

WOMEN'S JUSTICE?

GENDER, CRIME AND JUSTICE
edited by Pat Carlen and Anne Worrall,
Milton Keynes: Open University Press, 1987
Paperback: £7.95

**JUSTICE UNBALANCED. GENDER, PSYCHIATRY
AND JUDICIAL DECISIONS**
by Hilary Allen
Milton Keynes: Open University Press, 1987
Paperback: £7.95

**JUSTICE FOR WOMEN? FAMILY, COURT
AND SOCIAL CONTROL**
by Mary Eaton
Milton Keynes: Open University Press, 1986
Paperback: £6.95

These contributions to the field of modern criminology, whilst sharing the gender thread in crime, court and custody, draw on the wealth of recent material available and also introduce new and significant empirical findings. Collectively they take us much nearer to an informed understanding of women as members of a male dominated society and, more specifically, of women as offenders and victims in the criminal justice system.

Two points arise out of the reading that deserve preliminary discussion: first is the uncomfortable question for feminists of whether justice for women is worse than or simply bad-and-different from that which men receive. If the gender-trap is unfair, unbalanced and unjust for women there are surely similar implications to be drawn for men too. Some of the authors, notably Allen, come closer to considering these implications than others. Consequently, Allen's arguments may be easier

for men (and some women) to stomach than those of her counterparts. Typically, for instance:

A careful assessment of the disparities would probably find long term disadvantages for women in their easy psychiatrization – but a more immediate cause for disquiet might be the refusal of psychiatric treatment to many of the men (Allen, p 13).

The authors who prefer to stick to a separatist-type feminist criminology treat the “worse or not” debate as almost irrelevant in terms of tangible verdict, sentence and penalty, concentrating on the inconsistencies and hardships women suffer. Men suffer inconsistent justice and penal treatment too, and these have long been well documented (Boyle 1977, 1984; Cohen and Taylor 1972). But women, because of their gender, suffer these deprivations and inconsistencies to a greater degree, and this is not so well documented. It is in justice and penalty where women, already suffering from gender differences which are oppressive, experience their oppression at its greatest.

There is a second field that the readings treat with differing degrees of emphasis. All are characterised by the centrality of gender, but:

Issues of gender, class, and race exist as complex interacting personal and social forces (Wells 1988:216).

The authors consider these three dimensions thus:

Carlen particularly attempts to speak three dimensionally with the aid of a complex theoretical feminist framework.

Eaton demonstrates the class dimension in part (Chapter 6) and in passing that of race.

Allen noticeably understates both class and race. She painstakingly illustrates that gender is so central a concern, so much a fundamental determinant, that the other two dimensions are ignored altogether.

All three texts are rooted in the feminist tradition and all confront the macro and micro levels. The initial point of departure differs, as does the individual style and clarity of argument. Two of the texts are by single authors and the other by a selection of contributors; differences arise from this layout too. How do the various texts respond to the central theme of gender and justice?

Gender, Crime and Justice is a collection of works by thirteen authors, two of whom are the editors: Carlen and Worrall. They also share the lengthy introduction, a necessary component of a book of this nature because not only must it serve to introduce us to the remainder of the

text as a whole and how it aims to address the unifying themes and arguments with a sense of continuity, but also, because the book is a collection of relatively short essays, addressing these themes as they apply to some very specific issues, there is a need to have a previous understanding of the complex feminist sociological and criminological theories. The introduction does attempt briefly to explain gender construction and about femininity, domesticity and pathology, calling upon useful bibliographical references that one may feel compelled to (re)turn to. We are also reminded of Carlen's peculiar terminology and a warning bell is sounded: The text is not what some lazy reader may have hoped for - an easy, step by step short cut, via collected works on a common theme in the area of gender, crime and justice. It was never intended to be such.

The remainder is broken down into a tripartite analysis: (1) Women in Crime, (2) Women in Courts, (3) Women in Custody. In the first part, "Women in Crime", lawbreaking is seen in an experiential and ideological context and Frances Heidensohn kicks off by establishing that "Gender ... is critical" (p 22) in an aetiology of crime. Next, the chief areas of female offending are examined: welfare, social security fraud and prostitutes. Dee Cook takes gender-justice on board in the realms of women on welfare historically, from the media portrayal as part of the "scrounger-mania" campaign and from the practical aspect of the law and the Department of Health and Social Security that administers it. Susan Edwards concludes the section, showing how prostitution extends the general oppression of women in society.

Part Two, "Women in Courts", addresses similar questions in four essays which look at a selection of some of the important stages of the court procedure. Chambers and Millar report on sexual assault cases of rape with evidence from Scotland that suggests victims are being persecuted as much as the offender is being prosecuted. From women as victims to women as offenders, Hilary Allen speaks in the feminist tradition from a psychiatric dimension on women and serious violent crimes and how they are psychiatrized. Women are "tamed, sanitized, rendered harmless" (p 87). These women are transformed from the start: as alleged murderers running the risk of imprisonment, to the finish: as helpless, pitiful victims in need of elaborate medical and social support. Their violence is displayed as these women become ...

a puppet of others who have "set the stage" for her "tragedy"
(p 86).

The discourse stands up adequately in its own right, but the same principles and ideology are developed and methodically argued at much greater length and depth in her text *Justice Unbalanced*.

In *Justice Unbalanced*, Hilary Allen has set herself an ambitious project of revealing and explaining the sexual discrepancy in the use of

psychiatric measures by the courts. The title and jacket cover illustration (a male judge pronouncing "Off Her Head" as the verdict/sentence on a woman in the box), are the most succinct way of summarising what the text is about. A bi-partite study of the impact of gender on the verdict, Chapters 1-3, and on the sentence, Chapters 4-6, is thoroughly "fleshed-out". Hence, again gender is the all-important crucial and central issue. Allen relies upon her own qualitative research project to look at questions similar to those raised by Carlen and Worrall.

The work is highly theoretical but not at all hampered or compromised by this because the author succeeds in relating theory to practice. The social control mode of exploration that Carlen, Eaton and Heidensohn have recently expounded is carried forward from a medico-legal angle. Allen, however, does not get carried away with her invocation of sympathy for criminal women. Unlike other, more wary, feminist authors, she does not see it a crime to comment upon psychiatric measures and men and the unfair, unjust, illogical, unreasonable verdicts and consequences men suffer too. In no way does this undermine her feminist stance, but rather she gains ground in credibility and a wider, more sympathetic audience.

Throughout her work simple explanations are shied away from yet she remains on course, refrains from side-stepping or side-tracking the issue, steadfastly following her own targets and goals. Ultimately, we are not let down and, as promised, suggestions of remedies and modifications are offered that could be made to the law to improve upon the disturbing diagnosis she makes on gender psychiatry and judicial decisions. Allen succeeds in disputing simple assumptions, presenting a welcome addition and provocative angle on the subject.

Her chapter in *Gender, Crime and Justice* can be recognised as a more extreme example of her sophisticated argument in her own book.

Returning to *Gender, Crime and Justice*: Chapter 6 finds Mary Eaton considering how women are considered differentially when they request bail. She uses her own research to illustrate her theoretical arguments that police, legal representatives, barristers and solicitors adhere to a particular model of family life, and the appropriateness of gender roles in that model provides the criteria for measurement and judgment. The control of women in this way is:

most starkly demonstrated when one considers the courts' response to applications for bail (p 100).

Yet, bail is only a very significant preamble to the ultimate control offered by the prison system (see Part Three). Eaton concludes by opening up the arena from the narrow context of bail to gender, crime and justice in a much wider context, intimating the comprehensiveness and pervasiveness of the social control function. Again, the essay is self

contained yet it is not constrained or limited by this. As with Allen, it is an extremely poignant example of a more lengthy and detailed discussion in an earlier text.

Justice for Women? Family, Court and Social Control. In this project Eaton is concerned with gender and justice in a broad social context. She confines her empirical work, however, to observations made at Hillbury Magistrates' Court during 1980-82. She uses this work as a basis from which to illustrate the widespread and subtle reproduction of the subordination of all women. Hence, again the centrality of gender and justice for women is tackled in theoretical explanation and in various stages of the court process: sentencing and interactions in the judicial process; summary justice, magistrates' courts, pleas of mitigation, pre-sentence Social Inquiry Reports, and magistrates' talk.

Eaton explores these interactions and finds them characterised by something familiar: a dominant and particular model of the family. An expected familial role is prevalent which contains specific gender roles within the family: gender roles which are traditional, where the male is head of the family unit as father, husband, breadwinner and the female is ascribed the role of mother, wife - primarily domestic as homemaker and child carer, dependent upon the man socially, economically, financially and emotionally; subordinate to men. The family was seen as the basic unit, "a privileged unit and the touchstone of normality" (p 44).

Like Carlen, Eaton shows a double gender and class (but not race) dimension to the systematic disadvantaging of the powerless in this commonly held value system, this prevailing world view and social order. The above familial ideology is subscribed to throughout the court stages and processes and it is to this theory and wider consequences that it has that her final synthesis now turns. She reminds us constantly that the endorsing and reproduction of such summary justice has relevance beyond the criminal justice system: to the education system, the labour market, the mass media. All women are defined as different and subordinate, as being in separate and unequal spheres and as in receipt of unequal treatment.

As co-editor of *Gender, Crime and Justice* Anne Worrall concludes part two of the relationship between women defendants and magistrates, an area also researched as part of the court interaction business by Mary Eaton (see Chapter 6 of *Justice for Women?*). Like Eaton, Worrall details and explodes the myths on the gender neutrality of the magistracy. Ultimately magistrates consummate the social control of women that Eaton, in the previous chapter, suggests operates in the area of bail application.

Part Three, "Women in Custody", is comprised of a further three essays, the first by Pat Carlen. Empirical work on 22 young, state-raised, working-class women is used to illustrate how ideologies of family

and femininity pave the paths from care to penal custody. Crime and gender are central but the dimensions of class and race complete the analysis. The contribution is highly planned and structured, and can be seen as a sneak preview of her forthcoming book *Women, Crime and Poverty* (1988). The next chapter follows very neatly on from Carlen's care/penal custody complex: Genders and Player also sympathise with the argument that organizational intervention can serve to exacerbate the problems and experience of custody for women. Drawing on research from five establishments over two years, women's actual experience of imprisonment is examined in relation to the way the prison department treats and controls these women through the nature of the prison régime. "Ironies" and "contradictions" are experienced due to a "mis-match" of unlike perceptions of the needs of women prisoners.

The concluding chapter by Carlen, O'Dwyer and Wilson provides an overview of women's prisons and their differences from men's prisons. Four major issues are addressed, including the disturbing dimension to prison medicine (drug doses, gynaecological and obstetrical needs, the psychiatric unit and solitary confinement) and disciplinary systems. "Mixed nicks" are considered and recommendations put forward as to what ought to be happening for released women prisoners.

The three texts are complementary and signify a substantial contribution to the field of gender, crime and justice, yet each has a very different personal appeal. To summarise:

Gender, Crime and Justice. In order to get the most out of this text novices to the subject ought to read elsewhere first as it seems to me to be for an audience already aware of the current work on women, crime and justice.

Justice Unbalanced comes across forcefully as a pathbreaking work on the subject. Sophisticated theory and presentation ensure that it will be treated as an important complement to the subject area, a slant which has formerly been hardly researched.

Justice for Women? is a compact but comprehensive coverage of the subject area, clearly and methodically argued throughout.

Reading any one of these three texts ought to stimulate enthusiasm to study another and is likely to make the unaware, aware, the lacking in understanding, understanding. Readers are also going to find themselves equipped with the arguments, ideologies, facts and research data necessary for informed and persuasive participation in and advancement of the feminist debate over mental "health" and criminal justice.

Pam Davies

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