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WHITE BLACK LEGAL is an open access, peer-reviewed and refereed journal providededicated to express views on topical legal issues, thereby generating a cross current of ideas on emerging matters. This platform shall also ignite the initiative and desire of young law students to contribute in the field of law. The erudite response of legal luminaries shall be solicited to enable readers to explore challenges that lie before law makers, lawyers and the society at large, in the event of the ever changing social, economic and technological scenario.

With this thought, we hereby present to you

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# **FEMINIST CRIMINOLOGY: REIMAGINING JUSTICE THROUGH GENDER LENS**

AUTHORED BY - SHIYA CHAUHAN

## **Abstract**

*“To call women the weaker sex is a libel; it is a man’s injustice to a woman. If strength is meant brute strength, then indeed, a woman is less brute than a man. If by strength is meant moral power, then woman is immeasurably man’s superior. Has she not greater intuition, is she not more self-sacrificing, has she not greater powers of endurance, has she not greater courage? Without her, he could not be. If nonviolence is the law of our being, the future is with women. Who can make a more effective appeal to the heart than women?”*

- Mahatma Gandhi

Feminist criminology has risen as a vibrant and impactful area of study within the field of criminology. This article aims to provide an in-depth analysis of feminist criminology, examining its impact, emergence, theoretical underpinnings, statistical trends, and scope. Drawing upon a comprehensive review of existing literature and empirical studies, this article further explores the evolution of feminist criminology and its significance in challenging traditional criminological perspectives.

The article delves into the theoretical foundations of feminist criminology, highlighting its emphasis on understanding the gendered nature of crime and victimization. It explores the impact of feminist criminology in broadening the scope of criminological inquiry, shedding light on previously marginalized areas such as domestic violence, sexual assault, and women's experiences within the criminal justice system.

Furthermore, the article examines statistical trends and empirical research findings within feminist

criminology, providing insights into patterns of female offending, victimization, and criminal justice processing. It also discusses emerging trends and future directions in feminist criminology, emphasizing the continued relevance and importance of feminist perspectives in understanding crime and social justice.

**Keywords:** Feminist criminology, social injustice, gender disparity, crime, criminal justice system

## **Introduction**

Criminology, essentially, is an interdisciplinary approach to examining the occurrence of criminal acts within society. It aims to comprehend the intricacies associated with the occurrence of crimes including but not limited to the nature of crime, the underlying reasons behind them, and the thought process of those indulging in such criminal activities. Moreover, criminology seeks to illuminate the socio-economic, cultural, and environmental elements that contribute to the occurrence of crimes in particular regions. It emphasises the impact that criminal acts have on the individuals and communities affected by them, highlighting the importance of understanding the dynamics of victimisation. In essence, criminology encompasses a comprehensive study of all facets related to crimes, including the perpetrators, the victims, and the societal implications of such acts.

Feminist Criminology involves a wide-ranging theoretical framework and methodologies focused on gender dynamics within the field of criminology and criminal behaviour. It focuses on various aspects such as understanding women's involvement in crime, their experiences as victims, and their encounters within the criminal justice system. Its primary aim is to deepen our insight into both male and female offending behaviours, as well as how the criminal justice system responds to them.

Feminist Criminology emerged during the late 1960s and 1970s as a response to the discrimination and neglect experienced by women in the conventional study of crime. Feminist criminologists argue that traditional criminological theories are biased toward men due to the patriarchal influence in their development and manifestation within the criminal justice system. Feminist criminology aims to challenge the dominant paradigms in criminology to prevent the application of theories explaining male criminal behaviour to female offenders. It highlights the distinct societal roles of women compared to men, leading to different paths to crime, deviance, and victimisation, often overlooked



by other criminological theories. Initially, feminist criminologists emphasised the significance of women as victims, offenders, and professionals within the criminal justice system, areas that were previously underexplored.

Additionally, feminist criminology argues that sexism embedded within the field of criminology impacts the imprisonment, sentencing, and punishment of women, particularly those who diverge from conventional gender norms. This bias originates from antiquated perceptions of femininity, reinforcing the notion of women's inferiority and constraining their civil liberties and opportunities for social advancement. Much like wider social constructs, criminology has traditionally prioritised the experiences and perspectives of men, relegating women to secondary roles.

### **The emergence of feminist criminology**

Prior to the final two decades of the 20th century, criminological research primarily focused on male offenders and how the criminal justice system responded to male crimes. However, a significant surge in female incarceration rates during this period prompted a shift in focus towards women's crime and the criminal justice system's treatment of female offenders.

Several factors contributed to the emergence of feminist criminology:

1. **Embracing theories capable of explaining both the gender gap in crime and the behaviours of female offenders:** Traditional criminological theories often focused on male criminal behaviour, leaving gaps in understanding the placement of women within the criminal justice system. Feminist criminology sought to address this by adopting theories that could account for differences in criminal behaviour between genders and provide insights into the motivations and experiences of female offenders.
2. **Changes in the women's movement:** The women's movement underwent significant transformations during the latter half of the 20th century, leading to shifts in both female participation in crime and societal perceptions of women's involvement in criminal activities. As women gained more visibility and agency in various spheres of life, including the workforce and public discourse, there was a growing recognition of the diversity of women's experiences, including their involvement in criminal behaviour.
3. **Harsher responses by the criminal justice system towards female offenders:** Despite the

notion of chivalry traditionally guiding responses to female offenders, there was a discernible shift towards harsher treatment of women within the criminal justice system. This change in response highlighted disparities in sentencing and punishment based on gender and underscored the need for a critical examination of gender biases within the system.

4. **Introduction of "new criminologies"**: The emergence of new criminological perspectives, such as radical feminism and conflict theory, provided alternative frameworks for understanding crime and justice. These approaches emphasised power dynamics, structural inequalities, and social injustices, offering insights into the ways in which gender intersects with other forms of oppression within the criminal justice system. Feminist criminology drew upon these theories to challenge traditional notions of crime and punishment and advocate for gender-sensitive approaches to addressing criminal behaviour.

### **Scope and significance of feminist criminology**

Certainly, males are considered significant in criminology due to their higher rates of offending, which directly impact legislative and corrective systems. However, feminist criminology expanded the scope of this field by delving into the underlying reasons for criminal behaviour, aiming to inform policies aimed at reducing crime rates. In the 1970s, despite women committing fewer crimes, their offences were often overlooked by society.

The traditional Weberian-value-free approach to criminology, based on researchers' experiences, led to skepticism about data and theories regarding male crime. There was a prevalent belief that the study of male crime was the default aspect of criminology, relegating women's involvement in crime to a secondary concern or even dismissing it altogether. These criticisms paved the way for the emergence of feminist criminology, which encompasses various theoretical perspectives and methodologies focusing on a wide array of issues related to women and crime. These include theoretical explanations for female criminal behaviour, responses to female offenders, programming within women's prisons, women's roles in the correctional field, and the unique needs of female prisoners. However, all feminist approaches share a common emphasis on how societal gender norms and structures contribute to criminal behaviour.

In Criminology, theories would lack depth if they fail to acknowledge the significance of gender. It's

crucial to not only acknowledge behavioural differences between men and women but also to identify factors that operate differently for each gender. Feminist criminology views itself more as a perspective than just a theory, advocating for increased visibility of women in research. Utilising non-sexist methodologies is vital for feminist research to have practical and political implications.

In the field of Criminology, adopting a feminist approach is essential for a comprehensive understanding of the behavioural and psychological aspects of female offenders and victims. Feminist criminology provides critical perspectives necessary for challenging the generalised assumptions of traditional criminological theories. The diverse experiences of women cannot be fully grasped through a solely male-centred approach in criminology, which hampers the understanding of both the nature of crimes committed by women and the responses to them.

## **Theoretical framework**

Feminist thought encompasses a diverse range of ideologies and perspectives rather than a singular, uniform theory. These theories incorporate various ideologies and perspectives based on the societal factor and timeline. These ideologies and theories have played a significant role in shaping the idea of feminist criminology that is prevalent in today's time. These theories can be summarised as follows:

### **1. Liberal Feminist Theory**

One prominent feminist theory is the Liberal Feminist Theory, which posits that women face discrimination and unequal treatment based on their gender, with the underlying motive being the denial of equal opportunities compared to men, whether in politics, career, or personal spheres. Criminologists such as Freda Adler and Rita Simon argue that sociological factors rather than physiological ones best explain women's involvement in crime.

Liberal Feminist Theory, particularly prevalent in North America, advocates for the rapid integration of women into male-dominated realms as a solution to gender inequality. This entails providing women with equal opportunities and encouraging their participation in decision-making roles within society.

Additionally, the theory suggests that as women become more liberated, they may engage in similar

types of crime as men. However, empirical evidence supporting this notion is currently lacking, as women are predominantly involved in minor offences such as shoplifting and minor fraud, largely attributed to the feminization of poverty. Moreover, the rate of these crimes committed by women is significantly lower than that of men. Women who challenge traditional gender roles are often labelled as "unruly" and subjected to punishment as a result of resisting patriarchal norms.

## **2. Radical Feminist Theory**

This theory, for the first time, offered a critique of the "Liberal Feminist Theory," labelling it as overly simplistic. It has also been influential in shaping feminist perspectives on issues related to women's abuse. Proponents of this theory argue that male power and the privileges afforded to men are fundamental drivers of gender inequality, social relations, and crime issues. Central to this perspective is the concept of patriarchy, which denotes the pervasive control exerted by men over women's labour and sexuality. Radical feminists contend that patriarchy is the primary relationship in society, with other social relations, such as class, stemming from the male-female dynamic.

According to radical feminism, the root causes of gender inequality and male dominance include the desire of men to control women's sexuality, the institutionalised system of patriarchy, and the structural privileges enjoyed by men in positions of power, leading to unequal representation.

The works of radical feminists primarily focus on the victimisation of women and their survival in the face of male violence. Men are seen as perpetrators of sexual, physical, and psychological violence against women, driven by their desire to assert control over women and limit their potential. It is important to note that regardless of the specific feminist theory or ideology, the overarching goal is not to exclude men but to empower women and improve their societal participation and relationships. Ultimately, this aims to eradicate all forms of gender inequality.

## **3. Marxist Feminist Theory**

Another notable feminist theory is the Marxist Feminist Theory, which draws upon the theories of Karl Marx and Friedrich Engels, known as Marxism. Marxist feminism emerged in the late 1960s in response to Marxist social theory, which was criticised for its masculine bias. Adherents of Marxist feminist theory argue that a person's social relations are primarily determined by the economic



structure of society. Like liberal feminism, Marxist feminism contends that women live in a male-dominated society and are denied equal opportunities to participate fully. It emphasises that the nature of the economy plays a crucial role in perpetuating gender divisions and inequalities within society.

Julia and Herman Schwendinger, proponents of Marxist feminism, suggest that the class division of labour often mirrors gender division, driven by the dominance of capital and males. The proposed strategy for addressing this systemic issue involves transforming society from a capitalist framework to a more democratic socialist one.

Furthermore, Marxist feminists highlight the high prevalence of rape offenses in capitalist societies, attributing this to gender inequality relations that foster both physical and emotional violence. They argue that sexual inequality and violence are exacerbated by exploitative modes of production inherent in class-based societies.

### **Global perspective on crime and gender**

Before drawing any conclusions and addressing the persistent challenges in this field, it's crucial to comprehend feminist criminology from a global perspective, considering studies conducted by criminologists worldwide on this subject.

The emphasis on violence against women has been a significant focus, effectively shedding light on international issues. Beyond this, topics such as abuse against women in Islamic nations and traditional practices like female genital mutilation serve as critical areas of focus, underscoring the necessity for further exploration of feminist criminology and women's victimization on a global scale. Furthermore, the study of feminist criminology offers insights into how criminal justice policies worldwide often perpetuate the victimisation of women and penalise them for allegedly transgressing traditional gender norms, particularly regarding sexuality. For example, in some Islamic and Muslim-majority countries, women who have experienced rape or sexual abuse are often viewed and treated as offenders rather than victims, as they are perceived to have violated societal expectations regarding female sexuality.

## **Statistical insights and gender disparities**

In 2020, India experienced a 10% increase in women's arrests compared to 2015, while their convictions decreased by 50.5% over the same five-year period, as per analysis of data<sup>1</sup>. Although the number of women chargesheeted<sup>2</sup> has risen by 19%, the decrease in convictions suggests a notable increase in the percentage of undertrials, climbing from 66.8% in 2015 to 75.7% in 2020, as indicated by the data<sup>3</sup>.

In 2020, 91% of women were convicted for Liquor and Narcotic Drugs-related offences, highlighting a significant trend in the types of crimes leading to convictions among women. Dr. Beulah Shekhar, professor emeritus in the Department of Criminology at the Karunya Institute of Technology and Sciences in Tamil Nadu, emphasised that addressing female criminality requires acknowledging women as offenders in the first place.

Thus, it can be inferred that females are no longer solely viewed as victims but also as potential offenders and integral participants in the criminal justice system. The increasing rates of female incarceration underscore the importance of feminist criminology. Efforts have been made to promote feminist criminology through the publication of journals, the collection of data on crimes against women, the encouragement of female participation in the criminal justice system, and the raising of awareness about violence against women on a daily basis. Moreover, feminist criminologists investigate how laws and criminal justice policies worldwide may disproportionately target women, sanctioning them for deviating from traditional gender norms, particularly regarding sexuality. They also examine how offenders against women are punished within the criminal justice system. Despite these efforts, women victims are still unjustly considered offenders in many cases, such as instances of rape, sexual abuse, and workplace harassment.

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<sup>1</sup> National Crime Record Bureau (NCRB) and the Prison Statistics India (PSI).

<sup>2</sup> <https://ncrb.gov.in/en/prison-statistics-india>

<sup>3</sup> <https://ncrb.gov.in/en/Crime-in-India-2020>

## Social impact and gender dynamics

Feminist writing has significantly enriched the discipline of Feminist Criminology in four main ways:

1. **Addressing the neglect of female offenders:** Previous criminological perspectives often overlooked the existence of female offenders, assuming that offenders were primarily male. Additionally, discussions on female offenders tended to focus on individual or biological abnormalities, attributing their behaviour to biological factors.
2. **Highlighting the treatment of females within the criminal justice system:** Feminist writing has shed light on the treatment of women within the criminal justice system, challenging the historical notion of female beneficiaries of chivalry in male-dominated societies and advocating for fairer sentencing practices.
3. **Bringing attention to neglected areas of legal study:** Feminist ideology has brought attention to previously neglected areas of legal study, such as domestic violence and female sexual abuse, which disproportionately affect women even within their supposed safe environments. Feminist writing has played a crucial role in advocating for the protection of women against male violence and raising questions about how victims and survivors can be adequately supported.
4. **Focusing on the gendered nature of criminal activities:** Feminist writing has drawn attention to the highly gendered nature of criminal activities, prompting inquiries into why women commit fewer offences compared to men and why male offences outnumber those of females. This has led to discussions about the societal expectations and stereotypes surrounding femininity and masculinity and their implications for crime rates.

The feminist approach to criminology has significantly advanced the field in various ways. Firstly, it addressed the oversight of earlier criminological theories by failing to acknowledge offences committed by women and the unique challenges they face. While discussions on offenders typically centred around male perpetrators, female offenders were often viewed as abnormal, deviating from their expected behaviour. Feminist criminology broadened the scope by considering the numerous factors contributing to such offences and adopting a feminist perspective beyond traditional assumptions.

Furthermore, feminist writings have drawn attention to the treatment of women within the criminal

justice system, challenging the prevailing male-dominated paradigm. Importantly, feminist criminology has established a new discipline focusing on previously "hidden" forms of criminal activities, such as sexual abuse and domestic violence, which often occur within the confines of homes. This has prompted critical inquiries into how to ensure female safety against male violence and how to support survivors or victims of such violence.

Feminist perspectives have also emphasised the gendered nature of crimes, questioning why women commit fewer offences compared to men and why men are more likely to engage in criminal behaviour. As a result, feminist criminology has underscored the importance of incorporating feminine perspectives into criminology beyond conventional assumptions.

### **Conclusion**

Key characteristics of feminist criminology include its emphasis on understanding how social structures impact men and women differently, the integration of research and activism, and the recognition of the interconnectedness between victimisation and offending among women. These defining features underscore the ongoing relevance and importance of feminist perspectives within the field of criminology.

Feminist criminology encompasses both research and theory that go beyond merely studying crime and criminal justice, aiming to understand the broader systematic and gendered social context. This concept acknowledges that gender is not just a biological given but a multifaceted cultural and social construct. It highlights that gender relations significantly influence social institutions and everyday life. Moreover, feminist criminology argues that gender constructs, such as femininity and masculinity, are not symmetrical but rather reflect and perpetuate male superiority over women. As a result, feminist criminology advocates for placing women at the center rather than the periphery of the intellectual framework, emphasising the importance of understanding gender dynamics in the study of crime.

Despite recent progress, Feminist Criminology still faces marginalisation within the broader discipline. Mainstream journals often publish limited feminist scholarship, resulting in minimal attention being given to feminist perspectives. Consequently, new generations of criminologists may



receive inadequate exposure to feminist criminology.

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