

The 'Man Question' of Crime, Criminology and Criminal Law

Ngaira Naffine explores why the man question remains peripheral to much criminological work.

The 'man question' remains the most troubling and pressing question of criminology and criminal justice. Men are vastly more criminal than women. Though the large majority of men do not enter the official criminal statistics, those individuals who do become known as criminals are usually men. Why is this so? What is it about men – what is wrong with men, we might ask – that they are so much more disposed to criminality as a sex? Is masculine violence perhaps a necessary feature of a patriarchal culture? Does it serve to keep women in their place when it is directed at women? And if this is so, what are the purposes of female criminal violence? Are violent women freaks of culture or of nature, acting strangely against type?

These are all deliberately provocative questions but the truth is, criminologists are still in a very poor position to dismiss them or to reply to them in a convincing manner: they simply don't know the answers. Again we are prompted to inquire why this is so.

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The gendered nature of law

Criminology takes the definition of its subject matter from criminal law and criminal law has proscribed anti-social violence in a highly selective manner. If we consider just how our law has criminalised aggression – how certain types of anti-social behaviour have been targeted, while others have been either formally or practically left unregulated – then it seems that such law is about male patterns of behaviour and about male standards of acceptable conduct; that the offences against the person are significantly about men and what they do. The gender-neutral language usually employed by legislators does not fully disguise this fact. Serious male violence in sport, for example, is often applauded as virile and left largely to sporting tribunals. Even serious male violence in the home, until recently, has been effectively beyond the province of the criminal law; the family has been regarded as a mini-state with a man at its head. Sexual violence by men against women is certainly proscribed by the criminal law, but rape laws remain famously and mysteriously ineffectual.

This essentially ambivalent approach on the part of criminal law to anti-social men suggests that our

law is gendered, especially in relation to the crimes of violence. It might also be said that criminal law, and its selective application, plays a vital role in defining the perimeters of acceptable-to-men male violence. But as with criminology, 'the man question' is poorly understood by criminal lawyers and plays little explicit role in the formulation of criminal law. And again we might ask why this is so.

Criminological negligence

The continuing paradox of modern criminology and of modern criminal law reform is that much of it is concerned with male activity and yet it is often formally and practically blind to the maleness of its subjects and the significance of the man problem. Though criminology is still male-dominated and is also mainly about what men do, most criminologists continue to offer universal (that is gender-neutral) theories of behaviour in which maleness does not matter and most criminal laws are formulated in a

manner which is also blind to gender. Criminology presents itself to the world as a human science, not a science of men, ignoring the cultural, intellectual and ethical significance of the maleness of the subjects it has in effect chosen to study, and the intellectual and ethical significance of the exclusion of women from the field of inquiry.

There is therefore something particularly perverse about the manner in which criminologists and criminal law reformers have set up their intellectual task and how they largely continue to go about the criminological enterprise. They still set out to provide universal theories of crime and they formulate general criminal laws that are meant to work in a gender-neutral manner, even though sex is the most salient explanatory variable of crime. That is to say, men and women behave very differently and they seem to act for different reasons.

This underlying but often tacit commitment to universal (gender-neutral) theories means that criminologists are not facing the facts of crime. And as a result, the work of feminist criminologists remains sidelined even though they have so much to offer the discipline. There is now a considerable and mature body of writing by feminists on crime. Given

its preoccupation with gender, feminist criminology is by definition specifically and centrally concerned with what should be the central problem of criminology, the problem that the discipline has tended to avoid.

Men, crime and criminology

This is not to deny that some progress has occurred in criminology in relation to the study of men as men. In 1990, Maureen Cain could say with confidence that “so great has been the gender-blindness of criminological discourse that men as males have never been the objects of the criminological gaze” (Cain 1990).

This can no longer be said of the discipline. A number of criminologists (notably Collier 1998) have taken up the man question and begun to consider the relationship between masculinity and crime. One would have thought that the study of women as female criminals, combined with the study of men as male criminals – that is the study of explicitly sexed criminals of both sexes – would have brought the man question into sharp relief and also introduced women, properly, into the study of crime.

The curious thing is that the study of men as men, within the discipline, has also come to be regarded as a specialist, even eccentric, pursuit within criminology. Somehow it has not filtered through to the mainstream of criminology – into criminology proper – and its development of criminological theory. It has not served to refashion basic criminological thought. Go to a criminology conference and it is unlikely that the man question will be at the top of the agenda.

Perhaps the reason for business continuing as usual in criminology is the depth and durability of patriarchy, and

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perhaps also the sheer intellectual and moral effort it would take to start again, from scratch. To make the man question central would require an enormous admission of bias running right through the discipline. It would mean that nearly every theory, every study, must be revisited, and must be opened up to a new type of scrutiny. It would mean that general theories would now be regarded as partial and specific, that general empirical studies too would be found to contain a fundamental gender flaw. The very thought is exhausting. And so the problem remains in place.

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References

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