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## INTRODUCING VIOLENCE, GENDER AND JUSTICE

Most of the time when we read about, hear about and when we talk about 'crime' and 'criminals', we are actually reading, hearing and talking about men and men's behaviour.

Men commit more crimes than women. In 2002 male offenders in England and Wales outnumbered female offenders by more than four to one ... Men outnumber women in all major crime categories. Between 85 and 95 per cent of offenders found guilty of burglary, robbery, drug offences, criminal damage or violence against the person are male. Although the number of offenders are relatively small, 98 per cent of people found guilty of, or cautioned for, sexual offences are male. (National Statistics UK 2006)

This pattern for serious crime is repeated in the US 88.8% male and 11.2% female, and even infanticide, often assumed to be a maternal crime, is much more often committed by men – 61.8% of child killers (US Dept of Justice 2007).

Yet despite that overwhelming domination of crime by men, it is very rare that masculinity is the focus of blame or explanation, rather violence between men often alludes to alcohol as causal and street violence between youths considers religion, race, gangs and failing families. In these kinds of crime men feature systematically as both offenders and victims, very often strangers to one another, with women rarely involved except occasionally as sufferers of collateral damage. However, when it comes to violence between males and females there is a very different pattern, where those involved often know each other or are related, where men are nearly always perpetrators and women and girls are nearly always victims. Yet in such cases too, the masculinity of offending is almost never addressed whilst the femininity of the victims comes under close scrutiny and is often attributed with blame for the crime against them.

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### Evidence and Violence

Research shows that violence and abuse in a domestic setting is clearly a gender issue. Overwhelmingly, women and children experience violence and abuse from men. Women do not perpetrate violence or abuse against men or children to anywhere near the same extent. A BBC *Panorama* programme, 'Hitting Home', (2003) gathered statistics highlighting that 'almost 50,000 women and children a year shelter in refuges from violence'. In the city of Sheffield (pop. approx. 500,000) in England where the authors are based: '12% of women are likely to be living in households where there is domestic abuse, with around 15,000 children between them. In a class of 30 school children, 2–4 children on average are likely to be living with domestic abuse' and 'Domestic Abuse Projects in Sheffield supported 320 women and 500 children in safe accommodation, and a further 1,200 women with telephone outreach support' (Sheffield City Council 2003). Nationally, although domestic violence is chronically under reported, research still estimates that it:

- accounts for 16% of all violent crime
- has more repeat victims than any other crime (on average there will have been 35 assaults before a victim calls the police)
- costs in excess of £23bn a year
- claims the lives of two women each week and 30 men per year
- is the largest cause of morbidity worldwide in women aged 19–44, greater than war, cancer or motor vehicle accidents. (Crime in England and Wales 04/05 report)

Rape is also a deeply gendered crime. Although there are male on male rapes these are comparatively rare (Gregory and Lees 1999) whilst the figures for rape of women by men remain horrifying and the figures for conviction for rape even more so. The British Crime Survey recorded 12,630 rapes of women in England and Wales in 2006/7 and 1,150 of men (Nicholas et al. 2007). In 2000 the BCS identified 45% of rape as partner rapes; 47% of assailants were known to the victim and just 8% were strangers (Myhill and Allen 2002). As with domestic violence, rape is often a crime perpetrated by men on women with whom they have/have had an intimate relationship. Despite significant changes in the law with the introduction of the Sexual Offences Act 2003, more sensitive policing of sexual crime and higher levels of reporting than ever, successful prosecutions are rare. Journalist Katherine Viner summed up the situation in 2004:

Few like to look at them, but the statistics on rape convictions are unbearably bleak: reported rape has trebled in the past decade; less than 6% of reported rapes result in a conviction; less than 20% of rapes are reported to the police. There is more rape, and it is easier to get away with. The law itself is not to blame. MP Vera Baird was the driver behind the Sexual Offences Act, which came into force in May. A man may no longer claim that he believed a woman was consenting to sex; a jury must instead be convinced that his belief was 'reasonable' ... But the act must be

closely monitored if it is to have any effect at all, because it is in the hands of judges, lawyers and juries ... How did Judge Michael Roach let off trainee croupier Michael Barrett with a conditional discharge for having sex with a 12-year-old girl with the comment, 'I trust you to behave yourself now'? ... As for the police, we need sexual assault referral centres (Sarcs) in each of the 43 police forces – where victims have access to women doctors, counsellors and specialist non-uniformed officers. And finally, the public. It is jurors who acquit presentable young men who look just like their sons; it is jurors who assume that women in short skirts are asking for it. So what is needed is a high-profile, hard-hitting public information campaign debunking the myths about rape ... The overwhelming majority of rapists are friends, boyfriends, husbands, ex-lovers, men in bars. (Viner 2004)

Myths, miscarriage of justice and mismanagement are clearly implicated in the statistics for conviction but little critique is offered of the men who rape the women they know. Similarly, when it comes to abuse of children it is overwhelmingly men who perpetrate and almost entirely men when the abuse is sexual. The NSPCC chronicles the evidence that home and family can be a dangerous and damaging place for children:

- Every week in England and Wales one to two children will die following cruelty.
- One per cent of children experienced sexual abuse by a parent or carer and another three per cent by another relative during childhood. Eleven per cent of children experience sexual abuse by people known but unrelated to them.
- There are on average 80 child homicides recorded in England and Wales each year.
- On average one child is killed by their parent or carer every week in England and Wales.
- More than a quarter of all rapes recorded by the police are committed against children under 16 years of age.
- The National Commission of Inquiry into the Prevention of Child Abuse estimates that the cost of child abuse to statutory and voluntary agencies is £1 billion per year in the UK. (NSPCC 2007)

Even the term child sexual abuse disguises the fact that this is rape of often very young children by adult men and is often incest by fathers, father figures and other close male relatives. Yet Britain's popular shock-horror tabloid newspapers, never feature the headline 'Dad Rapes Baby Daughter' preferring to focus on the dangerous stranger or in the case of systematic incestuous abuse in Cleveland in the 1980s, blaming over-zealous diagnosis by doctors and/or colluding mothers (Campbell 1988). As with rape and domestic violence, the men who do offend against children most – fathers, step-fathers, uncles, family friends – do not feature in the accounts. In the Soham case the Sun (18 December 2003) offered a 24-page pullout and a front page labelling Huntley 'The Serial Paedophile' with the main story headed 'Sick Lust', but

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very little is said about his status in the school and community where he was known and trusted by the little girls he killed. Men only feature in such accounts when they can be labelled outside the dominant ideal of heterosexual, paternal masculinity as paedophiles, mad, evil or beasts.

Also, similar problems exist with convictions for child sex abuse as they do with rape, although there is much less readily available data on child sex abuse. The Home Office consultations prior to the new Sexual Offences Act 2003 included a response from Christian groups in the UK:

Right across the board, convictions for sexual offences against children have been falling year after year. *The report shows that from 1985 to 1995 convictions for the six most serious sexual offences against children fell by 31%. Professor Grubin points out that reports of gross indecency with children 14 and under (girls and boys) more than doubled from 633 to 1,287 over the ten year period to 1995, yet convictions declined.* There is clearly a serious problem with enforcement of laws against child sex offences. (Christian Institute 2001)

Although all these profoundly gender differentiated crimes are nearly always committed by men, men *per se* are rarely featured in explanations, either in news about such crime or within policy documents. Offending men are also significantly absent from much criminological work unless qualified by some other variable such as race, youth, religion or class or described in an ungendered way, as in beast, evil or mad. They are often missing too in feminist criminology, which has always tended to prefer the experience of women in relation to crime, with the partial consequence at least that despite its intense focus on gender and crime since the mid-1970s Frances Heidensohn could argue in 2002 that 'a long journey hasn't taken us very far' (2002: 524) in terms of preventing the victimisation of women.

The existence of such news accounts and data alongside Heidensohn's comment explains this book's focus on the representation, experiences and treatment of men and women as victims and criminals. The book examines whether and how offending patterns differ according to gender and explores the connections between gender, offending and victimisation. It also explores the treatment and experiences of men and women within the criminal justice system and argues that in order best to understand crime and criminal justice, criminologists must understand both as gendered. The focus is interpersonal gendered violence – sexual violence, 'domestic' violence, 'domestic' murder, rape, prostitution and child abuse, because these crimes are those most clearly involving gender differentiation between offender and victim and it is that profound difference in men's and women's place in crime that is both continuing to damage women and defy change. The book explores how sexual and 'domestic' violence have been and are represented in popular discourse, in the law, in criminal justice processes and in service provision, and it traces developments in these areas, using case-studies and international comparisons.

Our broad aims are to examine theoretical issues around violence, gender, culture and representation and to explore the reality of violent crime, and responses to it, in relation to gender. The book integrates rationally the two broad areas of theory and evidence. It presents an introduction to different theories centred on the connections between gender, sexuality and violence and encourages readers to begin to see the strengths and weaknesses in each theory in explaining these connections. The book also introduces readers to gendered violent crime and examines the law, policy and practice in relation to gender and violence. Information is presented about issues such as domestic abuse, murder, male on male violence, rape, prostitution and child abuse. Connections between these issues are drawn out and responses to them are discussed. Here, the Sexual Offences Act 2003 and the Domestic Violence Crime Victims Act 2004 are examined, as are recent Government initiatives, such as the Home Office's Violence Against Women initiative, the 2003 *Safety and Justice Paper* on domestic violence and the July 2004 *Paying the Price* consultation paper on prostitution.

The book focuses closely on how frequently intimacy or familiarity of some kind provides the context for the most gendered crimes and how, often, women and children are the victims of male violence, but also acknowledges male on male, and stranger violence as well as women who kill or sexually assault. Because the issues raised here appear in different disciplines – law, criminology, socio-legal studies, criminal justice, sociological studies, social policy, cultural studies, gender studies, media studies, and so on, a broad approach is used to bring together the material and learn from diversity, and to critically explore a range of theory.

Gender as a key criminological variable is the main focus of the book and so we concentrate on those areas of the most extremely gender differentiated offending and victimisation; violence and particularly sexualised violence. Therefore we concentrate on interpersonal *violence* in relation to gender rather than on gender and crime *per se*. The logic to this is that violence is both the area where gender roles are most clearly differentiated and where the most danger and damage occur. Violence is of course also present in other contexts. Male on male violence between individuals and groups is common and concerning but offers little basis for a consideration of gender. Violence also of course occurs in war and terror, with male perpetrators the norm and women and children often 'collateral damage', but in these cases the violence may not actually be labelled as criminal or criminally intended nor may victims even be identified as gendered by perpetrators. The exception is rape in war which deserves and requires attention in its own right beyond the scope of this book.

Crimes that are violent and overwhelmingly clearly gendered are rape, domestic violence and child abuse. Each of these occurs most commonly within the intimate relationships of family and sexual partnership, despite the media hyperbole about dangerous strangers and internet paedophiles, and it is this intimacy that the book explores in depth, although the book also considers

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prostitution as a normally gendered crime that is sometimes physically violent and arguably in the case of enforcement by pimps and traffickers, rape. The empirical evidence about violence and gender is unpicked and assessed in terms of where the knowledge comes from, how it is generated, how useful it is, how it is used, whether theory is properly informed and whether that theory in turn illuminates the relationship between violence and gender in any way that might enable a change in the situation. The implications for justice of the way that gendered crime is so often violent are explored as is the relationship more broadly between gender and justice.

### **Organisation of the Book**

Chapter 2, 'Cold-blooded Lies' examines what we know about violence, gender and justice that comes mostly from the news media, as few of us actually ever really experience violence in our lives. The chapter begins by considering the role of journalism in violence gender and justice and uses media sources to focus on some of the most dramatic cases of the late twentieth and early twenty first-centuries (for example the West case; Sarah Payne; Sarah Thornton; O.J. Simpson; Jill Dando; Peter Sutcliffe; William Kennedy Smith). It continues with the 'Soham case' in Cambridgeshire, UK 2002. Soham as a narrative offers a wide range of crime motifs that raise theoretical questions about the empirical data which appears to illustrate a relationship between violence, gender and sexuality. Through such cases it identifies a range of violent crimes that are arguably gender dependent and closely related to sexual and gendered identity. The reasons behind the high profile of these cases are discussed, alongside an assessment of the role of the mass media in setting an agenda for criminology, politics and the law. The implications of such representations are evaluated in relation to gender and to justice (Heidensohn 1985; Carter and Weaver 2003; Wykes 1998, 2001; Gunter et al. 2003).

Chapter 3, 'Intimacy, Secrets and Statistics' reviews the actual data on violent and sexual crime. It looks in detail at the statistical evidence, extricating details about both victims and offenders and problematising the relationship between victim and offender in violent, sexual crimes. It draws on local and national crime/victimisation surveys (Painter 1991; Dominy and Radford 1996; Painter and Farrington 1998; Stanko et al. 1998; Mooney 1999; Mirlees-Black 1999; Myhill and Allen 2002; Walby and Allen 2004) and compares the UK data with that available internationally in order to establish the predominant patterns for crimes of violence and sexual offending. More than anything it seeks to reveal the nature of the relationship between victim and offender that is so often characterised by intimacy in such crime but most frequently publicised as anything other than intimate.

Chapter 4, 'Gendering Criminology?' considers the roles of criminology and feminist politics in theorising such crime. It critically assesses the contribution of feminist thinking to criminology, in particular the focus on women which led to a welcome and significant concentration on the victim (Smart 1976, 1995;

Heidensohn 1985; Allen 1987; Carlen and Worrall 1987; Walklate 2001). It stresses the consequent lack of attention to offending and hence to the masculinities implicated in offending. It assesses the extent to which this lack, with a few exceptions (Newburn and Stanko 1994; Collier 1998), has not only impoverished theory but also supported a diversion of resources away from the real sites of violence towards the rare and extreme cases that comply with news values, political interests and public prurience.

Chapter 5, 'Confronting Violence: People, Policies and Places' looks at the many agencies and organisations that become involved and policies that become applicable when violence has occurred. This chapter looks at the tools available for confronting violence and the inhibitions on any kind of resolution. Why for example are convictions for rape at an all time low (Harris and Grace 1999; Gregory and Lees 1999; Kelly et al. 2005) Why is domestic violence often dealt with by volunteers funded by lottery money? Why are trafficked women only offered assistance if they co-operate in the prosecution of their traffickers (UN 2008?) The chapter argues that reluctance to fully acknowledge the context of violence as not only highly gendered but also frequently intimate and familial has disabled the means of addressing it. It suggests that recent government initiatives, although giving the impression of change, rather amplify these processes.

Chapter 6, 'The Family of Man' turns towards the spaces and relationships that are actually most likely to support violence and sexual abuse: the family and close community (Grubin 1998; McIntosh 1988; Saraga 2001). It reviews the history of the family and considers how familial norms not only actively construct gendered subjectivity but also provide the context for much sexual and violent offending. It deconstructs the myth of the dangerous stranger and in its place focuses closely on the extent to which offending between men and women and between adults and children is overwhelmingly found to involve offenders and victims who know each other well and/or live close to or with one another.

Chapter 7, 'The Law, the Courts and Conviction' focuses on violence and the law and examines how the law has contextualised those settings in which violence takes place. The focus is rape which raises some of the most complex and divisive questions about violence, gender and justice. Why, for example, was it only in 1991 that the 'anachronistic and offensive' ((1991) 2 All E.R. 257 *per* Lord Lane) common law provision that gave husbands a right to rape their wives was removed? The chapter also considers the deeply gendered assumptions about female sexuality that have characterised the law's approach. Why has it taken until the Sexual Offences Act 2003 to gender-neutralise the offences of loitering or soliciting and kerb-crawling? Why can women still not 'rape'? Why, in rape trials, is a previous sexual relationship between the complainant and the accused 'so relevant to the issue of consent that to exclude it would endanger the fairness of the trial' ([2002] 1 A.C. para. 46)? This chapter argues that most initiatives to interrupt the long history of the relationship between sex and violence have in fact often left the dangerous body free to act again. It considers why this has happened, the need to refocus

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on the offender, to address the dangerousness of close relationships and place the ordinary intimacy of most crimes against the body, in the spotlight.

Chapter 8, 'Embodying Violence: Masculinity, Culture and Crime' returns to theory to re-evaluate the relationship between gender and crime in the light of the actual evidence and the initiatives that act on violent and sexual crime. It looks at how men are missing from criminological, policy and media discourses of male crime and the implications for understanding either crime or masculinity. It considers the role of the body, both in the acting out of crime and the acquiring of gendered subjectivity (Motz 2001; Shilling 2003) and looks at theories of gendered subjectivity (Butler 1990, 1993; Connell 1987; Collier 1998). It considers how and if theory can explain the affinity between male bodies, masculinity and crime.

Chapter 9, 'The Cost of Gendered Crime' offers a summation. This last chapter considers the real cost in terms of harm as well as money of the constant focusing of resources and policies on the rare and extreme cases of predatory strangers, evil terrorists and mad rapists, and assesses the broad implications for justice and human rights of gendered crime. To conclude, the chapter assesses the implications of current failures inherent in current publicity, practice and policy; failures that to some extent at least are the responsibility of theorists.

*Case-study* markers within the chapters, indicate significant criminal cases; research or legal issues that merit further reflection and/or research.

*Notes: issues for reflection* are included at the close of each chapter. These use the end-noting system to develop points made in the text and also make suggestions for developing and exploring the readings, data, law, theory and cases referred to in each chapter.

*Complementary readings* concludes each chapter with suggestions for other readings relevant to the chapter. Some are early classic and seminal references where readers can benefit from looking at both the suggested text but also other publications from the authors cited in our bibliography and elsewhere. There are also suggestions of more recent work that complements this book either by offering different contexts and perspectives or by developing areas or events mentioned here in more detail.

Last, this book makes depressing reading not from intent but because of the reality of the cost in every sense of gendered violence, not least to justice but most of all in female lives, sometimes literally.