

Contemporary Comment

SEX, LIES AND FEMINISM

Recent feminists¹ recognise that the source of women's subordination within the hierarchical structures of today's society lies in sexual politics. As Catharine MacKinnon has stated; "sexuality is to feminism what work is for marxism: that which is most one's own, yet most taken away. As the organised expropriation of the work of some for the benefit of others defines a class — workers, the organised expropriation of the sexuality of some for the use of others defines the sex — woman".²

Sexuality has no universal parameters of understanding. It is a complex mixture of sex and the sexual, biology and politics, legal and social norms. Michel Foucault claimed that the "apparatus of sexuality is of central importance to the modern play of power".³ Sexual discourse, as a mode of objectification, "transforms human beings into the mad or sane, sick or healthy, criminal or good boys".⁴

This process is not only achieved in the negative sense through legal prohibitions and constraints but also in the positive production of definitions and expectations. For Foucault any attempt to understand the dynamics of society requires a close analysis of prescribed sexual norms as socially constructed, yet also socially *constructing*.

Unfortunately Foucault mainly focused on the plight of the "bad boy". The unique position of the "bad girl" has been left to feminist legal theorists such as MacKinnon who concludes that female sexuality is a mechanism of male power which has been historically used to define and constrain women; "heterosexuality is its structure, gender and family its congealed forms, reproduction a consequence and control its issue".⁵ Women's sexuality is manipulated to ensure male dominance in all areas of life — including crime.

When we talk of women and crime certain myths are repeatedly offered to explain women's relative absence from the crime statistics and to rationalise for those who breach

1 There are many different feminist approaches, thus to talk of one perspective would be false. But implicit within the feminist critique is the concern to challenge the gender hierarchy inherent within patriarchal order and to expose the disjunction between women's lived experience and men's representations of it. It is important to note that patriarchy does not have a uniform impact upon all women. By focusing on sexuality I do not mean to disregard those issues of race, ethnicity and class which are also significant factors in any examination of criminality.

2 MacKinnon, C, "Feminism, Marxism and the State: An Agenda for Theory" (1982) 7 *Signs* 515.

3 Foucault, M, *The History of Sexuality* (1978).

4 In Dreyfus and Rabinow, 'Afterword', *Michel Foucault: Beyond Structuralism and Hermeneutics* (1983) at 208.

5 Above n2 at 516.

the gender expectations. The most quoted myth is the supposed “chivalrous” treatment for women handed out by the police and courts resulting in fewer convictions and more lenient sentencing. Second there is the belief that women are somehow biologically determined to resist criminal acts, therefore those who are convicted must be pathological or non-women.

When all other explanations fail it is the feminist movement which has received the blame for female crime. This misconception was clearly expressed by Lord Denning in *The Equality of Women* where he warned of the temptations facing “the woman” outside of the home.⁶ He drew connections between the fall of the Roman Empire, the decay in morality at that time and (of course) the “dangers” of the equality of women.

Despite Denning’s predictions, crime — especially where violence is involved — is predominantly a male pursuit. The woman who commits crime is a disturbing figure. She appears to reject her femininity and is therefore seen as doubly aberrant; both socially and sexually.

It is not only through legal and medical discourse that this message is conveyed. The media, popular culture, art and societal constructs such as marriage and “the family” have played their part in coercing women to conform. It is in this light that I will examine some recent Hollywood portrayals of female criminals and the important role sexuality plays in their “deviance” and their ultimate downfall.

The influence of the press and television on patterns of crime and societal attitudes have been well documented by criminologists, however the movies have been largely ignored. Film is also a powerful medium reaching a broad range of people from both sexes, all ages and diverse ethnic and economic backgrounds. Feminists have recognised the need to examine the representation of women in all forms of media and to expose how these images promote the reproduction of stereotypes and uphold expectations concerning female roles.

The public is engrossed by stories of violent or “deviant” women and the media does not leave them disappointed. The same media hype does surround certain male criminals but their sexuality is rarely a major source of fascination.

Adrian Howe dissected the media’s successful construction of Lindy Chamberlain as “femininity perverted”.⁷ This was achieved, Howe claims, through the sexualisation of her body coupled with the emphasis on her motherhood. Journalists juxtaposed descriptions of the “soft roundness of her tanned shoulders” with brutal labels such as

6 Lord Denning, *The Equality of Women* (1960).

7 Howe, A, “Chamberlain Revisited: The Case Against the Media” (1989) 31–32 *Refractory Girl* 2.

“The Dingo Baby Mother.” Although her husband was charged as an accessory to the “murder” it was Lindy who received the brunt of the law and society’s condemnation. The violence of the act and Lindy’s refusal to play her assigned gender role confirmed her guilt in the public’s eye. Because she was a woman and “the mother”, her supposed “crime” was seen as doubly heinous.

Just as “criminal” women provide newsworthy material for the press and TV this public fixation is also apparent in mainstream movies. Despite the fact that women make up a small percentage of the population convicted of crime, there is no lack of films about female “deviants”. These films unsurprisingly are not realistic presentations of the criminality of women. The characters are all deviously attractive, white and middle-class, unlike most women who are recorded in crime statistics. It is interesting however to examine the presence of sexuality in these films and how that is used to define the female criminals in a way that is not used for males.

In a short survey at my local video shop I scouted the new release stand and was amazed by the descriptions designed to entice a jaded audience into hiring. Number one on the list was *Basic Instinct*, described by the reviewers as “the sexiest American film in a very long time”, “an erotically charged thriller”, and for those who had any reservations, “this is as far as an R rated film has ever gone”. Other films included *Final Analysis*, where the bounds of reality are stretched by casting Richard Gere as a psychiatrist who is used and abused by two seductive sisters. This film is sold as a mix of “hot blooded passion and cold blooded murder”. *Nikita* is an erotic and violent film about a sexy assassin while *Poison Ivy* is the film which brings us a girl described as “the epitome of sexuality and the essence of evil” — and she is only 17!

In each of these films the women’s sexuality and non-conformity to traditional female roles is of central importance. The Hollywood system has recognised a character that terrifies the public — that of a deviant *and* a sexual woman.

In films concerning male criminals sex is presented as part of the thrill of rebellion. In the prolific stream of “cops and robbers” films, men rape and beat their women all in the name of honour. Their heterosexuality is assumed, and its display is never criticised. Their female counterparts do not get off so lightly. The violence directed towards women is a frightening feature of most of these films. The punishment for challenging the code of male dominance is severe.

If as MacKinnon states, “sexuality is the lynch-pin of gender inequality”,⁸ then *Basic Instinct* has played its part in the derogation of the female “criminal”. The law in this film is portrayed as a sexual game. The prize for the detective Nick, played by Michael Douglas, is to “nail” the killer — in more ways than one.

The film sets the standard in its opening scene where a nude woman stabs her unsuspecting victim with an icepick as she orgasms, leaving him dead and herself sexually fulfilled. The murderess is later described in police lay terms as a “looney tooney of gigantic proportions”. Enter Sharon Stone cast as Catherine, the traditional femme fatale except she is not allowed to keep her clothes on for long.

The interrogation scene quickly deteriorates into every policeman’s fantasy complete with soft blue lighting and a video camera to record the event. Catherine is seated facing a panel of leering cops lined up as if they are watching a dirty film. There are immense close-ups of the men’s fat red faces as they lick their lips and grill their suspect about her sex life. Her “deviancy” is established by her bisexuality and casual attitude to sex which appears to be highly relevant to the murder case.

Catherine’s monologue is straight out of Penthouse Forum. At one point she describes how she used the victim for her own sexual pleasure and one policeman replies, “kinda cold ain’t it lady”? That does not stop him and the others leaning forward as Catherine spreads her legs and shows them what all police need to know — that she doesn’t wear any underpants.

The press release hailed *Basic Instinct* as a step forward for women’s roles in film because it presented the female lead as intelligent and independent. This release failed to mention that the other female characters are not so lucky. Nick kills his lesbian competition and rapes and shoots his psychiatrist who is always nagging him. Catherine is the only woman in the film who doesn’t meet a nasty end; that is if you consider shacking up with Michael Douglas as an attractive alternative.

Themes of sexuality run throughout this film and others. Women are expected to fit their gender stereotypes both socially and sexually. There are obviously problems when attempting a comparison between fictitious representations and the actual legal treatment of women, except that the court reports often read like one of these films.

Frances Heidensohn recognised that the judiciary and the police tend to categorise women along similar lines to the movies — either as “wife or whore”. She notes that “offences which have apparently nothing to do with sexuality are, when committed by women, transformed into expressions of female sexuality or lack of it”.⁹

This has been historically documented in the sexualisation of juvenile girls whose “delinquency” was most often in the form of charges for promiscuity or uncontrollability.¹⁰ Towards young women the state adopts the role of parental guardian. Where juvenile boys are seen as rebellious and merely affirming their masculinity, girls have been constructed as sexually and morally “deviant”.

9 Heidensohn, F, *Women and Crime* (1985) at 94.

10 Cunneen, C, “Working Class Boys and ‘Crime’: Theorising the Class/Gender Mix” (1989) *Intervention Journal*, War/Masculinity Issue, 80 at 86.

This double standard within the criminal justice system is most evident in the treatment of prostitution, often characterised by the courts as a crime of “sexual deviancy” rather than a rational response to social and economic hardship. Still today it is the woman who is punished for the act of public prostitution while her client is rarely targeted by police.¹¹ The woman is condemned for her lack of “moral character” while the man who makes use of a sex worker is seen as indulging his “natural” sexual urges.

Whether criminal or complainant, the courts maintain this essentially male understanding of sexuality. In cases of rape and sexual assault women must conform to prescribed standards of behaviour before they can claim justice. Where the survivor is not completely flawless or sexually “pure” she is seen as precipitating the attack.¹² This does not sit well with the supposedly “chivalrous” reputation of the judiciary towards women.

In *Fatal Attraction* “the family” is presented as the ultimate fulfilment for all women. Glenn Close plays Alex (note the androgynous name), an independent woman who is free of family constraints and at first appears to have a pretty good life. But Michael Douglas is doing it again, only this time he is more reprehensible because he is married to Beth. In *Basic Instinct* his wife had conveniently killed herself.

This film is clear. Beware of the career woman with the low cleavage who sleeps with you on the first date. If you break these golden rules your one night stand might acid your Volvo, kidnap your kid and cook your bunny. But in classic Hollywood style the final showdown between Alex and Beth has the “good” woman conquering the “evil”. This sends out the message that women must not challenge the sanctity of the home or more importantly the traditional role of the woman, as represented by Beth.

Many judges reinforce similar stereotypes about women’s roles and specifically punish those women who break from these norms. Anne Worrall¹³ illustrated this through the study of 15 female law breakers. She examined the process of categorisation and labelling of these women by their parole officers and the courts, and studied the discourse used to explain their behaviour.

Worrall discovered that the male-dominated legal world is most comfortable when a woman can be rehabilitated within the discourse of femininity. She describes this process as the “gender contract” where women are treated more leniently by the courts when they are capable of being defined as dependent on men and in need of protection; not as individuals but as mothers, wives, daughters, or “victims” of their inherent biological weaknesses.

11 Morris, A, *Women, Crime and Criminal Justice* (1987) at 58–59.

12 Estrich, S, *Real Rape: How the Legal System Victimises Women Who Say No* (1987).

13 Worrall, A, *Offending Women: Female Lawbreakers and the Criminal Justice System* (1990) at 33.

Distinctions were drawn between “good” and “bad” women or more particularly between “good” and “bad” mothers. In most cases the woman’s sexuality was central to the judgment. Women who defied such categorisation received harsher sentences and were most often labelled “promiscuous” or “lacking the control of a man” as if these factors had some relevance to their propensity to commit crime.

Worrall compared the cases of two women. Kathy (20) was defined within her family as a “good daughter” and “normal teenager” — despite the fact that she had stabbed her sister to death. Worrall conjects that Kathy’s crime of fratricide was so incongruous with her position as a “typical” teenage girl that her responsibility was unacceptable for the courts.¹⁴ The incident was explained by her suspected epilepsy and she received 3 years probation on the condition that she be entrusted into the hands of her family.

Ivy (58) was charged with stealing a jar of coffee. Despite the fact that she had been divorced for some time she was still defined as “unfaithful to her husband”. Due to her lucidity in court and the absence of familial support/control she was treated with suspicion and received the same sentence as Kathy, despite the clear incongruity between the two offences.¹⁵

Women who commit crime threaten the traditional understanding of the “feminine” identity as passive and nurturing. The court reaffirms this ideology of “normal” womanhood by emphasising the home as the domain for the rehabilitation of “criminal” women. This focus is highly problematic as the home is the site of most violence against women.

In *The Hand That Rocks the Cradle* “mothering” is presented to cinema audiences as the essence of womanhood — her ultimate fulfilment and destiny. This is the story of a deadly babysitter, deprived of motherhood and therefore any meaning in her life, who seeks revenge. In this film the blame is placed squarely on the mother who puts her family in grave danger by taking on a nanny when she should be caring for “her” children herself. The home is the domain for mothers. This is reinforced in the closing scene where the mother kills the babysitter by throwing her from the roof and impaling her on the family’s white picket fence.

This film promotes the home, the family and motherhood as women’s legitimate avenues of development. Without these, psychosis is sure to follow, closely linked with criminal, violent and sexual conduct. Women are not rational in their choices of deviance. They are driven by their sexuality and biology which must in turn be controlled.

The syndromisation of women is another aspect of their sexual construction. The “not bad, just mad” approach to female criminals allows them to be seen in need of protection

14 Id at 40.

15 Id at 41.

rather than punishment. The Battered Wife Syndrome, the Pre-menstrual Syndrome and Post-natal Depression divert the focus of the court to the woman's "disturbed" mind; away from any critique of society, the police or the criminal law. This allows women's deviance or violence to be explained without disrupting the "normality" of a masculine understanding of crime.

The criminal justice system is a male creation for male offenders. There is no female equivalent for the male delinquent who is seen as rebellious and exciting. There is no Kerouac or Bukowski to mythologise the female drop-out. Women who resist preordained gender roles create hostility in society and in the law.

Thelma and Louise are about as close to the female outlaw as we have had in the movies. They attempt to escape their mundane lives and inattentive men but instead find themselves in a road movie, normally the terrain of bad boys. They are thrown into the male world of highways, fast cars and truck stops. Thelma is raped and Louise in response to the cruel attack and years of abuse by men shoots the attacker dead. This propels them into further crime as the women shed their feminine personae. They swap jewellery, makeup and frilly shirts for denim jeans, cowboy hats and guns.

But the male forces, the police, the cars and rifles converge on them, chasing them through the desert with its tall phallic rock formations. The men demand their return to normalcy as the policeman shouts through his bullhorn, "any failure to obey that command will be considered an act of aggression against us".

That is exactly what *Thelma and Louise* represent. They have rejected their traditional female roles as the targets of derision and violence. As Thelma says, "something has crossed over in me and I can't go back. I just couldn't live". Finally they are confronted with the choice which is no choice at all — either to surrender to the male domain of police, prison, rapists and husbands or to fly into the Grand Canyon where the landscape opens up female and concave.

Despite the film's concern to avoid traditionally sexist representations of women, sexuality is still a dominant theme. Thelma's ultimate freedom from her husband's patriarchal hold is only achieved through an intense session with the sexy JD (juvenile delinquent) and the implied lesbianism between the women reveals the film-maker's incapacity to conceive of a close female friendship without sexual connotations.

The ending of this film is revealing in that it represents the law's inability to deal with the unique problems facing women who commit crime. Issues such as physical and sexual abuse are silenced by the objectification of women as victims of their biology and sexuality. The film dispels any notion of chivalry and acknowledges the discrimination within the law. It is not until the women themselves become violent and cross the sex/gender barriers that the law steps in.

When Louise shoots Thelma's rapist she takes the law into her own hands. She knows there is no point in reporting the rape — that the police would never protect Thelma just as they did not protect her when she was raped. Thelma says innocently, "tell them he was raping me" and Louise replies, "we don't live in that kind of world, Thelma".

Feminists have well documented the hypocrisy of the law and its reluctance to intervene where violence is perpetrated against a women, whether it is domestic violence, incest or rape. But when violence is perpetrated *by* a woman the law is quick to respond.

In an English case in 1990 a woman named Sara Thornton stabbed her husband in the stomach after a year of repeated beatings and threats to kill both her and her daughter. She failed to satisfy either defence of diminished responsibility or provocation, which are both very problematic defences as far as women are concerned, and was sentenced to life imprisonment.

In 1991 after she lost her appeal a man named Joseph McGail was set free with a 2 year suspended sentence after the court accepted that he was provoked into punching his wife to death. The judge in the case stated that the dead woman would have “tried the patience of a saint”. Thus McGail was absolved for his less-than-saintly behaviour. Thornton went on a hunger strike but is still in prison.¹⁶

Feminist criminologists ask themselves how can the legal system be improved to offer female offenders a better deal? Carol Smart notes the difficulty in defining “better” where women are concerned; “the deviant, the criminal or the actor is always male; it is always *his* rationality, *his* motivation, *his* alienation, or *his* victim”.¹⁷ A woman’s behaviour is measured against male norms making use of male standards and is therefore inherently “deviant”.

Heidensohn argues, “we can not say what a ‘best’ treatment for women offenders would be like; there has never, so far, been a judicial system which was based on women’s behaviour or took them as a norm”.¹⁸ In the movies the only way to deal with violent or criminal women is to kill them. In *Thelma and Louise* the women made that choice themselves but it can be queried whether suicide is really a viable alternative.

Catharine MacKinnon calls for consciousness-raising as the feminist methodology. Only by incorporating the experiences of women into the law can the situation be improved. This means the personal, ethnic, socio-economic factors that contribute to the problem of women and crime, not the medical and psychological excuses that the current understanding of female sexuality relies upon. These are the factors that the movies and the law generally ignore.

Thelma and Louise was the only film that attempted to present a female point of view of crime. This was not appreciated by all reviewers. One critic denounces the film as “degrading to men — it justifies armed violence, manslaughter and chronic drunken driving as exercises in consciousness-raising”. It appears he felt a little threatened.

16 Quoted in Birch, H (ed), *Moving Targets: Women, Murder and Representation* (1993) at 3.

17 Smart, C, *Women, Crime and Criminology* (1977) at 177.

18 Above n9 at 58.

This attitude is prevalent in many discussions of women and crime. The fear of the rise of the “new” female criminal as a natural consequence of women’s rejection of traditional roles is evident in *Thelma and Louise*. The paternalistic “caring” cop hints that he has seen women like this before, the implication being that a feminist-led criminal revolt is lurking on the horizon. Lord Denning rears his ugly head.

This same condemnation and fear is not evident in most films about violent and criminal men. The video shops are overflowing with movies about the renegade who takes the law into “his” own hands. Clint Eastwood’s *Dirty Harry* “makes our day” while Bruce Willis single handedly battles the terrorist forces in the US. We have Rambo, a Vietnam veteran who massacres hundreds of men, and the police response is to “send more body bags”. He is later forgiven and then recruited by the American Government for *Rambo 2* and 3. In the *Godfather* trilogy violence is represented as an inevitable and heroic path for those men seeking to make a better life for themselves. In a huge number of movies, crime is simply assumed as a fact of life — so long as *men* are committing the crime.

Feminist legal theorists including Carol Smart have dispelled this claim of a “new” female criminal as the “naive belief that femininity is the antithesis of criminality”.¹⁹ Even still this “moral panic” is evident in the courts’ harsh treatment of women who challenge the patriarchal order — “deviants” who express their individuality or sexuality.

The criminal justice system and the films portraying female “deviants” are both deeply sexist. Crime is maintained as a masculine act of the public world while female crime is seen as an affront to passive womanhood. The women who commit crime are disturbing figures as they appear to reject femininity and therefore their place in the “male” world. Female sexuality has been used through the discourse of law, medicine, sociology and media as a means to explain and control the female “criminal”. Films have reflected this process. By emphasising the sexuality of the female criminal character she has been constructed as “other” to man. This protects the status quo of “natural” male dominance and allows many important issues concerned with why women commit crime to be ignored.

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19 Above n17 at 182.