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FEMINIST CRIMINOLOGY

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ABSTRACT

Criminology is the study of crimes, criminals, and criminal justice. And the relationship between gender and crime has been there for a very long time. Gender plays an important role when it comes to dealing with criminals and giving justice, since it has always been stereotyped that men and women have different potentials when it comes to committing crimes¹. The society has been conditioned to think that a crime, especially a serious crime that causes grievous hurt, is caused only by men, and that women do not have the heart to commit such an atrocity. And no matter how much the contemporary society has evolved, this is the one concept which has not evolved. Male criminals were the focus of criminology. The goal of the new school of feminist criminology is to explain why women commit crimes. It emphasizes the differences between men and women in the criminal justice system.

Criminal justice policies have been significantly impacted by the notion that males perpetrate most crimes. It is safe to interpret that gender of the criminal affects the law and the way the society responds to it. And even though the law does not discriminate on the grounds of gender of the person, it has been shown in a survey that the social characteristics of an offender does have an impact on the decision made by the Court.

¹ Shah, A. (2019). *Feminist Criminology: Flowers are committing Crimes*. Retrieved October 10, 2022, from <https://heinonline.org/HOL/P?h=hein.journals/supami11&i=134>

INTRODUCTION

The fact that male dominance is present in criminology as well is not a fact that is accepted by everyone. Thus, it is important to comprehend gender distinctions in criminal behaviour, so that it lowers criminal activities to a certain extent. Criminology is the deductive study of the nature, severity, administration, causes, control, outcomes, and anticipation of criminal action on both the individual and social levels. Female exploitation is a worry in today's feminist criminology. The framework for the law and criminal justice faces a variety of challenges, including issues with prostitution, sexual orientation inequality, and female wrongdoing.

Feminist criminology offers an alternative perspective to the study of crime. Additionally, they draw attention to the disciplinary blind spots despite the fact that feminist and visual lines of criminological research have distinct foci, strengths, and weaknesses. While visual criminology challenges criminology's dependence on text and numbers, feminist criminology addresses the gender biases that are ingrained in the discipline. There are numerous causes for the disparities in sentencing between men and women, and not all feminists support treating women equitably by the criminal justice system. Women don't seem to have done "big" crimes like bank robberies, stock fraud, or other white-collar offenses. Instead, for a variety of crimes, they are admitted to the criminal justice system.

There have numerous theories given by various scholars on this subject, such as the Marxist theory, the liberal theory, the socialist theory, etc, which have had a huge impact on the criminal justice system. But in this paper, the objective of the research is to analyse the gender disparities in in the field of criminology, and to study criminology from the legal perspective. The scope of this paper includes the research done on women who have committed a crime and are offenders, women as victims of crime, and the related topics. The research questions for this paper are how have gender disparities in criminology impacted the justice system and what can be done so as to improve the justice system.

REVIEW OF LITERATURE

Aayushi Shah, in her paper, *Feminist Criminology: Flowers are committing Sins*, states the causes of women committing crimes. She goes on to state the various theories that state the causes and gives suggestions as to how can they be prevented and what measures are to be taken to improve so that the society benefits in general.

Lynne A. Haney, in her paper titled, *Feminist State Theory: Applications to Jurisprudence*,

Criminology, and the Welfare State, mentions how women were subordinated by the society. Feminist criminologists looked through numerous cases to come to the conclusion that the state was biased against women in the older ages.

Madalina Epure, in her paper titled, *Critically Assess: The Relative Merits of Liberal, Socialist and Radical Feminism*, the author goes on to explain the three types of feminist theories. It is a tripartite analysis of the contemporary feminism.

In the paper titled, *Critical Analysis of Female Criminality in India*, the author puts up a question if feminist criminality is a revolt against the male domination. The current situation of women has its roots in the past, when the society was more male dominated as compared to today. But the author answers the question himself, when he says that a revolution is for achieving freedom while committing a crime is deliberate and impulsive, which does not bring any good.

Samina Waseem in her paper titled, *Female Criminality in India: Prevalence, Causes and Preventive Measures*, reviews the theories related to female criminality. She continues by outlining the causes of the rise in female arrests for criminal activity in recent years and offers solutions that could significantly reduce the number of crimes committed by women.

STRANDS OF FEMINIST CRIMINOLOGY

- **Liberal Feminism-** Liberal Feminism focus on the ability of women to maintain equality in the society through their own activities. They accept the fact that it is because of superstitions and orthodox thinking that they are not getting equal status in the society. Liberal feminists argue that since the society holds a biased opinion of women, it is because of this bias nature that it believes that women are physically and academically inferior to men. Consequently, they strive to incorporate women into society at large.
- **Radical Feminism-** The Radical feminists view female oppression as the most fundamental form of oppression, one that is spread across all the cultures, races and economic classes. They are intent on social change, which is required since upliftment of women's condition is a huge issue. They do not view rape as a crime of sex, but they view it as an aspect of male dominion and control.

- **Marxist and Socialist Feminism-** This school of feminism explores the place of women in society while concentrating on labour and economy. Finding ways to advance women's status to parity with men is their primary concern. According to socialist feminism, the capitalism economic system is to blame for the oppression of women. In order to elevate women's status to parity with males, they examine their place in the economy. Their aim is to achieve equal labour and wages, in addition to overthrowing the capitalist structure so as to bring about gender equality.

CAUSES OF FEMALE CRIMINALITY IN INDIA

Early researchers associated biological or societal causes to female criminality. As a behavioural or societal issue, crime is complex and difficult to understand². Whether the causes of their crimes are biological, psychological, societal, or environmental, women committing crimes is now something that we see a lot nowadays.

- **Psychological Point of View-** Women who are not passive and contented in their roles of marriages and mothers are not running normally. Women with mental health issues either reject or fail to internalize the values that go along with their social roles. Female inmates exhibit emotional instability, insecurity, rejection, or annoyance. They would have experienced challenging living circumstances, and a great deal of negative situations that typically made it difficult for them to confront life's facts. The conflicting messages about motherhood versus work and restricted opportunities are the main reasons why women experience more stress on average than men. On average, women with lower social rank are more stressed than those with greater status. Women are more likely than men to burst in violent, uncontrollable violence during times of extreme stress. Violence is a result of situations that lead to ongoing stress and isolation, poor coping mechanisms, and an overly controlled mentality. Given that there are numerous crimes committed as a result of depression and frustration, a psychological perspective is relevant to the Indian situation.

² Waseem, S. (2015). *Female Criminality in India: Prevalence, Causes and Preventive Measures*. Retrieved October 10, 2022, from https://www.academia.edu/download/55151928/causes_of_crime.pdf

- **Sociological Point of View-** This point of view places emphasis on how social conditions can cause a woman to become a criminal. Inequality against women exists in India despite significant advancement and awareness on this topic. Equality for all is stated in the Indian Constitution, but equality for women is not actually practiced. Due to inequality, women often miss out on life's opportunities, which has a negative impact on their financial independence and lowers their economic standing. In Indian society, women are constantly required to comprehend and adapt to their surroundings. It is important to address the uneven status of women in society as a result of social oppression and their financial dependence on men and the government. Most of the time, crimes committed by women are seen as the final, visible signs of an underlying medical condition or social instability. In Indian context, certain cases where the murder victim was the respondent's own child, the murder was committed either because the child was illegitimate or the woman was afraid of social exclusion, or in a moment of extreme danger because of a dispute with the husband. Thus, in most of the cases, husband-wife relationship proved quite an important factor in the causation of murder. The other causes recognized were illicit relations of the offender with some man, illicit relations of the victim with some woman and conflict with husband and/or ill-treatment by husband, which in turn proves the validity of the hypothesis of family maladjustment as the main cause of female criminality.

It has been noted that families play a significant role in crimes other than murders. For instance, in taxation offenses, if a man was caught for unlawful distillation, his wife was also taken into custody for assisting him. In situations like these, the lady merely performed her wifely duties and did not intend to flout social or legal conventions by assisting her husband in his business endeavours. In an Indian environment, this is prevalent. Numerous incidents in India demonstrate that women were labeled as criminals not because they possessed "criminalistic tendencies," but rather because other male family members had received the same label. Thus, it is clear that most thefts committed by women are motivated by familial and financial obligations rather than psychological or social problems.

- **Biological Point of View-** Caesar Lombroso's contribution is regarded as the cornerstone of scientific work on female crime from a biological perspective. According to him, "female deviance is a biological trait or characteristic that is inherent to the female species." Because feminine cruelty was much more "polished" and terrible than male cruelty, he claimed that female criminals were worse than male criminals. Lombroso

believed that women had many characteristics with children, were morally lacking, and that their low levels of intelligence were the cause of their relatively low rates of criminal activity. In 1895, Lombroso and Ferrero proposed a theory based on the idea that everyone who exhibits antisocial behaviour is a biological relic. The criminal who was born a woman was said to possess both the worst aspects of both men and women. However, we believe that rather than being a result of a biological backwardness, Indian women are more likely to commit crimes due to social or economic disadvantage.

In the case of **Balbir Kaur v. State of Punjab and Ors.**, the offender here was Balbir Kaur and the victim was the husband. It was a surprise that after eighteen years of marriage, the wife killed her husband. But on further investigation the cause of the crime was found. It was the lack of proper counselling of the partners, the absence of the husband from the family life, and economic stress that she committed the murder. In this case³, the biological as well as sociological point of view has been taken into consideration. The mental stress and the lack of economic independency for her was the cause of her to break down and commit the crime. And even though the reasons are taken into consideration, the crime she committed cannot be excused.

LENIENCY STANDARDS BASED ON GENDER

Feminist criminologists sought to understand how women and men are treated in the justice system, that is, whether women are subjected to more severe or more lenient treatment than men. Feminist criminology started from the premise of difference, in contrast to feminist jurisprudence, which debated whether the gender rule of the law was one of sameness or difference. Women are treated differently in the court system, according to empirical data gathered since the 1970s⁴. However, it was unclear exactly how to describe this treatment. Early investigations discovered that women were subjected to harsher treatment by the court system, which was sometimes referred to as the "evil woman thesis." This was especially true for those who committed significant crimes; women whose behaviour was perceived as defying gender norms had their "morality" questioned. State officials were alleged to treat these women harshly and to target those who disobeyed traditional feminine norms more severely. Overall, studies of the gender

³ *Critical Analysis of Female Criminality in India*. (2022). Retrieved October 10, 2022, from https://www.juscorpus.com/critical-analysis-of-female-criminality-in-india/#_ftn7

⁴ Haney, L. A. (2000). Feminist State Theory: Applications to Jurisprudence, Criminology, and the Welfare State. *Annual Review of Sociology*, 26, 641–666. <http://www.jstor.org/stable/223460>

regime in the justice system make up a small portion of feminist criminology. It was asserted that gender-ratio and generalization issues were of greater concern to feminist criminologists. First, significant research on the gender disparity in crime rates was done by feminist criminologists. They discovered that women commit less crimes than males, that women and men conduct different types of crimes, and that patterns of female offending have changed historically. Second, feminist criminologists questioned the misogyny behind conventional theories of female criminal behaviour, such as those based on hormonal imbalances, mental disease.

RECOMMENDATIONS

- **Preventive Measures-** It is said that "prevention is better than cure", but even in a large and diverse nation like India, crime prevention is a huge task. The issue of preventing crime among women in India is considerably greater because it is difficult to identify the weaker communities and individuals, particularly women. The ignorant women should be informed about the role that women play in society, their rights, and the laws that apply to them. Social service organizations should educate people on the law, unlawful acts, and how to report them or stay away from them. It is necessary to treat domestic violence cases harshly to avoid future crimes and laws against dowry must be implemented properly.
- **Corrective Measures-** Female criminals who are serving prison sentences because of crimes they committed alone or with other companions should be given the opportunity to change their behaviour so that when they complete their sentences and are released from prison, they will be women without criminal traits who are more informed and aware, enabling them to avoid committing crimes and associating with other criminals. Most women are denied their freedom and commit crimes to free themselves from the grip of cruel traditions. Such women should receive adequate assistance and support to enable them to become independent and take positive action for their children, families, and themselves. In jails, women participate in a variety of hobbies such as sewing, gardening, painting, cooking, and handicrafts, which is a good idea and greatly enhances their self-respect and confidence. People need to be made aware of a reformed criminal's rights since they too have the right to live their life as they did before.
- **Rehabilitative and Supportive Measures-** A woman who has committed a crime should be given the opportunity to fulfil her parenting duties as part of rehabilitation and assistance programs. Giving female prisoners access to good medical care and even rehabilitation should be a priority. Should a female offender have a mental illness, and after she is

released from prison after serving her sentence, would likely continue to commit crimes as long as the issue persisted in her, and who knows, things may have even gotten worse before getting better. Taking care of children of incarcerated mothers should either be done or allowed to communicate with their children and family.

CONCLUSION

It is written in the law of the land that everyone should be treated equally and that there should be no discrimination on the grounds of gender, race, caste, or any other aspect. However, while meting out justice, it is not guaranteed that male and female offenders are treated the same way. It is seen, through research into cases that the conviction and sentencing is affected by the gender of the person committing the offence. In contrast to male delinquency, some trends and patterns in female criminality have long been noted. Women make up a small share of the prison population since it is believed that the crimes they commit are not as serious, rarely professional, and are less likely to be repeated. But they commit these violent acts in the same way that males do. However, the responsible authorities should act as a source of inspiration for a continuous endeavour to solve real-world challenges in the application of the laws and regulations. Flowers are no longer just simple, delicate flowers, though. The legal system needs to improve the laws phrasing it in a way to do away with these thorns so that "Crimes are not minted in a hefty purse." The thorns have turned up and around, and the stereotyped typical focus has reversed.

The researcher's conclusion from this is that even though the justice system claims to be working within the parameters of law, there are certain discrepancies when it comes to meting out justice to people. There arises a question that if a certain crime was committed by a man, would a woman have received the same punishment had she committed it. The question remains unanswered because the justice system would claim that they would have received the same degree of punishment, but the reality is something that we can only guess. This stereotype of considering women as an inferior being not capable of committing an offence needs to change. And it is only after this change is brought, that the justice system will mete out equal justice.

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