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# Gendered Patterns of Crime in India: A Feminist Criminology Perspective

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## ABSTRACT

*This study considers the fundamental propositions of the feminist perspective in criminology, which not only reshape the crime causation, victimization, and criminal justice issues, but also acknowledges the existence of the gender-based dimension in considerations for the criminal justice system.*

*The cornerstone of feminist philosophy is the acknowledgment of patriarchal basis where power structures are set in such a way as to favor men over women and thus create gender inequalities. Existing criminological theories often fail to address gender in the treatment of offenders and victims, excluding the complexity experienced by women and LGBTQ+ individuals in oppression and marginalization. The theory of feminist criminology has been developed focusing on how gender and the aspect of intersectionality influences the crime and justice system.*

*Moreover, feminist criminologists are interested in the fact that victimization is gendered, therefore focusing on the groups most vulnerable to violence such as women, children and LGBTQ+ community members. Conventional crime theories often overlook or disregard victim's experiences, which end in keeping the narratives of victim-blaming and also in providing insufficient support and resources for those survivors.*

*Rather than reacting to these observations with retributive justice, feminists are increasingly insisting on restorative justice approaches that consider healing, empowerment, and communal accountability as essential. Among the restorative justice practices and survivor-centered interventions is grassroots organization that emerge as viable alternatives to traditional punitive responses, thereby a more inclusive, empathic and socially change oriented society is formed.*

**Keywords:** *Feminist Theory, Crime, Criminology, Justice System, Victimization, Restorative Justice, gender-based.*

## I. INTRODUCTION

There is no specific and concrete definition of Feminism that is specifically mentioned in any legislation, Journal or Article. The early editions of the Oxford English Dictionary and the 1901

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Edition of the Dictionary of Philosophy has given a definition to Feminism as ‘a state of being feminine or womanly’. The Dictionary of Philosophy in its 1906 edition defined Feminism as ‘Political Philosophy that is supportive of women’s rights’. The another definition of Feminism given in the Webster’s Dictionary as ‘the belief that women should have political rights equal to those of men’. David Baichier in his 1983 published Book named as “Feminist Challenge”, has provided a uniform definition of Feminism: “Feminism is any form of opposition to any form of social, personal, or economic discrimination that women experience as a result of their gender”. Therefore, the term ‘Feminism’ must be understood in its widest sense, as a ‘Strong sense of one’s own identity as a women , as well as an intense interest in issues pertaining to women’.<sup>2</sup>

According to the Oxford English Dictionary, crime is: ‘An act that is illegal, prohibited by statute, or detrimental to the general welfare, an act of evil or harm; a transgression, a sin; especially one of a serious nature’.<sup>3</sup> Any act or behaviour that contravenes established laws or legal norms within a specific society is considered a crime. It includes a broad spectrum of behaviours that are deemed damaging, disruptive, or immoral; these behaviours frequently have detrimental effects on people, groups, or organisations. Crimes can range widely in terms of their severity, scope, and impact, from minor infractions like theft or vandalism to more serious ones like fraud, terrorism, or murder.

The feminist school of criminology emerged in response to the widespread prejudice and ignorance towards women in the conventional study of crime in the late 1960s and early 1970s.<sup>4</sup> The feminist school of criminology holds that most criminological theories were created through research on male subjects and concentrated on male criminality, and that instead of creating unique theories on female criminality, criminologists would frequently "add women and stir".<sup>5</sup>

In order to comprehend the causes, patterns, and outcomes of female criminality, feminist criminology focuses on women offenders, women victims, and women in the criminal justice system. The role of victimisation in women's lives, the role of sex and sexism in sentencing and imprisonment, and the rise in the number of incarcerated women despite falling crime rates are some of the main concerns within the feminist school of criminology.<sup>6</sup>

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<sup>2</sup> “2 What is Feminism?”, available at: <https://www.sfu.ca/~decaste/OISE/page2/files/DelmarFeminism.pdf>

<sup>3</sup> “1.1 The meaning of crime”, available at: <https://www.open.edu/openlearn/society-politics-law/sociology>

<sup>4</sup> Daly, Kathleen; Chesney-Lind, Meda (1988), "Feminism and Criminology"

<sup>5</sup> Eichler, Margrit (1979). *The double standard: a feminist critique of feminist social science*. New York: St. Martin's Press.

<sup>6</sup> Balfour Gillian (June 2006). "Re-imagining a Feminist Criminology". *Canadian Journal of Criminology and*

## II. EVOLUTION OF FEMINIST APPROACH IN CRIMINOLOGY

Even though this field of study dates back to the late 19th century, the feminist school of criminology did not emerge until the late 1960s and early 1970s. In the thirty years since they first emerged, feminist perspectives in criminology have gone through three roughly ten-year phases of development: the mobilisation phase - which lasted from 1968 to 1977, the maturation phase - which lasted from 1978 to 1987, and the differentiation phase - which started in 1988 and is still going strong today. Feminist Theory of Criminology is basically based on both the perspectives of Female – Female Victims and Female Criminals.

### (A) Carceral Feminism

This theory of criminality focuses on violence or abuses faced by women in the society, becoming a victim to social evils. A carceral feminist is a feminist who believes that societal issues and gender disparities, like violence against women and the sentencing of sexual offenders, should be addressed by the criminal justice system. Carceral feminists, who are primarily radical, liberal, and/or white feminists, think that more laws, more police presence, and a more expansive criminal justice system—especially with regard to sex offenders—can significantly reduce violence against women.<sup>7</sup>

Certain offences which are gender-specific can occur in various forms and at different locations which includes crime against women. Some common types of Crime against women are-

- **Domestic Violence** including physical and mental violence, sometimes along with the demand of Dowry,
- **Sexual Assault** including Rape, molestation, groping, and other forms of sexual violence,
- Harassment including **Sexual Harassment** at workplace, public space or educational institutions,
- **Human Trafficking** for the purpose of Sexual exploitation, Forced labour, Domestic servitude and other forms of exploitation,
- **Honor-based Violence** including practices such as Honor killings, Acid attacks, Forced marriage, and Female foeticide,
- **Cyber Harassment and Abuse** which includes Online stalking, Cyber bullying,

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Criminal Justice.

<sup>7</sup> Whalley, Elizabeth, Hackett, Colleen (2017-10-02): "Carceral feminisms: the abolitionist project and undoing dominant feminisms".

Revenge porn, AI based Deepfake Videos and other forms of Digital Violence.

Apart from the various provisions provided in the **Indian Penal Code(IPC) 1860** under **Chapter 16** of the Code, such as **Section 304B (Dowry Death)**, **Section 326A and Section 326B (Acid Attacks)**, **Section 354 to Section 354D (Outraging the modesty of women)**, **Section 366, 366A, 366B, 372, 373 (Human Trafficking and Exploitation)**, **Section 376 to Section 376E (Punishment for Rape in all forms)**, some specific legislations are framed by the Indian Parliament to curb such crimes against women. History dates back to years

### **(B) Early theories of deviance in women**

Rather than emphasising social or economic factors, the early theories concerning women's criminality primarily focused on psychological and physiological characteristics. A lot of these theories out of which the majority were put forth by male academics and criminologists. Analysing on female crime, Italian criminologist Cesare Lombroso used anthropological criminology and phrenology to distinguish between "normal" and "criminal" women, the latter of whom was perceived as less feminine and hence more likely to be criminal.<sup>8</sup> The theory that delinquent women use sexual deviance to control men's sexual cravings in order to obtain what they want was first put forth by American sociologist W.I. Thomas<sup>9</sup>. According to Sigmund Freud, female offenders were exhibiting aggressive and rebellious behaviour as a result of their "penis envy," a strong desire for their penis and manhood.<sup>10</sup> The fact that these theories rely on presumptions about "the nature of women" has drawn harsh criticism.

**General Strain Theory:** Robert Agnew, a criminologist, tried to use General Strain theory to explain why crime rates differed for men and women. According to his theory, men and women react differently to different kinds of strain or pressure whether it be financial, emotional or physical. Women were perceived as responding to criminal activity more destructively to themselves, such as drug abuse, while men appeared more likely to respond with violent or financial crimes.

### **III. EARLY THEORIES OF FEMINIST CRIMINOLOGY**

The majority of people credit British sociologist Frances Mary Heidensohn and French-Canadian criminologist Marie-Andree Bertrand as pioneers in the field of feminist

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<sup>8</sup> Lombroso Cesare (2004), "Criminal woman, the prostitute, and the normal woman".

<sup>9</sup> Thomas William Isaac (2019), "Unadjusted Girl": Echo Library.

<sup>10</sup> Klein Dorie (1973), "The Etiology of Female Crime: A Review of the Literature", Issues in Criminology.

criminology.<sup>11</sup> As the first criticism of the exclusion of women from mainstream criminology, Heidensohn's 1968 article "The Deviance of Women: A Critique and An Enquiry" claimed that "the deviance of women is one of the areas of human behaviour most notably ignored in sociological literature" and urged further investigation into female deviance. Early feminist criminological theorist named Freda Adler given a link to the female criminology with the then ongoing feminist liberation movement, stating that when more opportunities given to the women outside the four walls of the house, the more they will be driven to the participation in criminal behaviour.

### ***(A) Liberal Feminist Theory***

The fundamental premise of liberal feminist theory is that women experience discrimination and unequal treatment because of their gender. The reason behind this may also be to prevent women from having the same opportunities as men in the areas of politics, the workplace, and personal relationships. According to criminologists - Rita Simon and Freda Adler, sociological factors better explains women's criminality, rather than psychological factors. Particularly in North America, "liberal feminist theory" is one of the most well-known feminist theories.

Another fundamental principle of the liberal feminist theory is that, as women gain more freedom, we may see them participating in criminal activities that resemble those carried out by men. It is clear that women are only involved in small-time crimes, such as shoplifting and small-scale frauds, and the growing feminization of poverty is the cause of this. Furthermore, compared to the rate of offences committed by men, the rate of these crimes is substantially lower.

### ***(B) Radical Feminist Theory***

For the first time, this theory challenged the claims of "Liberal Feminist Theory," characterizing it as overly simplistic. The Radical feminists believe that one of the main causes of all issues related to gender inequality, social relations, and crime is male power and the privileges bestowed upon them. Radical feminism holds the main reason behind gender inequality and male dominance are that:

- Men's unfulfilled desire to control women's sexuality.
- The patriarchal system.
- The unfair representation that exists and the privilege that men have in positions

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<sup>11</sup> "Chronicling the Shifts: Using the Body Lens to Analyze Policy for High Need Women Offenders", available at: <https://www.researchgate.net/>

of authority.

Therefore, Radical Feminism primarily emphasizes on the victimization of females and being survivors of male violence, either sexually, physically or psychology.

### ***(C) Marxist Feminist Theory***

Those who endorse the political and economic theories of F. Engles and Karl Marx are referred to as "Marxists." In reaction to Marxist social theory, which discussed the existence of masculine bias, Marxist feminism first emerged in the late 1960s. According to proponents of "Marxist" feminist theory, a person's social relationships are primarily determined by the way society is economically structured. It supports liberal feminism's thesis, which holds that women live in a world dominated by men and aren't given the opportunities they need to engage in society.

The primary cause of the gender gap and division that exist in society is the structure of an economy. The class division of labour is frequently seen as a gender division of labour, according to Marxist feminists Julia and Herman Schwendinger. This is because men and capital dominate the labour market. In addition, the high incidence of rape offences in capitalist societies is a result of gender inequality, which encourages emotional and physical violence.

## **IV. WOMEN AS VICTIMS: CRIME AGAINST WOMEN**

### ***1. Domestic Violence: -***

- **Prevalence and Reporting:** - Domestic abuse is pervasive and affects women from all socioeconomic backgrounds. According to the National Family Health Survey (5), around 30% of married women in India have experienced marital violence. However, many incidents go unreported as owing to social shame and fear of repercussions.
- **Patriarchal Control:** - Even from the golden olden times of India Domestic violence is frequently the result of patriarchal attitudes that regard women as inferior to males in every aspect of socioeconomic areas. Control over women's behaviour, movement, and decisive domination is an important consideration.
- **Law relating to Domestic Violence against Women:** - *Protection of Women from Domestic Violence Act, 2005.*

### ***2. Sexual Violence: -***

- **Rape and Sexual assault:** - India has witnessed high-profile rape incidents, such as

the most adverse ones like 2012 Delhi gang rape, which generated national anger, agitation and prompted legislative reforms. Despite advancements present in modern Indian society, sexual assault persists. According to NCRB data, one woman is raped every 16 minutes in India.

- **Cultural Attitudes:** - Victim-blaming and honor-based viewpoints frequently does not encourage reporting and pursuing justice. To properly address these concerns, cultural change is must in relation to legislative changes in much effective manner.
- **Law relating to Sexual Violence against Women:** - *Indian Penal Code(IPC) 1860* especially after *The Criminal Law (Amendment) Act 2013* under Chapter 16 of the Code, such as, Section 326A and Section 326B (Acid Attacks), Section 354 to Section 354D (Outraging the modesty of women), Section 376 to Section 376E (Punishment for Rape in all forms), *The Protection of Children from Sexual Offences (POCSO) Act 2012*, *The Sexual Harassment of Women at Workplace (Prevention, Prohibition, and Redressal) Act 2013*.

### 3. **Human Trafficking:** -

- **Extent of the Problem:** - Women and children are the most common victims of trafficking for sexual exploitation and forced labour. India is a source and destination country for trafficked persons.
- **Economic Vulnerability:** - Poverty and a lack of education are major contributors to trafficking, with marginalised populations being especially the vulnerability.
- **Law relating to Human Trafficking against Women:** - *The Immoral Traffic (Prevention) Act 1956*, *The Protection of Children from Sexual Offences (POCSO) Act 2012*, *The Juvenile Justice (Care and Protection of Children) Act 2015*, *The Bonded Labour System (Abolition) Act 1976*, *The Prevention of Immoral Trafficking Act 1986 (PITA)*.

### 4. **Honor Crimes:** -

- **Honor Killings:** - These crimes occur when family members murder somebody, mostly women is targeted in the society, for perceived harm to family honor, which is frequently tied to marital choices of her own or sexual activities.
- **Social Sanitation:** - Honor crimes are firmly ingrained in society standards that value family honor over individual rights which are the fundamental rights of the individual in accordance with the constitution of the India, particularly women's



autonomy.

- **Law relating to Honor Crimes against Women:** - *Indian Penal Code (IPC) 1860* under Section 299 – 304, Section 307, Section 120A & 120B, Section 34 & 35 as Section 302, which specifies the penalty for murder, treats honor killings as murder, *The Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act 1989*. The *Supreme Court of India* established guidelines for the prevention of honor crimes in the historic case of **Shakti Vahini v. Union of India (2018)**, highlighting the state's obligation to safeguard vulnerable citizens.

#### 5. *Dowry-Related Violence:* -

- **Dowry Deaths:** - Dowry traditions continue in the deceptive society, despite being outlawed, resulting in harassment, violence, and murder. According to NCRB data, hundreds of dowry fatalities occur every year.
- **Economic Burden:** - Dowry demands impose a major financial strain on women's families even if they are given as gifts, resulting in violence when demands are not satisfied at the time or after marriage.
- **Law relating to Dowry-related violence against Women:** - *Dowry Prohibition Act 1961*, *Indian Penal Code (IPC) 1860* under Section 304B (Dowry Death), Section 498A (Cruelty by Husband or Relatives), *Protection of Women from Domestic Violence Act 2005*.

## V. WOMEN AS CRIMINALS

The types of offences committed by women in India are Prostitution or Sex Delinquency, Child Marriage under *Child Marriage Restraint Act 1929*, Dowry Murder under *Dowry Prohibition Act 1961*, Cruelty by Relatives and Dowry Harassment under *Section 498A of the Indian Penal Code 1860*, Kidnapping and Abduction, Murder, Theft. Women as Criminals is an aspect of criminology that involves women's engagement in criminal behavior. Feminist viewpoints, which contradict conventional criminological theories that frequently ignore or marginalise women's experiences, have greatly enhanced this field. The Indian legal system acknowledges that women are just as capable of committing crimes as men. While most laws, including the Indian Penal Code (IPC), are gender-neutral, some of their provisions specifically target women as criminals.

### (A) Critical Evaluation of Feminist Theory

India's feminist theory of crime aims to explain the ways in which gender affects criminal

activity, crime, and the criminal justice system. This study looks at the structural injustices that lead to women being criminalised and victimised. Understanding and resolving gender-based violence and inequality within the criminal justice system in India has been greatly aided by the feminist theory of crime. Although it has sparked significant legal reforms and social change initiatives, there are numerous challenges that stand in the way of its implementation and scope.

- Feminist criminology theory is frequently criticised for being gender-centric and for providing a general explanation for the separatists' hidden motivation.
- Many times Laws made in favour of women for the rehabilitation and support of Female victims are overly exploited by women to harass and threaten men to do something which was demanded by those women,

For example, A woman puts allegations of an offence of Rape in order to extort him for marrying him. In such a case, man will either get punishment for Rape under Section 376 of the IPC 1860 or he will have to marry her, as the Indian laws for such crimes is women-centric and favourable towards female in a way the they take undue advantage of these laws due to Feminist perspective on Crime avoiding gender equality towards men as well.

- Feminist ideologies such as those of Smart and Cain frequently have theoretical and political ramifications.
- Feminist theory is criticised for occasionally exaggerating the victimisation of women, which critics claim may unintentionally perpetuate stereotypes of women as helpless and passive rather than highlighting their agency and resiliency.
- In India, feminist criminology has frequently placed greater emphasis on women as victims than as offenders, which has resulted in a shortage of thorough research on the causes of crime among women and how the criminal justice system handles them.
- Rehabilitating and reintegrating female offenders is not given nearly as much attention as it should in order to combat recidivism and advance gender-sensitive justice.

## **VI. CONCLUSION**

Feminist criminology in India can be strengthened even further by taking a more well-rounded approach that takes into account the experiences of female offenders, adjusts to the cultural context of the area, and deals with systemic implementation issues. This well-rounded strategy

will increase its efficacy in building a society that is just and equitable for all women.

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