not surprising that they became popular and widely accepted. Lombroso’s basic idea is that criminal activities are conducted as a result of our return to ancient times. The individual who are primitive in nature which consists of “blacks” commits crime as compared to “non blacks” who are more advanced.

Lombroso claimed that women had a smaller cerebral cortex as compared to males as a result of which their intelligence and reasoning capabilities are low. This, he argued, led to a greater likelihood of psychology disturbance and was also more likely to lead to sexual anomalies than crime. Lombroso further maintained that woman has a capability to survive in unfavorable conditions due to their innate likeness for animal life. This ability to survive evidences an inability to feel pain and contempt of death, making them insensitive to the pain and suffering of other people. However, in most women the coldness is controlled or

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<sup>5</sup> Cesare Lombroso was an Italian university professor and criminologist. He authored *L'Uomo Delinquente* (1876; *The Criminal Man*) and *Le Crime, Causes et Remèdes* (1899; *Crime, Its Causes and Remedies*).

<sup>6</sup> Darwinism is a theory of biological evolution developed by the English naturalist Charles Darwin and others, stating that all species of organisms arise and develop through the natural selection of small, inherited variations that increase the individual's ability to compete, survive, and reproduce.

neutralized by pity, weakness, maternity, and, Lombroso argued, most importantly by underdeveloped intelligence and lack of passion. On the other hand, criminal woman, and all men, possesses passion and intelligence. Hence female offenders had certain peculiar characteristics like cranium similar to men, more body hair, more passionate or aggressive. Aggressiveness in women is considered as an alien feature as she is considered to be submissive.

Lombroso's idea re-appears as threads in modern theories because he and his followers provided the basis of the positive school of criminology. Later writings based on Lombroso tend not to express these ideas quite so directly, but they often make similar assumptions.

**Sigmund Freud:** Another important criminologist is Sigmund Freud.<sup>7</sup> Lombroso's and Freud's understanding of the concept of the born criminal is quite different. Lombroso distinguished criminals on the basis of their characteristics from birth, but Freud considered that anyone can be an offender as we are all born with some immoral inclinations.

The other main difference is that for Lombroso a criminal cannot control his instincts as he is born with such attributes, whereas for Freud considered that it's a hybrid of facts from birth as well as certain factors from the surroundings. Hence, all humans although might have some inclination towards criminal acts but same can also be controlled.

As with a large portion of Freud's work, the central tenet of his theory is sexual inferiority complex. As woman doesn't have penis and the physical strength of a man, they feel themselves less superior as a result of which they commit crime. Because of the lack of penis woman turns out to be more aggressive and rebellious, as they consider as a kind of punishment. They become exhibitionist and narcissistic, and so try to be well dressed and physically beautiful in order to win love and approval from men. Freud argues that there are certain differences between men and women as a result of which women are more submissive and men are aggressive. He further argues that instead of female's males have consciences as a result of their oedipal complex. An oedipal complex is a man's or boy's incestuous love for his mother which is repressed due to a fear of a jealous reaction from his father. The fear is that the father may ultimately castrate the son – this is the most feared punishment. As a result, they have very super-ego. As girls and women cannot be castrated, they do not develop this kind of super ego or consciousness. Since women are more submissive and they like to be loved by males, the female criminality is lower. Women do not commit crime as it might lead to a negative reaction from their husband, father or brother.

**Otto Pollak:** Pollak's theory was also sex-based. Pollak was skeptical of the official records for female criminality. He proposed the theory of 'hidden' female criminality. Women were described as passive and passionless, but can simulate a sexual orgasm to hide their true

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<sup>7</sup>Freud was an Austrian neurologist and the founder of psychoanalysis, who created an entirely new approach to the understanding of the human personality. He is regarded as one of the most influential and controversial minds of the 20th century.

feelings. Within the sexual sphere they learn to manipulate, deceive and conceal – this, Pollak claims, decides the inherent nature of women, making them likely to be the instigators of crime which is then actually perpetrated by men. Where they do themselves commit crimes, there are related to their feminine nature and explained either on psychological (mental) grounds, for example, shoplifting is the result of kleptomania, an uncontrollable urge to steal or on sexual grounds, for example, soliciting for prostitution or sexual blackmail. He also suggested that biological factors such as, lesser physical strength, menstruation, pregnancy, and menopause and so on enter the etiology of female criminality. Pollak seems to have ignored possibility that lack of social, political, economic power may force women into taking an underhand or manipulative way to enforce change, and so better their position and standing in society.

*W.I. Thomas*<sup>8</sup>

Thomas begins with basic biological differences between male and female. He associates maleness, the ‘katabolic’, with the animal force which is destructive of energy and femaleness, ‘anabolic’, with plant which stores energy, and is motionless and conservative. According to Thomas, such difference become more visible in the more civilized races, due to the greater differences of sex roles. However, Thomas ignores the hard physical work done by poor white women at home and in the factories in ‘civilized’ countries, and accepts a ruling-class definition of femininity. Thomas noted that women are not considered as threat and therefore treated more leniently. Women who break such norms and transgress the limits have the potential to become a real threat. Thus, normality is kept for those women who are least likely to come in contact with the criminal justice system, i.e., ‘nice’ ladies. The criminal woman is responded back not by way of any reformation in her role but a ‘reformation’ in her attitude herself. Thomas puts forward the analogy; ‘good’ women preserve their bodies as capital for selling in matrimony for marriage, whereas bad women trade off their bodies for excitement and fun. Thomas shows ignorance of economic hardships in his denial of economic factors in criminal activity with as much certainty as earlier theorists.

The shared assumption in all these biological and psychological explanations about the traits of the ‘normal’ and criminal women is dubious. Yet, all these works, in some form or the other, influence the contemporary understanding of female criminal behavior.

**Social and Economic Theories:** This group focuses upon impact of social factors on a woman and resultant criminality. Following are some of the major theories which take into consideration the societal factors responsible for criminal activity in females.

**Liberation Theory:** This theory relates female criminal activity with an increase in the breaking down of traditional barriers for women in society. Thus, it proposes that the

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<sup>8</sup>William I. Thomas was an American sociologist who contributed to the study of women by his works *Sex and Society* (1907), and *The Unadjusted Girl* (1923).

liberation or emancipation of women leads to greater number of crimes. Adler<sup>9</sup> studied prostitution, drug addiction, and juvenile law-breaking among females and related these crimes with the liberation movement of women. Liberated and independent women are more keen to defy the traditions and social restrictions.

**Strain Theory:** The essence of the theory is that criminality is caused by pressure or tension in the life of person. The originator of the strain theory is Robert Merton<sup>10</sup>, who borrowed ideas from Emile Durkheim<sup>11</sup>. It was another social scientist who took up Merton's idea of 'Strain' explicitly to explain the different pattern of male and female crime, in particular the crime of youth. Albert Cohen<sup>12</sup> argues as to how the contours of wealth, rationality, ambition are confined to the successful 'male' person and female is denied the same. She can be successful only with a successful man and not otherwise. As they do not face any financial obligation there is no question of strain in her life and thus no need of crime.

**Learning Theory:** Learning theory focused upon the fact that criminality is a learned behavior. Edwin Sutherland<sup>13</sup> introduced the theory of 'Differential Association'<sup>14</sup> and gave two explanations for criminal behavior, Situational and Genetic or Historical. Sutherland used the second approach in developing the theory of criminal behavior. This theory states that criminal behavior is learnt in a process of communication with other persons, principally in small intimate groups. This learning includes the techniques of committing crime. This theory states that a person will become a criminal if he or she associates more with criminal than with anti-criminal people and ideas. The first explicit application of differential association to females was by Ruth Morris<sup>15</sup> in her effort to explain female conformity. It brings out the importance of communication than biological or psychological reasons for explaining female criminal behavior.

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<sup>9</sup>Freda Adler is the most distinguished American female criminologist. One of the greatest contributions was the publication *Sisters in crime: The rise of the new female criminal* (1975) about female delinquents and offenders.

<sup>10</sup> Robert King Merton was an American sociologist who developed a theory of deviant behaviour based on different types of social adaptation in his book *Social Theory and Social Structure* (1949).

<sup>11</sup> Emile Durkheim, regarded as the founder of the French school of sociology, was social scientist who developed a vigorous methodology combining empirical research with sociological theory in his work *Les Règles de la method sociologique* (1895; The Rules of Sociological Method).

<sup>12</sup> Albert Cohen was an American criminologist and contributed sub-cultural theory of delinquent gangs in his work *Delinquent Boys: The Culture of the Gang* (1955).

<sup>13</sup> Edwin Sutherland was an American Sociologist who developed the theory of Differential Association and authored a book *Criminology* (1924).

<sup>14</sup> Differential association theory proposes that through interaction with others, individuals learn the values, attitudes, techniques, and motives for criminal behavior. In other words, the excess of non-legal definitions over legal definitions leads to the criminal behavior.

<sup>15</sup> Ruth Morris was a Canadian author and legal reformer, who was one of the world's leading spokespersons for prison abolition and healing justice.

**Control Theory:** The control theory perspective suggests that every person has bad and good qualities only because of the social environment, social values and norms around him. This theory states that conformity is caused by control, and therefore the lack of control causes deviance. Hirschi<sup>16</sup> focusses on four means through which control over people is secured by the society; being attached to conventions, commitment to conventional institutions such as work, school etc., involvement in these same activities; and belief in the conventional norms of behavior. It should lead to conformity.

This idea is set out as a gender-neutral idea, but it remains a male-gendered theory. It makes criminality a less rational and available choice in the case of females than it is in the case of males. Thus, it is not women's nature which makes them more conforming but arises in the way society controls them, together with fewer opportunities.

**Economic Theory:** This theory being one of the oldest explanations for crime, posits that crime is nothing but the reaction against economic injustice. Economic theorists have used the Marxist theory to explain criminality, but again the principles and applications of this theory have largely ignored women. Marxist feminists have used the theory and its analysis of capitalism to explain how women enter into crime and also how they are treated by the system. Capitalism and paternalism are combined in this analysis, both contributing to women's powerlessness.

**Sex-Role Theory:** After the Second World War, the general line of thought regarding masculinity and femininity divide was further developed. It was based upon the recognized and accepted role for each sex. Maleness is seen as being masculine and femaleness is seen as being feminine and nothing more. Criminality will arise when such division is disturbed. This theory portray women as passive, gentle, dependent, conventional, and motherly, a picture of women that is not different from that painted by most of biological and psychological theorists.

It advocates two ideas: crime is symbolically about masculinity and requires good deal of criminal-daring, toughness and aggression. The masculinity theory of offending was first explicated by Talcott Parsons<sup>17</sup>. Parsons attributed greater delinquency to boys in comparison to girls based on nuclear family. Parsons stated that "tendency of girls seems to be more law-abiding than boys".

Dale Hoffman Bustamante<sup>18</sup> puts forward the point of reward for 'conforming' girls and for 'deviant' boys. Women are taught that the only way forward is conformity. Punishment

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<sup>16</sup> Travis Hirschi was an American criminologist who argued that delinquency can be explained by the absence of social bonds in his work *Causes of Delinquency* (1969).

<sup>17</sup> Talcott Parsons was an American Sociologist who served as professor in Harvard University and also developed Action theory for the study of society. One of his famous works includes *Essays in Sociological Theory* (1949).

<sup>18</sup> Dale Hoffman Bustamante is an American criminologist who authored an article *The Nature of Female Criminality* (1973) in the journal *Issues in Criminology*.

*Female Criminality – Gender Constructed Criminological Explanations* Sunishtha Moghe & Nupur Khanna regimes have been using such a distinction to try to socialize females back into accepted feminine roles whilst leaving masculinity unaltered and merely trying to persuade men and boys back to law-abiding behavior.

**Conclusion:** From time to time different theories tried to explain the cause of crime. Although crime has been explained as behavior problem or a social problem, crime by female is made more complicated than understood.

In India, very few studies have been conducted and thus have very little relevant literature. Theories available are both quantitatively and qualitatively deficient and hence accurate and non-gendered studies on women and crime are still lacking. Ram Ahuja<sup>19</sup> undertook research and presented a new theoretical paradigm on the causation of female crime. After his study other newer researches gradually started taking place. Looking at the Indian scene, it can be seen that sociologists have not been much attracted towards such criminology studies.

During the last two decades, due to a greater participation in criminal activities by women, there is a great need to study women criminals, as the place and role of women in Indian society has also undergone changes. There is a perception held by society and criminal justice system that woman is *still to make mark* on crime scene and she is much a *victim* than a perpetrator. Though crime as a general subject has been distilled since its inception in society, the problems of female offenders and the manner in which it is perceived, has never been in the forefront.

Although crime amongst women is seen as a dot in the whole picture, the sudden increase in the share of female criminality witnesses the irrelevance and ‘misleading’ nature of traditional theories of crime to explain it. Theoretical criminology is unable to explain adequately the phenomenon of women and crime, since it is sexist and focuses on the activities, interests and values of men, while ignoring the comparable analysis of women.

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<sup>19</sup> Ram Ahuja is an Indian Sociologist who authored *Female Offenders in India* (1969).  
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