Criminological theory: its ideology and implications concerning women
by Carol Smart

Criminological theories have rarely been concerned with the analysis of female criminality. Typically criminologists have either been content to subsume discussion of women offenders under ‘general’ theories, that is to say they have implicitly assumed the female is dealt with in discussing the male, or they have dealt with them exceptionally briefly in the way that other ‘marginal’ or ‘special’ categories are treated. The reason offered for this overwhelming lack of interest is that within the population of known offenders, female offenders constitute a statistically much smaller proportion than male offenders. With the exception of offences like shoplifting and soliciting, the number of female offenders nowhere exceed the numbers of male offenders known to the police. But this statistical ‘insignificance’ alone cannot fully explain why so little work has been attempted in this area. Rather the relative absence of work on crimes by women may be considered as symbolic of the nature of the discipline of criminology. Traditional criminology in both the UK and the USA has always had close links with social and penal policy-making bodies with the result that research has tended to be directed towards areas officially designated as social problems. Female criminality has not generally been treated as a particularly important or pressing social problem, not only because of its comparative rarity, but also because of the nature of the offences committed by women. Official statistics, which are themselves a problematic source of information in criminology (Hindess, 1973; Wiles, 1970), indicate that women engage mostly in petty offences and, with the exception of prostitutes, most appearances by women in court are for first offences. Women do not seem to pose a serious recidivist problem therefore; nor a threat to society, and so fail to constitute a real problem to the agencies of social control. Failing to become a pressing social problem has meant that studies of female criminality have not received much official support or finance with the result that traditional ‘control oriented’ criminology has also shown a lack of interest in this area.
The lack of attention devoted to the question of crimes committed by women and their treatment has given rise to the present unsatisfactory understanding of female offenders and the offences they commit. There has been virtually no development of our knowledge in this area with the result that ostensibly scientific works predicated upon unexplained ideologies have been allowed to stand uncriticized. Recognition of the under-development of criminology and sociology in this area is explicit in Ward’s statement to the U.S. National Commission on Crimes of Violence that:

Our knowledge of the character and causes of female criminality is at the same stage of development that characterised our knowledge of male criminality some thirty or more years ago.

(Ward, 1968)

As a consequence of this lack of development the ideology and methodological limitation inherent in some of the classical works on female criminality still inform contemporary studies and, furthermore, are reflected in the treatment of female offenders.

This paper is therefore concerned to reveal the ideological foundations of the major theories of female criminality, in particular the culturally relative, commonsense conceptions of women on which they are based. I shall concentrate on the works of Lombruso (1895) and Pollak (1950), whose theories are still influential, as well as the work of Cowie, Cowie and Slater (1968) whose analysis of female delinquents reveals the influence of the early theorists. The second part of this paper will focus on the possible implications of the ideologies inherent in these studies of female criminality.

The ideology of theories of female criminality

The most significant ideology which informs both classical and contemporary accounts of female criminality is a sexist ideology. It is sexist not because it differentiates between the sexes but because it attributes to one sex socially undesirable characteristics which are assumed to be intrinsic or ‘natural’ characteristics of that sex. Such an ideology arises because the socially structured and culturally given nature of the assumptions informing these theories are not treated as subjects for analysis; rather common-sense understandings are taken for granted as a suitable platform from which to commence theorizing. Working within the natural attitude, adopting culturally given understandings of the nature of sexual differences and in particular the characteristics attributed to women, the theorists concerned provide merely a scientific gloss for common-sense understandings. Myths about the ‘inherent’ evil in women or their lack of intelligence and ability and their ‘natural’ passivity therefore abound in these studies and they are used uncritically to supply ‘evidence’ for either the greater or lesser involvement of women in crime.
An equally persuasive theme implicit in most accounts of female criminality, which also stems from the uncritical attitudes of the pioneers in this field, is that of biological determinism. Biological determinist accounts may take two forms, although they are rarely mutually exclusive. Firstly women who have committed offences are perceived to have been motivated by fundamental biological bodily processes. For example, menstruation or the menopause, by affecting the hormonal balance in the body, are taken to be precipitating factors leading some women to commit criminal acts. In such cases action is seen to be directly related to, or even directly produced by, hormonal or biological imbalance. Secondly, and more significantly, the female biology is perceived to determine the temperament, intelligence, ability and aggression of women. In this case it is usually argued that women are ‘naturally’ averse to crime and hence any involvement in criminal activities is treated as symptomatic of a fundamental physical (or more recently mental) pathology. As a consequence of biological factors assuming such a key status in studies of female criminality it has followed that female offenders have been treated as a homogeneous group. Such factors as class, status, power, age, culture and so on are not considered as pertinent to an understanding of female criminality even though these variables are now accepted as relevant to the study of male criminality. As a result, therefore, of both the creation of a narrow stereotypical perception of women which relies upon culturally constituted understandings of the nature of female sexuality and the belief in biological determination, those women who do commit offences are judged to be either criminal by nature (Pollak, 1950) or pathological because they deviate from the ‘true’ biologically determined nature of woman which is to be law abiding (Cowie et al., 1968; Lombroso, 1895). The latter perspective which treats female offenders as pathological is prevalent in both classical and contemporary criminological theories, one consequence of this being the continuing implementation of policy decisions predicated upon an understanding that criminal activity by women is a product of pathology located within the individual rather than an exemplification of meaningful action. Indeed it has become a ‘popular’ belief that women who commit criminal offences are ‘sick’ and in need of psychiatric treatment; it is to a much lesser extent that this ‘sick’ analogy has been adopted in the treatment of men as men are generally assumed to be rationally responsible for their actions while women are not.

This theme of the biological basis of female criminality which has become so entrenched in official and academic explanations was first fully formulated by Lombroso in his work entitled *The Female Offender* published in 1895. It is of course true that Lombroso employed biological factors to account for male criminality but with few exceptions this school of thought has been repudiated. As Shoham maintains,

Today . . . . , the Lombrosian myth in criminology, and the few contemporary adherents to the biophysiological approach to the genesis of
crime, are considered a sad episode which retarded the development of the field by almost half a century.

(Shoham, 1974: 167)

This is undoubtedly the case with most of Lombroso’s theories and yet the ideological content of his work on female criminality persists in contemporary explanations. In particular his assertion that most women, with the exception of the rare ‘born’ criminal, are ‘congenitally . . . less inclined to crime’ and his belief that women’s ‘natural’ passivity and conservatism robs them of the initiative to break the law have become a predominant part of the ideology in contemporary criminological and sociological theories.

The work of Cowie, Cowie and Slater (1968) is perhaps the best exemplar of a modified form of the ideology inherent in Lombroso’s work. In analysing the differences between male and female delinquency they state,

Differences between the sexes in hereditary predisposition (to crime) could be explained by sex-linked genes. Furthermore the female mode of personality, more timid, more lacking in enterprise, may guard her against delinquency.

(Cowie et al., 1968: 167)

Clearly, Cowie, Cowie and Slater and other theorists who adopt similar positions, have taken no cognizance of cross-cultural studies nor of historical data which reveal that, rather than there being only one ‘female mode of personality’ there are a multitude of culturally and historically based sets of attitudes and expectations that influence the consciousness or personalities of women, thus producing gender-related behaviour. To suggest, for example, that women are ‘more lacking in enterprise’, or in the case of Lombroso, lead more sedentary lives because of their genetic structure, is to ignore the social situation facing many women which gives no opportunity or outlet for active or creative behaviour.

Interestingly, Lombroso maintains that one sure sign of criminality in women is the lack of a maternal instinct. This deficiency was perceived to mean that ‘psychologically and anthropologically’ the delinquent woman belongs more to the male than the female sex. But this belief, which is echoed in Cowie’s work, is based on not only biological determinism but also on a confusion between sex and gender. As Ann Oakley (1972) has pointed out sex is a biological term and gender a social, cultural and psychological term such that for a woman to act in a socially defined ‘masculine’ way does not mean that she is sexually or biologically abnormal. However, where gender appropriate behaviour is seen as biologically determined women who adopt ‘masculine’ forms of behaviour become labelled ‘masculine’ themselves and this has connotations of ‘maleness’ which are seen to be linked to hormonal
or genetic abnormalities. Cowie et al. in fact failed to distinguish between sex and gender at all, they state,

Is there any evidence that masculinity or femininity of bodily constitution plays any part in predisposing to delinquency and in determining the form it takes? (Emphasis added.)

In response to this question they maintain,

Delinquents of both sexes tend to be larger than controls, and overgrown by population standards . . . Markedly masculine traits in girl delinquents have been commented on by psychoanalytic observers. . . . we can be sure that they have had some physical basis. (Emphasis added.)

(Cowie et al., 1968: 171–2)

The point is that female delinquents are not perceived to be merely adopting behaviour more usually associated with males, they are portrayed as being chromosomally or genetically abnormal. This means that the ‘treatment’ of such offenders becomes justifiable, the aims, intentionality and rationality of the deviant act are overlooked and the social and cultural conditions under which the act took place can be relegated to the vague status of ‘environmental’ factors whose only role is to occasionally ‘trigger’ the inherent pathology of the deviant. Crime and delinquency can thereby be treated as an individual, not social, phenomenon.

Inherent in this ‘individual pathology’ model is a control oriented ideology which serves to locate the causes of ‘problems’ in specific individuals and which supplies the relevant knowledge and understanding to develop the appropriate technologies and social policies for controlling deviant members. Criminological theorizing thereby becomes a means of providing new technologies for control or, failing that, a means of legitimating current policies which become justified as forms of treatment rather than punishment. Moreover, while such theorizing is not concerned to provide the subjects of its study with the means to change their social situation and status it does provide a damaging anti-intellectual diet for its consumers which in fact serves to mystify the social phenomenon under research. For example, the way in which Cowie, Cowie and Slater present their evidence is worth noting for they attempt to appeal to the reader’s ‘senses’ rather than intellect or critical faculties. They have a tendency to invoke ‘commonsense’ and concepts of the ‘natural’ to support their claims rather than relying on credible, scientific evidence. Rather than reducing the influence of their work however, their anti-theoretical and anti-intellectual approach may be conducive to acceptance by policy-makers who perceive themselves to be concerned with ‘practical’ issues and not theoretical ones. For example, Cowie et al. state,
Common-sense suggests that the main factors are somatic ones, especially hormonal ones . . . . (Emphasis added.)

and again later,

It is more natural to suppose that the male-female difference, both in delinquency rates and in the forms that delinquency takes, would be closely connected with the masculine or feminine pattern of development of personality. (Emphasis added.)

(Cowie et al., 1968: 170–1)

This debunking of a theoretical and intellectual approach to the topic may be seen as the witting embrace of ideology.

I have implied that the work of Pollak (1950) is also of considerable significance to the present state of our knowledge of female criminality. His work is broadly within the same ideological tradition of Lombroso and Cowie but the conclusions he draws show some interesting variations. For example, he does not assume that fewer women than men commit crimes; in fact, he argues that women are the most able criminals as biologically and socially they are well equipped for lying, deceiving and trickery. Consequently, he argues that they commit heinous crimes but are never apprehended and he thereby gives considerable support to the theological and common-sensical view that women are inherently more evil than men. He maintains in fact that women instigate crimes and manipulate the gullible male sex into enacting them, in other words women are the cause of the downfall of others. The ability to be manipulative is, according to Pollak, due to the physiologically based fact that women can conceal their ‘positive emotion’ during sexual intercourse while men cannot as they must achieve an erection. He argues,

It cannot be denied that this basic physiological difference may well have a great influence on the degree of confidence which the two sexes have in the possible success of concealment and thus on their character pattern in this respect.

(Pollak, 1950: 10)

Thus, rather than considering the implications of the sexual politics which produce a situation in which many women face sexual intercourse when they are neither aroused nor willing, Pollak takes this example as a basis for further assumptions about women’s ambiguous attitude towards ‘veracity’ and deceit.

There are numerous other examples in Pollak’s work where his uncritical, anti-feminist presuppositions lead him to make authoritative but unsubstantiated statements about the origins of female criminality. In this respect his work cannot be differentiated from other ideologically informed works.
like Lombroso’s and Cowie’s. Where he does offer an important variation however, which is uniquely significant in terms of its implication, is in relation to the treatment of female offenders by the Courts and police. He maintains that the chivalrous attitude of men towards women, which is based on a misconception of women as gentle and passive creatures, leads them to treat female offenders more leniently than their male counterparts. He states

One of the outstanding concomitants of the existing inequality between the sexes is chivalry and the general protective attitude of man towards woman . . . . Men hate to accuse women and thus indirectly to send them to their punishment, police officers dislike to arrest them, district attorneys to prosecute them, judges and juries to find them guilty and so on.

(Pollak, 1950: 151)

Such beliefs are still extremely prevalent both in common-sense and criminological accounts, in spite of evidence which reveals that in sentencing, magistrates are more likely to be influenced by a previous record or the seriousness of the offence than the sex of offender (Walker, 1973: 300) and that in some cases, particularly in so-called moral offences, female offenders are actually treated more severely (Chesney-Lind, 1973) than male offenders. The implications of this ideology of chivalry and male benevolence are discussed in the next section.

The implications of the ideological content of theories of female criminality

The implications of theorizing have frequently been overlooked by those sociologists or criminologists who perceive themselves merely to be observers or recorders of everyday life. Yet social theories do have indirect social implications either by confirming common-sense and culturally located beliefs or by altering the consciousness of people in their everyday lives through a criticism and demystification of accepted values and beliefs. Allen recognizes this when he argues that,

Theories enter into the ideological process and emerge in an abbreviated, often vulgarized, sloganized form embedded in language and thought processes alike. They form the basis of common-sense attitudes. They are transmitted through the family, enter into folklore, get expression through the mass media. In a variety of subtle ways conventional theoretical explanations enter the conscious of individuals and provide them with instant explanations.

(Allen, 1974: 10)
Although this process by which theories are translated into common conceptual currency will influence the actors own perception of self, our concern here is more with the way in which particular ‘scientific’ theories of female criminality, operating with conceptions of social science which indicate an interest in technical control rather than emancipation or liberation and emphasizing the biological and pathological nature of criminal offences, may have influenced and/or legitimated the conceptualizations of policy makers such that female criminality is, or continues to be, interpreted as a biologically-rooted sickness.

Indeed there is a clear trend within the English penal system towards adopting a concept of ‘treatment’ for offenders rather than, or in association with, punishment. This development may be simply indicative of an ‘official’ recognition of more ‘efficient’ means of controlling criminals than have been available in the past but it may also indicate a change in the conception of the motivational basis of criminality away from the classical concept of responsibility to a more positivistic orientation which emphasizes individual pathology.

The development is most marked in penal policies relating to female offenders. For example one consequence of the adoption of the ‘sick’ analogy for understanding what is defined as criminal motivation, is the transformation of Holloway from a prison to a secure psychiatric hospital in which women will receive psychiatric treatment related to their perceived individual psychological ‘needs’ rather than to their offence (Faulkner, 1971). The assumption underlying this policy is that to deviate in a criminal way is ‘proof’ of some kind of mental imbalance in women. This position is quite consistent with other assumptions about the mental instability of women in general employed to explain or account for the mental health statistics which indicate that women suffer from mental illness more frequently than men. In fact mental illness has been perceived as an alternative to crime for women (Bertrand, 1973) – both crime and mental illness being treated as phenomena emerging from common ‘causes’ rather than as possible rational and logical action (Laing, 1968). Nigel Walker lends some credence to this practice when he states that,

Certainly in practice women offenders have a higher chance of being dealt with as mentally abnormal . . . We cannot however exclude the possibility that psychiatrists’ diagnoses . . . are being influenced by the . . . proposition . . . that there is probably something abnormal about a woman delinquent.

(Walker, 1973: 300)

The implications of the adoption of the ‘sick’ analogy in the treatment of female offenders does not merely rest with the introduction of therapeutic methods and the removal and denial of responsibility for action. It in
fact creates a situation in which realistic and potentially self-determining educational and vocational courses are intentionally excluded or reduced in importance. The women in the new Holloway will not be able to work, except for therapeutic or general domestic work. They will not be given the opportunity to learn skills which will fundamentally improve their lifestyle chances, not only because the average stay in Holloway is so short, but also because it is not the principal aim of penal policy for women. In fact their typically dependent status will be confirmed and their ability to control or possibly change their lifestyles further damaged. Penal policy for female offenders is geared to preserving the typical female role, its intention is to make women and girls adapt to their pre-given passive social role which by definition is thought to preclude deviant behaviour. The criminological theories discussed in the preceding section (with the exception of Pollak’s work) all provide a justification for this policy because they support commonsense understandings of the ‘natural’ role and behaviour of women. Even if it is impossible to show that these theories of female criminality have precipitated some of the changes in the treatment of female criminals it can still be argued that the ideological basis of such works offers a ‘scientistic’ legitimisation of social policy oriented towards an adoption of the ‘sick’ analogy, the development of more effective techniques of control and the perpetuation of the subordinate position of women.

Lastly, in considering the implication of these ideologically informed theories of female criminality, we must return to the idea of chivalry and male benevolence propounded by Pollak. While it is possible that sexual discrimination plays an important part in differential arrest and sentencing policy, it is misleading to assume that this discrimination is always in favour of the female sex. In fact it is difficult to reconcile the view that the police and legal system are staffed by ‘chivalrous’ men with reports on the treatment of female political prisoners (Davis, 1971), prostitutes (Davis, 1966; Millett, 1975) and raped women (Griffin, 1971; Weiss and Borges, 1973). It would seem that if sexual discrimination is an influential factor in the treatment of women it is not a simple variable that always leads to greater leniency. However, the belief in chivalry and leniency has become a part of our (mis)-understanding of the operation of the legal system and it has served to conceal the existence of unfavourable attitudes towards female offenders and the real injustice often meted out in the name of benevolence and paternalism (Chesney-Lind, 1973; Terry, 1970). The very existence of chivalry is synonymous with an inequality of power between the sexes in which a woman must depend on a man for her protection. Women must deserve their protection however, and women and girls of a ‘bad moral’ character who lose their rights in this respect, leave themselves open to the full force of outraged morality. It should also be remembered that the morality co-existent with chivalry imposes double-standards on men and women, frequently
condoning the same behaviour in one sex while punishing it in the other. As Chesney-Lind maintains,

> These labels (immoral, incorrigible) allow for the same abuses that characterize the labels of ‘sick’ or ‘insane’ – that is, the ‘saving’ or ‘helping’ of a girl often justifies more radical and severe ‘treatment’ than does the punishment of a male law violator.

(1973: 57)

The practice of sending adolescent girls to Approved Schools (now community homes) for being found ‘in need of care and protection’ or for being in ‘moral danger’ is an example of the double-edged nature of chivalry and paternalism. The Home Office statistics for 1960 reveal that while 95 per cent of boys are sent to Approved Schools for committing offences, only 36 per cent of girls are similarly committed. Consequently 64 per cent of these girls are committed to penal institutions without having committed any criminal offence (Richardson, 1969). The justification for this discrimination is often couched in humanitarian terms, for example as a form of protection or as an opportunity for moral guidance, but in practice it would seem that juvenile girls are punished severely for behaviour which is usually overlooked in boys. A similar case can be made for prostitutes who are socially stigmatized and punished for their behaviour while their clients remain respected members of society. Such inequitable treatment finds its justification in the ideology which underpins most of the theories of female criminality. Once it is accepted that deviant females are sick individuals or that they are naturally inclined to wrongdoing and this is combined with a belief in the ‘benefits’ of chivalry and paternalism it is not surprising that Cowie can make the statement that,

> These girls had to be removed from society into the security of a residential school much more for their own sakes than to protect society. And yet, if one looks at their delinquent acts, they are of a very petty and trivial kind.

(Emphasis added.)

(Cowie et al., 1968: 166)

The frequent injustice and the severity of the ‘treatment’ of female offenders or adolescents involved in so-called sexual or moral deviations is therefore veiled in humanitarianism. Moreover because the courts and other agents of social control reflect the double-standards of morality implicit in our socio-sexual mores and because their attitudes towards women are informed by a common-sense understanding of what a ‘natural’ female should be, negative discrimination towards women in ‘sexual’ offences, including rape cases, is overlooked. Theories of female criminality have tended to preserve this mystification and to justify the differential treatment of male and female
offenders in terms of unexplicated assumptions about the ‘true nature’ of men and women. They have in no way served to clarify our understanding of a complex issue. It is to be hoped that new trends in the sociology of deviance and criminology will not merely replicate the major limitations of existing studies of female criminality by treating this phenomenon as marginal to a general understanding of the nature of crime in contemporary society.