

# Introduction

*Bernard Schissel and Carolyn Brooks*

This book is an overview of the rich and diverse nature of criminology and the thought-provoking research that often links academic analysis to criminal justice policy and practice. It examines theoretical approaches to explaining crime, public construction of crime (through media and law), the historical and contemporary shape of crime and punishment, and future directions of theory and crime control. Many of the chapters and the main arguments developed throughout are shaped by critical criminology; they examine how some individuals and groups come to be defined as “criminals” — as immoral or abnormal or simply “bad” — and conclude that this stigma is often not because of what they have done but because of who they are and where they fit into Canada’s social and economic system.

Many traditional criminology books concentrate on philosophies and studies that focus on the characteristics, origins, and effects of abnormal or non-conventional behaviour. We do not take that orthodox approach to crime here. Our focus, on the contrary, is primarily on the connections between socio-economic and political power and social control. We look at how the morals, values, and welfare of socio-economic elites are translated into the morality of the law and how power generates privilege through the courts. We critique conventional criminology as a “scientific discipline” — as a force that is an integral part of a particular worldview. Working within the boundaries of that worldview, the law exonerates and legitimates the powerful and indicts the poor for their poverty. We explore, in essence, the politics of morality and the morality of crime control.

Our approach, broadly framed, argues that it is difficult to define acceptable behavioural norms and appropriate penalties for violations of those norms. Definitions of and prohibitions for crime change over time and across social groups and societies, with little consensus around just what criminal behaviour is or even what constitutes criminal behaviour. As a result, our critical criminology is informed, in part, by historical studies that track changing modes of crime control. Historically, definitions of deviance and crime have been based on explanations ranging from sin to sickness to questionable lifestyle — explanations coinciding with the influences of religion, science, and the law. In our approach we assume that laws and norms are not necessarily unchangeable or correct, or even shared by most people. In effect, people in positions of power construct codes of conduct and, generally, they use them to control the behaviours and cultures of people who are on the social and economic margins, outside the mainstream, or somehow disadvantaged. The sensitivity and objectivity that criminologists struggle to maintain in studying deviance must be based on the realization that research in the areas of crime and deviance, however important, can be misused and misrepresented to the detriment of certain people. For, as several writers here point out, today the definitions and control of crime are connected to the workings of global capitalism, which, in most respects, are creating an ever-increasing global underclass of marginalized people. For example, of the largest one hundred economies in the world fifty-one are not countries but transnational corporations; and *they employ less than 1 percent of the world’s workforce* (see chapter 13). Their mandate is to reduce reliance on labour, which is often the

most costly (or uncontrollable) factor of production; and ultimately they work to secure more and more of the world's resources while driving a greater proportion of the world's population into poverty.

In the months following the horrendous events of September 11, 2001, as the discourse of terrorism unfolded, the focus of public debate and policy clearly shifted to security and its corollary, crime. This is crime specifically as perpetrated by “the other” — individuals or groups that operate outside the norm — and explained as the cultural or religious pathology of those groups. We are now loathe to consider terrorism in the context of international corporate exploitation. Importantly, the same discourse of crime that occurs in a global context happens, as well, in a local context. Crime, in the public eye, is about bad people, from bad places, doing bad things. The reaction to crime, much like the reaction to terrorism, is about finding and punishing. Much like the discourse of terrorism, the political talk is rarely about the geopolitical or socio-economic conditions under which crime occurs. It is relatively easy to see how the monopolization of the world's wealth by fewer and fewer people creates the root conditions of terrorism. It should be equally easy to envision how growing marginalization and impoverishment create the conditions under which poor people end up in jail. Ironically, as a society we focus on evil people doing evil things to innocent people. We rarely take a more “relativist orientation.”

This relativist orientation — that what constitutes virtuous or evil behaviour is relative to time, place, culture, class, gender, and age, among other factors — stands in contrast to absolutist thinking, exemplified by consensus theories, which assumes that crime and deviance are essentially norm-violating behaviour and that norms of conduct are agreed upon and are, by definition, correct. The consensus theorist focuses on identifying the offender and recommending either punishment or rehabilitation. Social policy-makers, most of them absolutist in their thinking, assume that the basic problem facing society is the rule-breaker, either as an individual or a group. They advocate policies that will either deter or dissuade a violator.

The system of justice and punishment in our society is based on the rather conventional assumption that the law is correct both because it reflects the will of the majority and because the practice of law (jurisprudence) is an objective, impartial mechanism for protecting the rights of all citizens. Interestingly, the philosophy that frames such consensus approaches is the same one that frames the way in which we think about science and its ability to detect and treat deviance. As we consider the origins of modern science, we find that our conventional understanding of crime and punishment has, embedded in it, a strong forensic element, which assumes that the commission of crime represents a pathology, either social or biological, that can be diagnosed and treated. For example, forensic psychiatrists now use a well-established method of detecting psychopathology (the psychopathy checklist) to determine and treat what they define as psychopaths or dangerous offenders. The implications for law are that psychiatrists get to decide what constitutes the traits of a psychopath and who gets defined as dangerous.

A critical counterargument might be that this mode of definition is, in part, a political act, for in the end the traits that constitute psychopathology are much the same traits that also appear in a modern, large business — aggression, self-indulgence, lack of empathy. Then, too, most of the individuals who end up in forensic psychiatric facilities, and who get defined as dangerous, come from the lower strata of society. This is not to say that they are not a danger to themselves or others; it is to say that their identification has much to do with where they come from, how they dress, or how articulate they are, and less to do with the actual science of identification. The science of criminology, then,

becomes largely a political mechanism that often works to define and “morally evaluate” the activities of only certain kinds of people, to the exclusion of others.

It is, then, the abuse of power and the inequality inherent in the Canadian criminal justice system that inspire critical criminology. The critical perspective in criminology and that of crime causation is based on Marxist frameworks and focus attention on the political, social, and economic structures of capitalism. A criminal is not necessarily immoral, but is, rather, often someone who is disadvantaged socially or economically, or even perhaps physically. That disadvantage becomes another person’s advantage as the supposed deviant is detected, defined, condemned, and punished, not for bad behaviour necessarily, but for occupying a low, stigmatized position in the socio-economic hierarchy. The person’s poverty in itself becomes a crime, and in the end the crime control system identifies and punishes poverty as the only immorality. Jails are full of poor people. The critical criminological position identifies imprisonment as a political act — an act that constructs and reconstructs the criminal in the eyes of the world.

The critical social analyst is thus impassioned to discover changes that, ultimately, can help the people who are most oppressed by discriminatory justice. This critical passion goes hand in hand with a desire to help bring fundamental change to the system of crime control. We hope that the readers of this text will be similarly impassioned by a sense that there are concrete social justice alternatives to the “crime problem.” For this reason, we believe that courses in crime and delinquency, and books that are pertinent to a profound and sensitive understanding of oppression and crime, must incorporate literature that investigates the roles of the “actors of crime” in more depth than is usual in conventional courses. The various analysts here examine crime and punishment as the embodiment of ideological institutions that operate within a larger structural context. To that end, the discussions address the role of poverty and inequality not only in criminal conduct, but also in how we define and punish bad conduct. This general theoretical and methodological focus must necessarily deal with the inequities of race, class, gender, age, and geography in Canadian criminal justice.

By offering an analysis of the often prejudicial treatment of women, youth, and men of marginalized racial and class backgrounds in the criminal justice system, we hope to demonstrate the importance of a critical understanding of crime. Such discussions are most poignant and relevant when they include the promise of alternative, restorative justice and community models of social justice. Using current critical theory we also aim to provide a thought-provoking pedagogical study that demonstrates how criminology links up not only with social and criminal policy but also with possible alternatives to the punitive treatment of offenders.

The book as a whole explores the diversity and importance of critical perspectives in criminology, but we do not ignore mainstream, traditional inquiry. Part I, “Explaining Crime,” begins with a discussion of the theoretical underpinnings of the debates in criminology and the sociology of crime and justice. Chapter 1 presents the conventional, consensus-based theories of crime as a point of departure for the following discussions. Chapter 2 then builds a critical orientation through a survey of current and former critical theories. Chapter 3 provides a survey of the theories that form a paradigm labelled Pluralist Theory. This chapter describes how a theoretical and pragmatic accommodation can occur between the apparently polarized theories of consensus and conflict. Chapter 4 provides an important contemporary dimension to criminology; it includes an historical overview of the development of feminist theory in crime and justice and shows how the incorporation of feminist and gender

issues have made a significant contribution to crime and justice theory and policy.

Whatever theoretical perspective we choose to study crime and justice, a primary, unforgettable factor is that some rules are just while others are unfair; some rules are applied without prejudice while others discriminate against the underprivileged; and certain types of crime are more prevalent amongst certain categories of people than others.

The chapters that follow Part I bring to life critical theoretical perspectives by linking them to the analysis of and explanations for crime and delinquency within Canadian communities. They suggest how different subgroups in the society come to terms with being the victims or the agents of social control. In Part II, “The Public Construction of Crime,” the contributions examine the mechanisms through which we come to see certain types of people as criminal. The chapters focus, in large part, on the connections between corporate interests, the media, and politics as they investigate the construction of crime stories in the public consciousness. The authors consider the popular cultures and political mechanisms through which marginalized or relatively powerless people come to be indicted less for their crimes and more for their place in society.

In Part III, “The Historical Shape and Form of Crime,” the chapters focus on the historical connections between oppression and crime. The debates centre largely on how certain people become condemned for their criminality at certain times in history and how the condemnation is tied to the social and economic conditions of those times. The authors argue, ultimately, that the definition and control of crime are, in large part, connected to managing the people most damaged by industrial development and colonialism. The historical studies presented in this part of the book are a counter to typical traditional histories that describe — almost empirically — temporal changes without presenting a social analysis. These chapters help us understand how the political and economic forces of a particular time period contribute not only to the creation of criminal behaviour but also, and more importantly, to the definition of crime and the extent of crime control.

Part IV, “The Contemporary Shape and Form of Crime,” extends the discussion into the present. The authors outline the forces that historically have relegated certain people to the margins of society and then condemned them for acts related to that marginality; and they suggest that today those same forces are allowing corporate crime to flourish at the expense of criminalized women, children in the sex trade, Third World citizens, and so on. This section reveals much about how our common conceptions of crime are based on contemporary stereotypes of how people should act and how a typical criminal looks and behaves.

Part V, “The Contemporary Shape and Form of Punishment,” examines the complex nature of punishment in modern society. The process of punishment often begins with the police and, in a surprisingly small number of cases, ends with jail. Discretion occurs at all levels of the justice system, and the chapters here document how the punishment meted out relates to conditions of privilege and power. Indeed, as we will come to see, punishment has little to do with the commission of crime, and much to do with the degree of discretion that occurs at various levels of the system: when crime is defined, when the police decide to arrest, when the courts decide to indict, when the judges and juries decide to punish, and when the prison institution takes on the management of inmates. The authors explore punishment as a range of discriminatory practices in the criminal justice system. An important theme throughout is the overrepresentation of and discrimination against Aboriginal peoples in the criminal justice system.

Part VI, “Changing Responses to Crime,” brings us to the crux of critical criminological investigation: the connections between theory and research and the creation of

policy for an emancipatory criminal justice. Its introduction reiterates the competing theories of crime to show the complexities of criminology, both critical and consensus, and to point to the ambiguities and contradictions embedded in all theories. Our intent is not to confuse or overwhelm students of criminology with these ambiguities and contradictions, but to suggest the importance of a nuanced understanding of crime. The section's chapters take this same approach. They are optimistic in their understanding of the policies and practices that address the concerns of critical social analysis, but they are also somewhat cautious in their optimism regarding social change, especially with respect to the ability of law reform — and all new methods of justice — to fundamentally redress the inequities in our social world. Fittingly, the final chapter, a letter from youth court, provides a compelling challenge for all of us not to lose sight of the direct and specific needs of those involved in the justice system — not to let theorizing distract us from actually helping the varied individuals who come into conflict with the law.

By focusing on explaining crime as well as treating it, the book as a whole brings together broader issues of “criminality” as related primarily to inequality in Canadian society. The book is designed around the discussion of specific crimes placed within a structural context — a context that includes the socio-economic and cultural forces that produce not just unconventional behaviour but also biases in crime control. The substantive chapters following Part I are more specific in their content than are most discussions in introductions to criminology. They contain both theoretical and substantive issues and illustrate the best that social research offers; and they remind us that social analysis is at its very best when it is circumscribed by a sound theoretical position. We believe that discussing specifics will allow readers to “sink their teeth” into both the sociological problems that underlie what we call crime and the immorality (and consequent societal devastation) of the differential and discriminatory treatment practised within Canada's criminal justice system.

Many of the chapters are based on composites of several theories. They employ a type of theory raiding, which is also a compelling component of contemporary research, especially as framed in what has come to be known as a postmodern perspective: that the world is complex and multidimensional, and that many of the issues that arise (in our case) in the study of crime and justice are best explained by drawing on knowledge of an array of related theories. This complexity, though perhaps daunting, can help us avoid the trap of theoretical nihilism (that nothing works); when certain parts of a theory appear to be untenable, the social analyst can proceed not by rejecting or redrafting the theory, but by augmenting it with other insights. This rethinking of the use of theory can allow researchers to be social advocates and to shape social policies that are both just and practical.

Our intent is to introduce readers to the critical analysis of crime by presenting a concrete critique of the current and past treatment of offenders in Canada. Most importantly, we hope readers will share our passion — a passion developed in a long quest to have criminology recognize and support tangible alternatives in restorative justice and community development. Much of that passion emerges from investigations informed, again, by postmodern sensibilities, which remind us of the individual biographies and stories of offenders and their experiences with the Canadian criminal justice system. Those biographies and stories, we hope, will supplement the more common structural, statistical, and impersonal accounts of oppression and discrimination. We hope too that readers will discover the richness of a critical perspective that builds on the necessary, solid alternatives to a system that now treats people with contempt, anger, and vengeance.