

# 1 Introduction: Women and Crime in History

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## Introduction

Research on gender and crime has never been as dynamic and innovative as it is today. There are indeed good reasons for historians and criminologists to pay attention to gender in their examinations of crime. First, the inclusion of gender as a category of analysis of crime has sharpened our understanding of men's and women's criminality in various ways: the motivations behind criminal action, the organisation of crime, the prosecution of offenders and, finally, the representation of crime. Secondly, criminal behaviour is strongly influenced by the socio-economic circumstances in which men and women live(d) and gender expectations. Such gender expectations resulted in a general bias towards women and crime; women were deemed less likely to commit crime or were believed to only commit 'typically female' crimes, such as moral offences, witchcraft and infanticide. These biases caused gendered prosecution patterns in the past, as well as incorrect assumptions by those studying crime in the modern era.

As contemporary views on criminality were gendered, early research by historians and criminologists initially followed a similar path. When scholars eventually turned towards the subject of criminality in relation to women, they often relayed the dominant views on women's victimisation, passivity and innocence.<sup>1</sup> Certain academic publications in criminology still claim that we are currently experiencing 'seismic historical changes' with regard to female crime rates.<sup>2</sup> Accepting women as potential criminals, researching the role of gender as an influence in criminal behaviour and not hesitating to highlight the limitations of this category of analysis are necessary steps in history and criminology to understand women's criminality.

<sup>1</sup> Wiener, 'Sex Roles and Crime', 54–5; Kloek, *Wie hij zij, man of wijf*, 156; Spierenburg, 'How Violent Were Women?' 11; Sandberg, 'Generous Amazons Came to the Breach', 654.

<sup>2</sup> Carrington and Death, 'Feminist Criminologies', 99.

Early studies on the criminality of women were often based on quantitative data. For a long time, historians and criminologists assumed that gender differences in recorded crime were static over time and that women were in general less likely to commit crimes than men. Much of the early research on crime history has negated women's roles as criminals. Women were first mentioned by Beattie in the 1970s, which continues to remain an influential work,<sup>3</sup> but the topic of criminal women was not usually at the core of the research in crime history or in criminology, because women were considered unlikely to commit as many crimes as men.<sup>4</sup> Many studies concluded that women's crimes were either non-substantial (due to the lower rates of criminality) or that they were gender-specific, such as prostitution or infanticide, and therefore deserved a different analytical framework than male crimes. The fact that men commit more crimes than women has even been called 'one of the few undisputed "facts" of criminology'.<sup>5</sup>

The rise of feminist criminology and women's history in the 1970s led to the questioning of these assumptions.<sup>6</sup> Several studies on women and crime in England, France and Holland showed that the proportion of women in crime was considerably higher before c. 1900, sometimes even as high as 50 per cent. In addition, examinations also revealed significant differences between rural and urban areas: female crime rates were much higher in cities. The evidence of higher proportions of female crime in the past has prompted historians to reconsider stereotypical views about women's contributions to crime.<sup>7</sup>

Before the real breakthrough of gender as a category of analysis in history in the 1990s, some attention was given to the gendering of crimes. In several English and Dutch studies, female crime/criminals were characterised as passive, dependent, timid, assisting, less direct, less open and less confrontational with a victim.<sup>8</sup> A similar view was held by criminologists in the second half of the twentieth century.<sup>9</sup> Women were also recognised as vulnerable and

<sup>3</sup> Beattie, 'The Criminality of Women', 80–116.

<sup>4</sup> Schmidt and Pluskota, 'Gevaarlijke vrouwen, gewelddadige mannen?' 60–77.

<sup>5</sup> Lauritsen, Heimer and Lynch, 'Trends in the Gender Gap in Violent Offending', 362.

<sup>6</sup> Adler and Adler, *Sisters in Crime*; Simon, *Women and Crime*.

<sup>7</sup> Beattie, 'The Criminality of Women', 80–116; Castan, *Les criminels de Languedoc*; van der Heijden, *Women and Crime*.

<sup>8</sup> Wiener, 'Sex Roles and Crime', 54–5; Kloek, *Wie hij zij, man of vrouw*, 156; Spierenburg, 'How Violent Were Women?' 11; Sandberg, 'Generous Amazons Came to the Breach', 654.

<sup>9</sup> Heidensohn and Silvestri, 'Sex, Gender, and Crime', 336.

often cast in the role of the victim, as the victimisation discourse was deeply embedded in early feminist criminology.<sup>10</sup>

The past twenty years have, however, shed new light on the role of women in crime over the centuries: in the influential volume *Gender and Crime in Modern Europe*, published in 1999, the editors Margareth Arnot and Cornelia Osborne explicitly engaged with the concept of gender in crime history and led the way for further studies.<sup>11</sup> The volume summarised the past historiography based on women's history and provided new insightful routes towards research on the history of crime and gender. They combined studies on various European countries and attempted to go beyond the nation-states' boundaries, while trying to replace male and female criminality in the broader frame of social control and changes in prosecution policies. The volume also showed that criminal activities and judicial responses cannot be understood without looking at gender relations and how constructions of masculinity and femininity were influenced by criminal and judicial discourses, and *vice versa*. Their pioneering work encouraged the re-evaluation of crime history through a new lens and led to the discovery of new gendered differences, such as judicial leniency towards women, qualitative differences in expectations towards young boys and girls, use of courts by women and the – sometimes hidden – allegoric representations of crisis, honour or innocence in male and female criminals.

In the last two decades, scholars have made great steps in our knowledge (both quantitatively and qualitatively) of female criminality in the past. Recent studies, often made possible thanks to the creation of large databases, have given us insight into the variations of the share of women in crime rates over time. There are three important conclusions to be drawn from such studies. First, although large variations over time and space can be noticed, the proportion of female crime in many cities remained rather high until the end of the eighteenth century.<sup>12</sup> Second, there are many more similarities between the types of crimes committed by men and women and the ways they were treated by the criminal justice system than previously assumed.<sup>13</sup> Third, gender ideologies and practices were certainly interrelated, but that does not mean

<sup>10</sup> Sandberg, 'Generous Amazons Came to the Breach', 654; Carrington, Kerry and Death, 'Feminist Criminologies', 105–6.

<sup>11</sup> Arnot and Osborne, *Gender and Crime*.

<sup>12</sup> See for instance: King, 'Gender, Crime and Justice', 66–7; Godfrey, Karstedt and Farrall, 'Explaining Gendered Sentencing Patterns', 696–720; van der Heijden, *Women and Crime*.

<sup>13</sup> Walker, *Crime, Gender and Social Order*, 270; Dean, 'Theft and Gender', 412; van der Heijden, *Women and Crime*, 63–9.

that women's criminal patterns in everyday life always reflected gender norms. As Garthine Walker's thorough analyses on crime, gender and social order in early modern England has shown, women's lives did not neatly fit patriarchal values.

Throughout both the early modern and modern periods, norms and practices were interrelated but were by no means one and the same. After all, women's crimes were highly dependent on the specific context in which they lived their lives. This volume intends to shift the attention from the norms in the history of women and crime to the contextualisation of everyday practices of the crimes of women in early modern and modern Europe. We believe that contextualisation is the key to understanding female crime, its representation and its variation in time and space.

Many studies viewed women's criminality from a top-down perspective, first and foremost considering their crimes as an outcome of gender norms that reflected patriarchal relations in pre-modern times and the changing perceptions about the public roles of women and men. The scholarly debate on women's criminality was originally centred on the issue of the private and public roles of men and women, and the way gender ideologies impacted the prosecution of crime as well as the actual crimes committed by men and women. However, as the second chapter explains, there are several difficulties with the explanatory model of public and private spheres. The most important problem results from the rigid dichotomy, which does not take into account discrepancies between gender ideologies and everyday practices of men and women. The focus on norms and ideologies primarily answers the question of why women committed *fewer* crimes than men but fails to explain why women committed crimes in the first place and why there were variations in female criminality across Europe between 1600 and 1914. Crime historians have now recognised that the dichotomy of public and private lives is too narrow and blurry to sufficiently explain female crime, but there has been no successful attempt to replace the concept of separate spheres by a more effective model.

Contextualising women's crimes will help explain *why* women committed crimes and which crimes they committed in specific contexts. Contextualisation also leads us to two underlying forces that have received little attention in the explanation of women's crimes in the past. The first force concerns women's agency in certain circumstances. The concept of 'agency', in itself, is not unproblematic. Using it can easily lead to the disregard of structural and institutional forces that influenced women's behaviour. Agency can furthermore unjustly suggest that poor and vulnerable women possessed power that they did not

have in every sense of the word. The term agency is also often used in the context of resistance to social norms and oppressive power relationships. We prefer the definition that was recently introduced by Anne Montenach and Deborah Simonton: agency is 'a process and mosaic of changing opportunities'.<sup>14</sup> This description takes into account the obstacles women were confronted with as well as the opportunities available to them. Using this definition of agency enables us to scrutinise why women committed crimes and under what circumstances, instead of wondering why they did not commit crimes, or why they did so less frequently than men. Contextualisation furthermore reveals the importance of socio-economic conditions and urban institutions. Crime historians often focus on cultural determinants of crime, but largely ignore the link between socio-economic circumstances and the likelihood of women to commit crimes. The right question may not be why and how women and men engaged in separate spheres, but how specific (cultural *and* socio-economic) contexts offered women 'agency' to lead independent lives.

Looking at the context in which women committed crime also solves problems attached to the separate spheres model, because it enables historians to include both gender norms and everyday practices of men and women. As the chapters in this volume demonstrate, gender expectations led to the gendering of crime by the institutions, law enforcers and newspaper reporting. However, the impact of gender norms on the prosecution of female crime, the actual crimes committed by women and the way their crimes were represented depended on the specific context where such norms were implemented. Protestant norms about women's sexuality in early modern Geneva and Holland led them to having similar laws and legislation and a greater emphasis on adultery committed by women, but the outcomes in these places was different. The maritime context of Dutch cities led to an over-representation of women and high numbers of women committing adultery, but at the same time, judges increasingly took into account that these women were grass widows who had to maintain their family without the support of a husband.<sup>15</sup> Therefore, the actual crimes committed by women and their sentencing were as much influenced by gender norms as by the context in which such norms occurred.

One could argue that crime historians by definition use the historical context to explain the behaviour of their research subjects. However,

<sup>14</sup> Montenach and Simonton, 'Introduction', 5.

<sup>15</sup> A grass widow is a woman whose husband is away often or for a prolonged period. Van der Heijden, *Women and Crime*, 111–27.

more contextualisation is needed to go forward. Contextualisation of crime stimulates historians to include the broad range of social, economic and cultural factors in their analysis. Although crime historians and criminologists generally agree that women's participation in crime in the early modern period was much higher in the urban environment than in rural areas, they rarely consider the specific urban context in their explanations. As the second chapter of this volume argues, no analysis has been carried out to explain which factors were conducive to the leeway experienced by women enabling them to lead public lives and commit crime. An overview of the various factors that can explain variations in women's crimes in Europe between 1600 and 1900 demonstrates the importance of often overlooked elements such as labour participation, family systems, living standards and the presence of and treatment by various urban institutions.

In his work on early modern London, Beattie already suggested the link between socio-economic circumstances and the high levels of female criminality. He concluded that the perceptions of women's behaviour were certainly important, but that the unusually high level of prosecution of women in seventeenth- and eighteenth-century London was contingent on the specific urban context. The pattern of urban immigration resulted in a large number of women living relatively free and independent lives. Most of these women dealt with severe difficulties resulting from unemployment, low wages and insufficient poverty relief. Thus, women's crimes in this period 'arose very largely as a response to the changing conditions under which a large part of the labouring poor lived and worked and to the inequalities under which they laboured'.<sup>16</sup> Olwen Hufton termed such living circumstances as the 'economy of makeshifts'; poverty relief, charity, support of friends and relatives, begging, prostitution and theft were the range of options available to poor single women.<sup>17</sup>

Why did crime historians focus so much on the public roles of women, without giving much thought about the social and economic factors that shaped such roles? A partial answer might be that crime historians and criminologists tend to explain crime by looking at cultural factors, such as honour, religion and patriarchal norms, rather than at social and economic aspects. This tendency must be linked to the so-called *cultural turn* in history; from the 1970s onwards, historians increasingly adopted cultural approaches that focused on the analyses of discourses, perceptions,

<sup>16</sup> Beattie, *Policing and Punishment in London*, 71.

<sup>17</sup> Hufton, *The Poor in Eighteenth-Century France*, 259; Tomkins and King, 'Introduction', 12–13.

representations and narratives. While criminologists developed quantitative methods and general explanations of crime (particularly male crime), most crime historians preferred in-depth analyses of case studies that might reveal the meaning of crime. Crime historians working on long-term trends of violence – such as Pieter Spierenburg and Martin Wiener – combined quantitative and qualitative methods to explain violence, but they also focused on cultural explanations.<sup>18</sup> All in all, crime historians have paid little attention to social and economic factors, such as social mobility, economic decline or migration patterns. They made little use of the work of economic historians, urban historians, migration historians and historical demographers, which provide figures and information that might link women's crimes to their position on the labour market, their pattern of migration or the demographic realities that caused them to lead independent lives.

How can crime historians adopt a contextual approach that explains the variations in women's crimes and the representation of their crimes? Besides including important findings of urban and socio-economic historians, the most important instrument may be the examination of sources that reveal top-down, as well as bottom-up processes, in the criminal justice system. Recent works on women's crimes have shown that women may not have been present in the higher courts but were most likely tried by the lower jurisdictions for a variety of reasons (leniency, trivial offences or double-standard in action).<sup>19</sup> The sheer amount of sources from the police courts or petty sessions (or on the contrary, their absence) often prevented historians to look for further data on the presence of women in these courts. The authors in this volume bring to the fore essential findings based on these often under-studied sources. Instead of focusing only on the highest courts, which tried significantly more men than women, the arguments in many of the contributions are based on quantitative and qualitative analysis of sources issued from the lower echelons of the judicial system. The data were collected at the level of the notary, police or first interrogations of the suspect. The cases registered were not always of a criminal or felonious nature; instead, they also could have been tried as petty criminality and, therefore, were much more common than serious crimes.

The contributions follow three main themes in the history of crime: violence and women, prosecution patterns and representations of crime. First, the connection between violence, gender and the urban

<sup>18</sup> Spierenburg, *Violence and Punishment*.

<sup>19</sup> Shoemaker, *Prosecution and Punishment*, 207; King, *Crime and Law*, 219; Jones, *Gender and Petty Crime*.



context is being analysed. The second part of this book focuses on prosecution and punishment. By looking at different legal systems in various parts of Western Europe, the articles in this section show if and how gender in specific contexts had an impact on women's prosecution, punishment and recidivism. The examinations of these articles are based on new types of sources: datasets on census records, convict systems, police records and data from the Digital Panopticon Project.<sup>20</sup> The last section of this volume focuses on the gendered representation of crimes, criminals and their victims that arose in the context of rapid urbanisation. The articles in this section belong to a relatively new approach to crime history that focuses on the representation of male and female deviants.

### **Violence, Space and Gender**

Recent work has shown that the incidence, forms of violence committed by women and their motivations need to be reevaluated.<sup>21</sup> From the 1980s onwards, the scholarship on violence has embraced a quantitative approach. This has drawn historians to examine the higher courts and the homicide and manslaughter cases that can be found among the serious, indictable crimes tried by these courts.<sup>22</sup> Regarded by historians as an indicator of the levels of violence in society, scholars followed Ted Gurr's ground-breaking study of long-term homicide rates in seeking to map, compare and explain long-term patterns of interpersonal violence.<sup>23</sup> The fruitfulness of the quantitative method is illustrated by articles such as Eisner's 'Long-Term Historical Trends in Violent Crime'. In his survey of the long-term dynamics of European homicide rates, he brings together data on lethal violence from a patchwork of local historical studies and provides a much-needed integrative and systematic comparison of these local estimates.<sup>24</sup> His Europe-wide analysis confirms the notion that homicide rates declined in Europe over the long-term, but there were significant geographical differences with regard to the trajectories towards these low homicide rates.<sup>25</sup> The sustained decline began in England and Holland during the sixteenth century, followed soon after by Scandinavia, Germany and Switzerland

<sup>20</sup> [www.digitalpanopticon.org](http://www.digitalpanopticon.org).

<sup>21</sup> Heijden, 'Women, Violence and Urban', 72–3.

<sup>22</sup> Arnot and Osborne, 'Why Gender and Crime?' 2.

<sup>23</sup> McMahon, Eibach and Roth, 'Making Sense of Violence?' 5.

<sup>24</sup> Eisner, 'Long-Term Historical Trends', 83–142; Eisner, 'Modernization, Self-Control and Lethal Violence', 618–38.

<sup>25</sup> Eisner, 'Modernization, Self-Control and Lethal Violence', 628–9.



during the first decades after 1600. The homicide rates in Italian cities remained high until the nineteenth century, at which time they then declined steeply.

While the underlying reasons for these diverging patterns remain understudied, a key point of focus in the larger debate is providing an explanation for the broader pattern of long-term decline of homicide.<sup>26</sup> Various scholars point to the changing cultural attitudes towards violent activity. Among these scholars, Norbert Elias' theory of civilisation has provided the most influential and controversial interpretative framework.<sup>27</sup> Both Robert Muchembled and Pieter Spierenburg have drawn on Elias to assert the relationship between the long-term trend of declining violence and the shift towards an increasing governing of emotions not only through institutional repression of violence, but also from within.<sup>28</sup> Others have pointed not to the spread of civilised codes of behaviour, but rather to changes in the perceptions of male honour and the rise of individualism that led to the marginalisation of violence in the lower orders.<sup>29</sup> Also credited were the expansion and stabilisation of state structures, their greater capacity for intervention and wider process of social disciplining, new working practices and improvements in schooling.<sup>30</sup>

Women played hardly any role in this important debate, as they were only responsible for a rather small, stable proportion of homicides during the early modern and modern period in Europe.<sup>31</sup> The quantitative examination of the higher courts significantly impacted the way women's violence has been viewed. First, due to the low share of women among those prosecuted for serious violence, the discussion on female offenders tends to consist mainly of explanations for their absence. The role of women in violence was above all understood as that of a victim rather than a perpetrator.<sup>32</sup> Violence, as some historians have put it, was not a woman's business.<sup>33</sup> Second, women's violence has been viewed as 'imitative' of men's as well as inherently different. In his

<sup>26</sup> For a discussion on the difficulties of comparative crime history see the introduction to our Special Issue on Crime and Gender in the *Journal of Social History*, Volume 51, Issue 4, Summer 2018.

<sup>27</sup> McMahon, Eibach and Roth, 'Making Sense of Violence?' 5.

<sup>28</sup> Muchembled, *A History of Violence*; Spierenburg, *Violence and Punishment*; Spierenburg, 'Violence and the Civilizing Process', 87–105.

<sup>29</sup> Shoemaker, 'The Taming of the Duel', 525–45; Eibach, 'Containment of Violence', 52–73.

<sup>30</sup> Eisner, 'Modernization, Self-Control and Lethal Violence', 631–3.

<sup>31</sup> Eisner, 'Long-Term Historical Trends', 110–12.

<sup>32</sup> Hufton, 'Women and Violence', 75–95.

<sup>33</sup> Spierenburg, 'How Violent Were Women?' 9–28.

account of homicide and serious assault in early modern Amsterdam, Spierenburg has argued that female violence was an unfamiliar phenomenon in court.<sup>34</sup> He speculated that the minority of women who did defy 'cultural stereotypes and religious warnings' in many ways 'imitated male types of aggression', such as cutting opponents with a knife and claiming drunkenness in court, having supposedly learned about the culture of violence through close contact with men.<sup>35</sup> Third, following the same line of reasoning that the culture of violence was a male culture, female killers have been characterised as distinctly tied to the domestic setting. By pointing to the gender roles, these works emphasise that women were less likely to commit crimes, particularly serious violent ones, because they had less freedom to engage in public life than men. Women, therefore, most likely murdered their children, domestic servants or husbands. While the idea of a confinement in the domestic sphere has been widely dismissed as an anachronistic projection of ideals,<sup>36</sup> the public and private divide remains prevalent in studies of gender and violence. Men are usually seen as being able to navigate between different realms, while women tend to be seen as more likely to commit violence in a household setting.<sup>37</sup>

Recent studies have demonstrated that the examination of women's violence requires a different approach and a different set of sources. Women's crimes were more likely to be handled by lower criminal courts, or less formal methods of conflict resolution, rather than by the higher courts.<sup>38</sup> In the past decades, it has been rightfully pointed out that when we look beyond lethal violence and at the lower levels of the criminal justice system, the gendered differences seem to become much smaller in terms of involvement, severity and setting. Anglo-Saxon scholarship has especially made significant headway in showing that the share of women among violent offenders was much higher than what was previously assumed based on lethal violence alone. For example, in the early modern British town of Portsmouth, women account for no less than 31 per cent of registered violent assaults.<sup>39</sup> The rates of

<sup>34</sup> *Ibid.*, 21.

<sup>35</sup> *Ibid.*, 26.

<sup>36</sup> Cohen, 'To Pray, to Work, to Hear, to Speak', 294; Jacobsen Schutte, 'Society and the Sexes', 363.

<sup>37</sup> Spierenburg, *A History of Murder*, 114–42; Howard, 'Crime, Communities and Authority', 85–6; Corley, 'On the Threshold', 144.

<sup>38</sup> Schwerhoff, *Köln im Kreuzverhör*; Shoemaker, *Prosecution and Punishment*, 292; King, *Crime and the Law*, 202–10; Gray, *Crime, Prosecutions and Social Relations*, 9, 170–1; Dinges, 'The Uses of Justice', 159–75; Williams, 'Counting Crimes or Counting People', 77–94.

<sup>39</sup> Warner, Riviere and Graham, 'Women Behaving Badly', 290.