Chapter Two: Theory: How to think about sex and crime

Understanding theories of crime helps us to do two things. It helps us to look for things that we may not see at first glance, or that we may not have thought about looking for, and it helps us understand the priorities and biases of dominant theories. Theory runs through all of what we know about sex and crime, so it might seem strange for us to have created a standalone chapter about it. We have chosen to do this in order to demonstrate how theories which are key to our understanding of sex and crime can be applied to particular problems in order to understand them better. In this chapter we summarise six different theoretical approaches that we think are helpful, and then apply these approaches to a case to demonstrate how each theoretical approach can help us see the same story, idea, occurrence, or practice in several different ways.

By the end of this chapter you will understand more about:

- Six different theoretical approaches which help us in our study of sex and crime.
- How to critique using theory.
- How to apply different theories to a single problem.

Feminism

Feminism – or the political practice of establishing **gender** parity – is fundamental to our understanding of sex and crime. The history of feminism is exciting, controversial, and important. It is beyond the scope of this book to talk about the story of the feminist movement, though there are many excellent texts we would recommend, each examining how feminism has evolved, and providing examples of feminist politics in action (see for instance, Firestone, 1970; Brownmiller, 1975; Daly, 1991[1981]; Haraway, 1984; Lorde, 1984; Smith, 2013[1989]; Young, 1990; Fausto-Sterling, 1993; Levy, 2015; Adichie 2017; Solnit, 2017). In this section, however, we focus on how and why feminism helps us in these criminological analyses.

Feminism is the 'political and philosophical devotion to ending the oppression of people on the basis of gender and sex' (Hirschmann, 1998: 348). At its heart, feminism is the study of the world through a **gendered** lens. That means that feminist theory provides a gendered analysis of contemporary phenomena. It also highlights the injustices of the contemporary world. For instance, following the global economic crisis of 2008, many countries – especially in Europe - adopted an austerity economic agenda which meant that they cut budgets for public spending (for example, in education, public transport, in the provision of benefits and other welfare measures). Whilst at first glance these policies might appear to apply equally to men and women, and living under austerity politics may seem to have little to do with gender, feminist research demonstrates how these equally applied policies have unequal effects, and

how women are disproportionately disadvantaged by austerity compared to men. Women rely more on public services than men because they tend to be more likely to look after children compared to men and live longer than men, thus needing more care when they are older. More women than men work in public services (health care, local authorities, nursing, social work, and education) which are sectors where budgets are cut, and, in order to plug the care gaps left by budget cuts, women are more likely to be called upon by their families to provide unpaid support (Ginn, 2013; Reis, 2018). It is for the same care-orientated reasons that women are disproportionately disadvantaged by climate change. Again, an issue which at first glance appears to have little to do with gendered issues, and which affects men and women equally, has demonstrably more impact on women's lives (Denton, 2010; Aguilar et al, n.d.). Women dominate agricultural production amongst the world's rural poor, and so suffer first when climate change causes flood, drought, and crop failure. After natural disasters, women and girls take second place to men and boys in rescue efforts. In Syria, following the drought, and in the context of the on-going war, women (as the heads of the household in the absence of their husbands) resort to survival sex in order to provide food and shelter for their families (Banwell, 2020). We are able to see this because of the gendered analysis of climate change that feminism enables. One of the key facets of feminist thought is that due to the structural disadvantages faced by women because of their gender, treating men and women the same often does not result in equal treatment. In fact, it often results in severe disadvantages for women.

Patriarchy – a system in which men hold **power** and women are excluded from power – is what feminisms works to dismantle. Patriarchy has long framed public policy, the rule of law, and other **institutions**. Patriarchy is hierarchical, which means that not all men – or even just men – benefit from it in the same way. It turns upon an axis which is inflected by – in the **Global North** at least – wealth, **whiteness**, able-bodiedness, and education. Patriarchy normalises the dominance of men and the subordination of women. It is because of patriarchy that high-profile sex offenders like Donald Trump, Louis CK, and Kevin Spacey are able to get away with sex crimes (as yet) untouched by law. By specifically referring to patriarchy as a structure, feminists focus on the structural causes of oppression and discrimination, rather than necessarily focusing on individual men who hold power and control.

In the context of crime, feminist analyses, often falling under the banner term 'feminist criminology', have drawn attention to the way that the criminal justice system treats female offenders. It has enabled us to have debates about whether or not women offenders who have young children should be imprisoned (Baldwin, 2020). It enables us to have discussions – and to voice outrage about – the short sentences that rapists have received in high profile cases such as the rape of Chanel Miller by the wealthy, white, Stanford University student, Brock Turner. Thanks to feminist activism, the treatment of rape and sexual assault victims by the police is now more sympathetic, but recent moves by the police in the UK to scrutinise the social

media and mobile phone records of women and men who have been raped also need to be criticised, and feminist activists are doing so (see Bowcott, 23 July 2019). The criminalising of marital rape, of upskirting, of stalking; campaigns to challenge rape myths held by juries, police, and judges; campaigns to promote awareness about intimate partner violence and abuse; campaigns to prevent child sexual exploitation; and campaigns which ask us to recognise that men as well as women, the young and the elderly, can be victims of sexual violence, whatever they are (not) wearing, are all legal and political changes that feminism has brought about.

So, feminism brings a gendered analysis to social issues, even if they do not initially appear to be related to gender. Almost every social issue has a gendered implication. Sometimes the reason why this is hard to perceive is because the systemic injustices which structures everyday life are entirely taken-for-granted. This is played out in, for instance, **heteronormative** dating scripts such as 'he has to make the first move; she has to play hard-to-get'. Systemic patriarchy accounts for part of how these inequalities emerge in such an ordinary and banal way.

Feminism has been criticised from a number of directions for being complicit with systemic power because it is dominated by **cisgender**, heterosexual, white, middle-**class** voices (Lugones, 1984; hooks, 1981; Crenshaw, 1989). Feminism is at its most powerful when it deals with these intersectional issues, and engages with the different

ways in which the contemporary world diminishes those who are not held up by contemporary patriarchal structures.

Intersectionality, which we met in Chapter One, is not a new concept, as women of colour have long been highlighting that they face discrimination and oppression beyond gender (for example the speech given by Sojourner Truth in 1851, *And ain't I a woman?*). Kimberlé Crenshaw's (1989) work has had a powerful impact on feminist thought. The purpose of intersectionality is not a race to the bottom of the oppression ladder, nor to attempt to demonstrate that your own position is worse than others. Instead, Crenshaw provides the helpful analogy of attempting to climb through a small hatch in the ceiling above you. The intersections of different aspects of your identity impact on how closely you are positioned to the hatch and how easy you will find it to pull yourself up through the hatch. So, for example, a white, middle-class, professional, heterosexual, able-bodied, British woman in the UK may find that her ability to get through the hatch is hindered by her gender, due to levels of discrimination such as those we have outlined above, but other aspects of her identity will assist her to lift herself up to the floor above. The key aspect of the 'hatch' analogy is that it is never impossible for someone whose multiple components of their identity will potentially result in discrimination from getting through the hatch, it is just made harder for them. By using this analogy we can appreciate how people who hold an identity that often experiences oppression can reach powerful positions, while still acknowledging the structural barriers to the wider social group – for example, Barack Obama

becoming President of the United States of America in 2008 does not mean that there is no longer racial discrimination in the USA. Indeed, **Black** men continue to face extreme forms of discrimination, have some of the worst job and health prospects in the USA, and continue to face harsh responses by criminal justice, including police violence (see the campaign *Black Lives Matter*). President Obama pulled himself up through the hatch in spite of incredible levels of racial discrimination, undoubtedly assisted by his educational level, professional success, and his gender, and **sexuality**.

Though there is no universal voice of feminism, and debates between feminists about the proper object of feminist interventions rage on, it is thanks to the gendered lens of analysis that feminism enables that a field of masculinity studies has emerged (see Connell and Messerschmitt, 2005), that **trans** rights – and trans prisoners' rights – are being properly fought for. Knowledge about female genital mutilation (FGM), about male rape, about reproductive rights, about 'gaslighting' abuse, and beginning proper conversations about what counts as sexual consent have become possible thanks to feminist politics and action, wherever that feminism might come from. Be under no illusion: debates and differences within feminism are no walk in the park to navigate, but what feminism brings is a questioning of what we take for granted when it comes to power and dominance, and an energetic activism against private, institutional, and international gendered abuses of power.

Queer Theory

The premises of queer theory are not easy to identify because of the elusive and fluid nature of the theory. Indeed, as Annamarie Jagose (1996: 3) states, its 'indeterminacy [is] one of its widely promoted charms'. Historically, queer theory has been most loudly appropriated by gay and lesbian theorists and activists to challenge the normative and heterosexist assumption that structure aspects of contemporary society. Jagose suggests that 'queer' has become an 'umbrella term for a coalition of culturally marginal sexual self-identifications' (1996: 1). In a passionate defence of Foucaultian queer subjects, David Halperin (1995: 62) argues that there is 'nothing in particular to which [queer] refers', it is a 'positionality' not a 'positivity' and describes 'whatever is at odds with the normal, the legitimate, the dominant'. Certainly, it is undesirable, and would be inaccurate to quantify 'queer' in any more certain terms than this. Its breadth of interpretation renders queer more liberatory, if problematic, for those who adopt the approach. However, it is possible to suggest that queer theory is built on a Foucaultian understanding of **discourse**, where power and knowledge are constructed in, and constituted by, networks of power relations which operate in flux on the body to discipline and regulate it (Foucault, 1998[1976]: 94). These knowledges tend to operate around sex and sexuality in an attempt to control and discipline 'licit and illicit' sex and sexuality or 'the way that each individual [makes] use of his [sic] sex' (Foucault, 1998[1976]: 37, 28). We saw some of this in our discussion of normative and non-normative sexuality in Chapter One. Foucault illustrates his argument by pointing to the creation of the homosexual as a 'species',

the prohibition of 'consanguine marriages' (incest) and the establishment of the 'marital obligation' (reproductive sex) as means of promoting **heteronormativity** (Foucault, 1998[1976]: 37-43). Queer theory uses this **(de)constructionist** understanding to destabilise and subvert these established heteronormative discourses.

To 'queer' is to question the mainstream. To be queer is to exist outside of normativities. To be 'queer' has historically been used as a slur or insult, so when queer theory reclaims this word as a label for itself, it subverts – queers – the very power structures that designate who or what has rights, legitimacy, access to justice amongst other issues. Whatever queer is, it is arguably at its most potent and its most subversive when conceptualised as a verb (something which I do) rather than as a noun (something which I am). Queer is not simply an alternative identity category in the way that male/female or non-binary/gay/bi/lesbian is. It is rather a political position from which to generate action and alternative thought.

Lauren Berlant and Michael Warner (1998: 552) emphasise that heteronormativity – that is, privilege acquired through sexual hegemony – is not the same as heterosexuality. Indeed, heterosexuality is not 'a thing': not a coherent ideology. Heteronormativity, on the other hand, is produced at every level of societal life to maintain this 'tacit sense of rightness and normalcy' (Berlant and Warner, 1998: 554). Additionally, Halperin (1995: 62) argues that the 'positionality… [of queer] is not

restricted to lesbians and gay men' and can encompass identities of people who feel marginalised by their **sexual practices** including, he suggests, 'married couples without children'. We might add trans people, polyamorous people, people living with HIV, abstinent people, or asexual people.

In the context of criminology, scholars have begun to engage with the potential of queer to understand justice (Dwyer et al, 2016; Buist and Lenning, 2016). By using the analytical potential inherent in queer approaches which challenge the construction of knowledge and power, queer criminologists work to bring to the fore not only the experiences of **LGBT+** people in the Criminal Justice System, as victims, as offenders, or as professionals, but also the importance of challenging or critiquing the way that the law operates, and the normativities which underpin it. Analyses of police violence, of hate crime, of prison cultures from a queer perspective enable criminologists and professionals who work in these fields to see old problems differently, and to understand crime and **deviance** in more nuanced and complex ways.

At the same time, queer theory, and queer criminology has come in for some criticism. Halperin argues that the term fosters a 'false impression of inclusiveness' (Halperin, 1995: 64). It suggests that the divisions between gays and lesbians have been 'triumphed over', when in fact, in dismantling identity categories, queer is accused of effacing the different lived experiences of gay men and lesbian women (Haplerin, 1995: 64). Sheila Jeffreys criticises queer and the postmodernist movement more

widely, which, she argues, are flawed because they are based upon gay male thought (like that of Foucault) rather than on the work of early feminists (like Mary Daly, or Shulamith Firestone, or Audre Lorde). A further criticism of queer theory is that it is androcentric (centred on male experiences) and ethnocentric (centred on Whiteness). Elizabeth Grosz and Anne Marie Smith illustrate this in the context of the invisible lesbian (Grosz, 1994) and 'dangerous Black gayness' (Smith, 1992). When used to focus on the experience of gay and lesbian individuals, queer is susceptible to conflating 'lesbian and gay' to the erasure of the lesbian entirely (Jagose, 1996: 116). Lesbianism has never been recognised as a crime in legal discourse in the same way that gay men's sexual practices have been legally regulated and (un)sanctioned (Grosz, 1994: 146; Smith, 1992: 204). Smith calls for an acknowledgement of lesbian experiences of sex, and for lesbian sexual practices to be discussed with the alacrity of gay men's sexual practices (Smith, 1992: 210-1).

For Derek Dalton (2019: 18), one of the problems of queer theory is that the focus on the **deconstruction** of categories and its, at times, lurid complexity, means that it becomes difficult for a criminologist to see what they might usefully glean from such a theory (though brilliant, Judith Butler's work is an example of such dense prose). Criminology, with its focus on real-life examples, involving real people, with real problems, demands something that it can use; a praxis (see Chapters One and Fifteen for our discussions of praxis), if you will. Some queer approaches resolutely refuse to offer one because to point to a path of action would be somewhat 'unqueer'. Some

approaches do not hold that a path of action is necessary, or possible, preferring what Dalton (2016: 19) refers to as a 'negativity thesis' (see Edelman, 2004).

Vocal criticisms of contemporary queer theory also come from African queer scholars who are roundly invisible in contemporary queer literature (Ekine and Abbas, 2013). Indeed, Douglas Clarke (2013) notes that contemporary queer theory which comes predominantly from North America dominates debates about what 'counts' as queer. Queer theory is written 'with the white homosexual in mind', with Black homosexuality only emerging through a Euro-American gaze (Clarke, 2013: 176-7). With this bias, this means that mainstream queer theory reinforces the objectification, silencing, and hierarchies that it seeks to dismantle elsewhere.

Queer theory, and the approach that it has taken, has opened up debates around other marginalised groups and their experiences. Trans theory, for instance, draws on Butler's work (1990) of the instability of the sexed body and performativity to articulate transsexualism in the contemporary world (though for critique, see Audrey Mbugua, 2013). As with queer, crip theory which explores disability through queerness, has adopted the 'reclaiming' of offensive words used to insult disabled people. In the same way that queer critiques heteronormativity, crip approaches draw attention to the injustice of a world created for bodies which are temporary-abled (see Chapter Ten for more discussion of what it means to be temporary-abled)

(McRuer, 2006). These theories helpfully encourage us to look with new eyes at what we have taken for granted; an important task when dealing with questions of justice.

Critical Race Theory

Critical Race Theory (CRT) is also a practical and theoretical approach that emerged in the 1970s in the USA and the UK. CRT centralises **'race'** in its analyses and holds that just as feminism applies a gendered lens to better understand (in)justice in the world, so too do racialised analyses help us to understand more about (in)justice. CRT emerged out of recent developments in the 'legal leftist' movement known as critical legal studies. This movement critiques the liberalism that underpins contemporary legal ideologies and structures. CRT, in response to critical legal theorists' focus on class, developed a mode of analysis that centralises the lived experience of 'race' and racism in contemporary social life.

CRT is in many ways both a straightforward theory to grasp and a difficult one for many people to stomach. One of the main tenets of CRT is that racism is normative. That is, racism is everywhere, and that it is normalised. Rather than one-off instances of aggression that we all agree are aberrant, racism is so ordinary – so much part of landscape of everyday life – that it appears natural (Rollock and Gillborn, 2011; see Delgado and Stefancic, 2000). The idea that racism is 'normal' can be difficult for some people to accept; especially those who are not usually on the receiving end of racism.

For CRT scholars, this refusal, or inability, to see racism is an expression of White supremacy. White supremacy, like patriarchy, reinforces unequal power relations. It is what sustains the subordination of Black people. White supremacy and White ideology are taken for granted in everyday life. CRT is spearheaded by Black scholars (Crenshaw's understanding of intersectionality, for instance, interacts with CRT, and Crenshaw is a key CRT scholar), but white people working with CRT can use their own experience of 'race' privilege, and their reflections on their own racism to bring a critical race analysis to their own work, and their own ways of doing/being White (Ware and Back, 2002).

In many ways, the anti-**colonialism** that is espoused by Franz Fanon (1952, 1963) can be understood to interact with CRT as a way of transforming the bases upon which knowledge is constructed. As with queer theory, and with feminism, anti-colonialism is presented as a politics which seeks to transform the very structures of socio-economic dominance, not merely by rejecting them, but by reconceptualising what it is to live with these and to construct a world outside of this. Part of the ways that CRT does this is through story-telling and constructing subjective narratives which put at the centre experiences of marginalised story-tellers themselves.

Derrick Bell's (1992) allegorical story *The Space Traders* is an example of this sort of practice and of the tenets of CRT more broadly. The story concerns a scenario where aliens arrive in the USA and decide to offer wealth and various technological advances

to the USA in exchange for the USA handing over all of their Black citizens. Following a referendum and lots of negotiation, including eliminating the objections of protesters, the **State** agrees to the trade. The point of the story is to show how in contemporary life, if such a situation arose, it is likely that the majority of white Americans would vote for this trade; they would put their interests ahead of the **human rights** and the human status of Black Americans. Of course, such a theory cannot be tested, but the story is intended to provocatively ask its reader to reflect on the insidious way that something initially outrageous becomes, through sleight of hand, normalised.

Using storytelling in this way, CRT scholars trouble the dominance of conventional ways of debating, of framing arguments, or of doing politics. Yet, this method is one of the reasons CRT is contested and potentially controversial. Critics object to a theory which does not apparently deal in **objective** analysis; that is avowedly partial. They argue that it is impossible to enter into a debate with material like this. Conservative ideologies dislike the emphasis on **subjectivity** and on **experiential knowledge**, which is considered to be lacking in rigour. They dislike the rejection of meritocracy that CRT espouses. Left wing thinkers too, find CRT difficult to accept. CRT scholars also receive so-called 'friendly fire' from 'progressive' thinkers 'who publicly avow their commitment to advancing equity but object to CRT's bold decision to put 'race' and racism at the forefront of their analysis' (see Gillborn: 2018). The premise that racism is normal, and that white people only help eradicate racism and fight for the

rights of minorities when it suits them (when there is 'interest convergence') is perhaps too unsavoury a reality (Rollock and Gillborn, 2011).

Yet, notwithstanding the backlash, CRT theory has also fostered the development of a number of offshoots which centre differently marginalised groups in analysis of social and political justice. DesiCrit centres the experiences of South Asian people in the judicial system in the Global North. From being racially misrecognised, to profiling when travelling, to being characterised as a 'model minority', the specific experience of being South Asian is one that received specific focus through a DesiCrit lens (Harpalani, 2013). TribalCrit and LatCrit also centre the experience of Indigenous people and Latina/os in the USA in the context of their interaction with institutions of law and control (Brayboy, 2005), whilst a branch of theory that examines the intersection of disability and 'race' (DisCrit) also has at its origins the political work of CRT (Annamma et al, 2012).

The principles of CRT emerge out of a North American and European context, so it might be argued that CRT cannot function in the same way in the Global South as it does in the North. Certainly, racism operates everywhere, but the structures that CRT responds to – namely unproblematised Whiteness – are also produced in part by neoliberal **post-industrialist** socio-cultural contexts, as well as hangovers of coloniser pasts.

Neoliberalism

Not a theory in itself, but more a buzzword of our time, this concept is useful to understand our global political economic system. We currently live under neoliberal **capitalism**, a political economic system where wealth, or capital, is in the hands of private owners, rather than the State, or the people, for the purposes of capital creation and wealth accumulation. The *neo* in neoliberalism stands for a resurgence of classic liberal ideas and practices after a period of experimentation with other political economic systems, including communism, or versions of state capitalism (where the State owns the means of production; Cliff, 1974), and social democratic capitalism (where ownership is shared between the State and the private sector and the State owns most public services and invests in them; Harvey, 2007).

Liberalism has been the dominant **Western** political ideology since the eighteenth century. In a sense, liberalism was about challenging traditional social and political hierarchies, which up to the end of the eighteenth century saw the monarchy, aristocracy and clergy at the top and the rest at the bottom, with little to no opportunity to 'climb the social ladder'. Early liberals like Adam Smith and Jean Baptiste Say were all white middle-class men trying to consolidate their social, political and economic power. They did not stand for equality among 'races' or genders. They were, like most men at the time, what we would now consider racist and **misogynist**. As such, three centuries of liberalism in the West have produced societies where white men tend to be socially and politically advantaged through law,

institutions and social norms. This means that social, economic, and political power is unequally distributed in liberal societies *by design*.

Liberalism is an ideology, and not a natural state of affairs (Harvey, 2016). Political ideologies are made up of many different, sometimes contradictory ideas that pertain to the individual, society, the economy, and the relationships therein (Freeden, 1994). While liberalism has evolved into both right (conservative) and left (social democratic) incarnations, its essence is about protecting and furthering individual freedom. For this purpose, government is necessary to protect the individual, but too much government can threaten freedom. Thus, liberal doctrine has long been concerned with discussing where government is necessary and should intervene in the lives of individuals, and where it is not, and should therefore be kept at bay. Most liberal commentators agree that the State and government should be concerned with protecting individuals from **harm**, whether that comes from others (through the criminal justice system), disease (through health provision), or war (through defense). The pursuit of individual freedom is connected to increasing individualism, which means putting individual self-advancement, goals, and needs over and above the shared goals and needs of community and society. Our age of liberalism is said to be characterised by increasing individualism (Elliott and Lemert, 2005).

So, what is new about neoliberalism to deserve its name? Stuart Hall (2011) talks of the neo in neoliberalism as standing for neoconservatism, or the right-wing

governments spearheaded by Margaret Thatcher in the UK and Ronald Reagan in the USA in the 1980s. Other commentators identified a resurgence of ideas that used to be popular in the nineteenth century, but lost popularity in the middle of the twentieth century during the golden age of social democracy and European welfare states. These ideas include reverence to the **'free market'** and *laissez faire* economic liberalism, or the lesser involvement of the State in directing and regulating markets. This entails such economic policies as privatisation of services, austerity and cuts in public spending, and generally increasing the roles and responsibilities of the private sector, curtailing the role of the State and public sector in the economy and society (Peters, 2012). Does this sound familiar? Think about the UK context (or a context that you are familiar with). Are policies such as privatisation and cuts in public spending popular? Increasing individualism and the lessening role of the State and the public sector has translated into a political strategy where individuals are made to feel solely responsible for their own conditions (Peters, 2017). Shifting the burden of responsibility away from government and the State and towards the individual has serious implications in peoples' lives, from health, to work, to criminal justice. Here is an example:

> Marion, a Black single mum with two children lives in London, UK. She is a British national. She works early morning and nights shifts as a cleaner in an office in the city, she may also have another job during the day on top of her cleaning position. Her work has been outsourced to an agency, so that the

> company that owns the office does not have to be responsible for her health and occupational rights. She works for this company, but she does not have a contract with said company. The employment agency that contracts her gives her a zero-hours contract paid at the minimum wage, so she needs to work long hours to make ends meet and cannot afford to be sick, or miss work, or her children will go hungry. Given that her salary is low, she buys cheap food rather than fresh food from the supermarket and can only afford to take her kids out to McDonalds for a family meal. Sometimes, the family are forced to use foodbanks. She cannot afford childcare, so the kids are often left home alone while she is out working, and she does not have the time to make sure that they are doing their homework and going to school regularly. Because she does not earn very much from her job, she does receive some benefits, but even this is not enough some weeks. The stressful and meagre lifestyle takes its toll, and she falls ill. She finds she has type II diabetes. While in hospital, the doctor tells her she needs to change her diet and exercise, but she says she has no time or money to afford a healthy diet or to exercise. As a result of her sickness, she is not able to work, and therefore earn a living for her family.

In this scenario, you can see how the woman's **agency** - or the individual **power** she holds to shape her situation - is curtailed. Under neoliberal **governance**, she is made solely responsible for her own economic and health condition and the raising of her

children, their education, health and wellbeing, and few rights granted to her by her employer or the State. She is isolated. Her children are also likely to suffer due to her situation…

The spread of neoliberalism and economic policies associated with it has been secured through **globalisation**, a process of trade liberalisation at the global level underpinned by neoliberal political economic principles. Although globalisation was facilitated by various converging factors, including technological development and its effects on mobility and flow of both people and ideas (Castells, 1999), it should primarily be regarded as a process of creation of exploitative global markets dominated by the West, where colonial relations were refashioned into a north/south split of consumption/production (Wallerstein, 2005).

In what ways, if at all, is any of this relevant to sex and crime? The pursuit of sexual freedom as one expression of individual freedom has certainly intensified during the time liberalism has been dominant. However, such sexual freedom is curtailed in such instances as when it is perceived as harmful. In those instances, the government is called upon to intervene. For instance, Craig Rich et al (2012) talk about a neoliberal sexual politics in the context of the American military where LGBT+ servicemembers feel pressure to keep their sexual identities private, in the 'home' or in the 'bedroom'. We will return to the heteronormative culture of the military in chapter eight. Ideas about what is harmful to society have changed over time, particularly in relation to

sex. Yet, given that liberal societies continue to be hierarchical, patriarchal, capitalist, and individualistic, the manner in which **harm** is understood and regulated will reflect these structural facts.

Risk

Though significant within criminological study, it is the discipline of anthropology which has long been concerned with cultural constructions of risk as a matter of social organisation, power distribution, and related distinctions between acceptable and unacceptable behaviours. The work of Mary Douglas (2002[1966]; 1992) and Douglas and Aaron Widavsky (1983), explored, among other things, how risks are by their nature uncertain, and how social and cultural responses to risk are value-laden, varied, and multiple. They advocated for a cultural approach to the study of risk, which 'can make us see how community consensus relates some natural dangers to moral defects' (Douglas and Widawsky, 1983: 7). Out of all existing risks and dangers, it is only some, not all, that receive attention and warrant social and political interventions. The choice will largely depend on the shared values and beliefs of a given social body or community. For instance, the risks associated with drug taking or unprotected sex are identified and intervened upon through moral, criminal justice, and **public health** efforts, whereas the risks associated with extreme sports receive no such treatment. Start to think about why this might be.

A shared understanding of risk and danger allows for certain moral attitudes and behaviours to be formed and maintained. The aim of such shared understandings is partly functional; it is about maintaining a certain social, cultural, and political order. In general, any challenges to such order are reacted to through blame, repression, or exclusion. Even in societies where formal criminal law and criminal justice systems as we understand them do not exist, we can still observe the exercise of social control through such mechanisms (see for instance Douglas's (2002[1966]: 162-3) account of the way that incest and adultery are punished by the Nuer people of South Sudan).

Contemporary classic sociology identifies risk as a central category of study for understanding **modernity**. Despite some differences, the works of Ulrich Beck (1992) Zygmunt Bauman (2013) and Anthony Giddens (1999) all suggest that to understand contemporary social organisation, we must conceptualise the role of risk within it. Through the concept of 'the risk society', Beck and Giddens highlighted how the nature and understanding of risk has changed following modernisation processes, ensuing scientific developments, and technological change. While such changes are observable, the basic aims and functioning of risk management remain unaltered in their quest to promote a certain kind of social order that reflects power distribution. As such, certain peoples will be considered to be at greater risk than others. Young, white women for instance are often figured as the 'ideal' victim of crime in public space, and imagined to be at greater risk than other groups. Conversely figures who

are considered to be risky are also constructed along stereotyped images. The influence of intersectionality is important to consider here.

One relevant aspect of these sociological analyses of risk concerns the role of scientific knowledge in its understanding. Whereas in non-modern societies, social understandings of risk were not grounded in science but in lay knowledge, today some institutions in society develop and apply scientific knowledge to the understanding of risk. This produces interesting dynamics in relation to the cases we examine throughout this textbook. We can observe the application of both lay and scientific knowledge, and associated attitudes and control mechanisms, in relation to the risks of chemsex, for example, which we encounter more of in Chapter Nine.

Criminal law deals with attribution of harm, risk and blame to maintain 'the public good' (Douglas, 1992) by enforcing lay knowledge to distinguish acceptable, moral behaviour, (for instance heterosexual, monogamous, sober sex) from unacceptable, immoral behaviour (for instance homosexual, group sex under the influence of illicit substances). Contemporaneously, public health institutions apply largely scientific knowledge to understand the risks associated with such behaviours and produce interventions to at the least minimise, and at the most control, such risks.

Calculating risk can also be thought of as working to avoid harm. The study of harm is known as 'zemiology'. Ultra-realist approaches to leisure and to criminology more

broadly, are avowedly anti-capitalist and critical of the capitalist realist apologia that they witness within contemporary discourses about risk, security, and politics (Hall and Winlow, 2018: 50). In a sense, ultra-realism is reacting against the transformation of parts of the left realism that preceded it into cultural criminology. They critique the neoliberal figure of 'special liberty'; the notion that some individuals consider themselves to be uniquely permitted to behave badly – to cause harm – as a manifestation of their individual liberty in the pursuit, as they put it, of 'the libidinal energy of obscene enjoyment' (Hall and Winlow, 2018: 49). They critique the political left for, as they see it, falling down the rabbit hole of 'identity politics', where minority rights must be protected, and censorship of free speech prevails; where subjective universalisms are formed, and progress stagnates around individual sensitivities (Hall and Winlow, 2018: 44-5). Instead, they argue, **'objective'** harms must be taken seriously; environmental harms, sexual exploitation, slavery, and arms dealing cause objective harms which ought to be more of a cause for concern to criminologists than they currently are. 'Standpoint interest groups' they argue, dilute this possibility and reproduce 'complacent' attitudes to social life (Hall and Winlow, 2018: 55).

Certainly, one of the main points of studying criminology, and of studying deviant sexual practice in relation to crime is to become (more) furious about the status quo and to rail against the way that people, groups, ideas, humans, and non-humans are exploited, perhaps, by those who think that they enjoy 'special liberty' to do harm. We see this, for instance in the exercise of contemporary **rape culture**. However, where

these ultra-realist approaches could be said to go somewhat awry might be in their conceptualisation of minority rights.

Steve Hall and Simon Winlow (2018: 44) argue that 'what were once suppressed knowledges have…been brought to light to occupy newly "privileged" positions…which have subsequently become closed and protected from critiques'. And later; 'radical feminist analyses are too restricted to female victimhood' and pursue a 'very specific agenda focussed on violence against women' (2018: 46, 50).

If the book that is currently in your hand, and other books like it, tell you anything, they tell you that this is an idealistic misreading of feminist and, we might add, queer approaches to crime. Studies of masculinity, male victims of rape and domestic violence and abuse, trans rights, AIDS activism, LGBT+ politics, which do not centre the heterosexual cisgender woman's experience, exist in no small part only because feminist and queer scholars have taken gender and sexuality seriously as a locus of analysis; something that white male scholarship like that of Hall and Winlow (2018) has worked to dismiss again and again. And, as the conversations in these fields and this book demonstrate, dissent, debate, and critique are rife in these fields. Rather than the 'echo chamber' silos that Hall and Winlow rightly decry, feminist politics (which receive specific mention by these scholars as opposed to any other politics of the marginalised: you can draw your own conclusions about that!) tend to be dialogic spaces. These spaces have made room for structural, political, environmental,

capitalistic harms to be identified and urgently responded to. These outcomes rather resonate with, rather than counter, the ethos that appears to underpin ultra-realism.

Resistance

Though not a body of theory in itself, the concept of resistance is nonetheless helpful for us to understand how dissident movements have helped to bring about social change, and the analytical methods that they have used to do so. We talk more about the practice of resistance in Chapter Fifteen, because resistance is obviously something that you *do*. But you also *do* theory, as we have seen from the discussions above.

To resist is to refuse to go with the flow. To resist is to make a stand. Something which is resistant is awkward, insistent: it sticks. In the context of **social justice**, it is no exaggeration that most movements and changes in social attitudes towards questions of justice have been brought about by resistance movements.

In his 1849 tract calling for the end of slavery in the USA, Henry Thoreau explains that governments and democracy are not inherently benevolent; that the laws are not always right, governments do not always act in their citizens' best interests, and that given this, there ought to be no obligation on citizens to obey unjust laws (Thoreau, 1993[1849]). Thoreau argues that voting for politics you believe in is not enough to bring about change. Instead, mass action and mass disobedience are what he says is

necessary. A refusal to pay taxes, for instance, a refusal to sit in a different part of the bus, a refusal to leave the lunch counter at Woolworths, a refusal to sit down on a plane, a refusal to go to school, a refusal to register with the State, all become ways of pushing back against unfair laws. Other active practices: punching Nazis, speaking out against unjust law, gathering in public spaces to protest, using drones to interfere with the air space at airports, also work to resist the politics of the States.

Thoreau's theories have influenced resisters and activists including Martin Luther King and Mahatma Ghandi. The act of putting resistance into practice is achieved, according to Paulo Freire (2017[1970]: 25) by developing a praxis; a 'reflection and action upon the world in order to transform it'. Theory is nothing without practice, for Freire. It is not simply enough to say that minority sexual rights should be protected, or that the homeless should not be persecuted; it is also important to live in a way that helps your politics come to life.

Freire was inspired by an anti-colonialist politics. Fanon (1963), too, whose ideas we encountered in the context of CRT was committed to anti-colonial causes. He espoused the importance of rejecting colonial structures. Around education and around politics, this looks like rejecting the hierarchical structures which have characterised colonial rule. For Fanon, colonialism is a dehumanising violence that has only been able to thrive because of the violence of colonisers in all areas of life; language, religion, policing, sexuality, work, health, and the family. It should be met

with violence in all these realms. Calls for violence like this are unsettling, and are not commonly encountered as legitimate in protesting movements, and yet condoning violence can, itself, become a powerful tool for resistance.

Another unsettling call for resistance might be that which is articulated through hopefulness and desire. For Freire (2017[1970]: 64-5), hope moves movements. It is easy to give up hope, to think that the world is a dreadful place and that we have a bleak future, but this, Rebecca Solnit (2003) suggests, is what people invested in an unjust status quo *want you to think*; that there is no point in trying, so that you will not do anything at all to resist. Hope might appear vapid or naïve as a tool of resistance, but it is 'rooted in men's incompletion' (Freire, 2017[1970]: 65); the sense that there might be something more, or something else that we might not yet have tried. As Freire (2017[1970]: 65) put it, 'as long as I fight, I am moved by hope; and if I fight with hope then I can wait'.

The same sort of provisional optimism can be found in bell hooks' centring of passion and pleasure as tools to upturn the status quo. Political action starts from a place of pain, or of struggle (hooks, 1994: 74), but freedom can be found by following desire paths, recognising moments of ecstasy, and, importantly recuperating intimate love – or the erotic – into political practice. Indeed, for Lorde, the fact that erotic power has, in capitalist societies become relegated to all that is sexualised – and private – is an attempt to curtail the potentiality of this power (recall the example of Rhianna in

Chapter One); 'recognising the power of the erotic within our lives can give us energy to pursue genuine change within our world' (Lorde, 1987[1978]: 59). Indeed, centring the pleasurable, the ecstatic, the hopeful, and the erotic in this way can seem counter-intuitive to political action. And this counter-intuitiveness becomes part of what makes it so useful for resistant politics.

The politics of power, domination, and marginality which all these scholar-activists explore also helps us to mount a resistant praxis by calling into question the structure of what dominates the centre. So, whiteness, wealth, able-bodied-ness, heterosexuality, English language-speaking, passport-holding, being well-educated are all loci of power. People outside of these positions are at the margins. Yet, as hooks and Lorde help us to see, being at the margin can enable activists to scrutinise the way that the centre is held in place. And to resist it. And to cause it trouble (Fanghanel, 2019).

Case study

Consider the following case study. We are going to look at the facts of the case and then offer different analyses through each of these different theoretical lenses in order to outline how these different theoretical perspectives can help us to understand the case; how to put theory to good use.

[START TEXTBOX]

Amy Kaler (2003, 2004) has conducted research on how men in Malawi talk about HIV. As part of her research, she encountered some interesting narratives shared by the men that she spoke to.

In Southern Malawi where Kaler's research takes place, 19 per cent of the population are thought to be HIV+. HIV/AIDS is known to be prolific in East African countries and as such public health message and AIDS education has successfully raised awareness about the potential consequences of risky sexual behaviour. Education is centred around using condoms or other barrier methods of contraception and avoiding promiscuity. The education programmes have been so successful at getting the message of the dangers of AIDS across, that among young men who are perhaps sexually promiscuous and do not always use condoms there is the sense that contracting AIDS is inevitable, and that if a man has ever had risky sex he probably is HIV+. This fatalism is compounded by the fact that especially in rural parts of Malawi there is not enough funding for the widespread testing of HIV status, therefore many people do not actually know their HIV status, and, believing that they are probably already HIV+ decide there is probably no point in continuing to be 'careful' and use condoms, because it is too late (Kaler, 2003: 352-3).

Men who therefore believe themselves to be HIV+ articulated narratives and discourses around the virus which reconfigures what it means to be infected. Given that men who are HIV+ are assumed to be promiscuous, the HIV+ status becomes a

sign of virility; that one is a 'real man' (Kaler, 2003: 359). Promiscuity is also associated with mobility, of being a man of the world, thus, knowing the world and being HIV+ can be thought to go together. Having the virus, having sex with women and infecting them with the virus, for the women to then go and infect other men with the same virus is also figured within these discourses as an expression of successful masculinity (Kaler, 2003: 363). The men who do the infecting position themselves as more virile - more masculine - than the man who is infected; who is, in fact, humiliated. Men, in these stories, who *do* use condoms and who *are* 'careful' are conceptualised as less fully masculine than those who claim their 'right to a high-grade sexual experience'; the sort that can only be achieved without a condom (Kaler, 2003: 362).

[END TEXTBOX]

How might the different theories that we have encountered in this chapter – and that we use in this book – illuminate our understanding of Kaler's (2003, 2004) analysis? In Table 2.1 we sketch some suggestions:

[TABEL 2.1 HERE]

Summary

Different perspectives help us to understand this story in different ways. And it is not just this story about HIV in Malawi; in this book many topics can be understood from

different perspectives. This is why the subheading to this chapter is about 'how to think'. We encourage you, in your reading of the chapters that follow, to try to see how the same issue can be interpreted by looking at it in different ways; ways that do not contradict each other but which often illuminate different aspects of the same problem.

Review Questions

- Which of the theories we have outlined in this chapter resonate most with you?
- Can you think of other theoretical approaches you may have encountered already in your studies which may add to these different perspectives?
- The next time you read a news story, think about how different theoretical positions help you to understand different elements of how the world is. What are the differences you note?
- Remember: theory is next to useless if it is not put into practice, so keep experimenting!

Chapters that this links to:

All of them...