

Gender and criminality

19th-21st centuries

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ABSTRACT

Beginning in 1830, a *Comparative Statistics of Criminality in France, Belgium, England and Germany* established the gendered dimension of criminality, which is an expression of how the two genders are differently integrated into society, along with their relation to violence and weapons. In fact, the majority of highly serious crimes are the deeds of men, while feminine offences relate more to the domestic sphere or the prostitutional use of their bodies. Moreover, the victims of a majority of violent crimes are women. These differences long gave rise to naturalist interpretations, and also led to the construction of archetypes that have been called into question during the twenty-first century. There has been a concurrent denunciation of gendered violence, which the Italians designated in 2013 by the term femicide.



Via dei Sardi in the San Lorenzo district of Rome, mural painting against femicide, produced in November 2013 to commemorate the 240 Italian women killed to date since the beginning of 2012

In 1835, the abolitionist and Inspector General of Belgian Prisons and Charitable Institutions, Édouard Ducpétiaux (1804-1868), published a *Comparative Statistics of Criminality in France, Belgium, England, and Germany*. It was the first comparative study for Europe, and practically the only study on the topic regardless of area of focus. It has all of the characteristics of a universal history, whilst taking its place within precise national contexts. For Ducpétiaux, women in these four countries were generally led down the path of crime through debauchery, which for women entailed prostitution, and for men chronic theft. He observed that the number of accused, which is to say those brought before the highest criminal courts, was a little lower in England than in France. The following year, Adolphe Angevillès (1796-1856) moral statistics on France sought to examine *département by département* all criminal activity that was tried and punished, although he did not distinguish between serious offences specifically attributed to women, and those that were the doing of men.

More time would be needed for a gendered understanding of criminality to emerge. Depending on the country and the available data, the role of adult women in overall criminality from 1825 to the present has ranged between 10 and 20%, and has been marked by underrepresentation. The percentage of minors, or "bad girls," is lower, and incarceration rates are lower still, but naturally with variations; for instance in Germany, this rate was in the vicinity of 10% during the nineteenth century, and approximately 4% at the close of the 1970s. The term criminality, however, is ambiguous. It can designate both major crimes—voluntary homicide, murder, robbery—and less serious violations of the law such as prostitution, or during the first two thirds of the nineteenth century, the stealing of crops or wood from private estates or spaces (a subject that Marx (1818-1883) wrote about in his 1824 article "Debates on law on thefts of wood," and Michel Foucault (1926-1984) addressed it in his *Discipline and Punish*).

With some nuances, a constant can be observed across Europe over the period spanning almost two centuries: in the relations between the sexes, men appear as more deviant and brutal, while women are victims of the bloodiest crimes (those which imply seizing another's body or life) more frequently than men. In comparison, the criminality of women has long been perceived and recorded—depending on national legislation and particularities—as being linked to their gender: abortion, infanticide, crimes of passion, and even bigamy, not forgetting prostitution, as echoed in the title of a famous book by the Italian intellectuals Cesare Lombroso (1835-1909) and Guglielmo Ferrero (1871-1942), *The Criminal Woman and the Prostitute* (1896). Alternatively, it could entail "domestic" criminality, particularly theft committed by maids in the homes of their employers, considered a felony in most legislation, since the offence was committed under aggravating circumstances. In nineteenth-century Belgium, maidservants were particularly watched over, as the governing classes suspected them of doubtful morality as well as suspect sexuality. The question of social class was consequently added to that of gender. As for men, they provided a huge contingent to the "army of crime." Both the numbers and cultural representations confirm the traditional division of these roles. Women's existence was limited to the household, where they were occupied with their children and family. Men were freer, and could more easily transgress norms. In his 1895 work entitled *Tempérament et caractérisse selon les sexes*, the French philosopher Alfred Fouillée (1838-1912) strengthened the stereotypes of fragile and sensual women, and impulsive and querulous men. Criminality was thus a matter of temperament, with women having access to seduction and prostitution, and men virile strength and murder. Thirty years later, Gina Lombroso's (1872-1944) important work, *The Soul of Woman*, reaffirmed this interpretation of criminality, along with the worldview of fascist Italy. It was translated into many languages and became a reference, spreading the idea that female deviance emanated from mores, since women possessed weak criminal dispositions. Sixty years later, Robert Cario (born in 1948), one of the rare authors to work on the criminality of contemporary women, has claimed—based on the example of inmates in Rennes prison—that social conditions and obstacles to socialization account for both women's different social roles as well as their "feminine alterocentrism," a concept which assumes women subordinate their ambitions to those of other people.

The two offences of adultery and poisoning, which were both considered specifically feminine conduct, help grasp more fully the influence of gender in the representation of criminality. For instance, the press dramatized renowned figures such as Vera Renczi in Romania; the "good lady of Loudun," Marie Besnard (1896-1980), in France; and in 2013 the British nurse Beverly Allitt (born 1968), called the "angel of death." Yet statistics show that men use arsenic, cyanide, insulin or digitalin as often as women do. With regard to adultery, this was punished much more severely when committed by a woman. Nineteenth-century European legislation, especially the "famous" red article from the French Penal Code (art. 324), excused a husband for killing his wife within the marital home. The opposite, however, is not true. For a long time, criminal law consecrated the inequality between women and men. For instance, before the fall of the Berlin Wall in 1989, the penal codes of Hungary and Poland contained "discriminatory measures" based on a criminal's gender.

Finally, masculine domination appears to generate extreme forms of violence against women solely because they are women, who are raped, and sometimes tortured or even killed. Famous criminals such as Joseph Vacher (1869-1898), the French "shepherdess killer," or Jack the Ripper in London (late nineteenth century), personify serial killers who prey on women. Numerous conjugal crimes are also connected to masculine domination; in Catalonia during the 1950s, a periodical such as *El Caso* provided numerous examples of husbands affirming they killed their spouse because she belonged to them, and that they were authorized to dispose of her however they pleased. Even in 2014, 118 women were killed in France, and 202 in Germany. Nevertheless, in the

wake of the Council of Europe's Istanbul Convention (which took effect in 2014), various legislation across Europe, including Spain, adopted the notion of "gender violence," which since 2013 has been designated in Italy by the term femicide.

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