

# Women-Prisoners: Victims or Criminals? Urgency For Redefinition

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## Abstract

*This paper is concerned with the women incarcerated in prisons<sup>1</sup>. Stigmatized as 'women-prisoners', they have doubly broken the rules of gender role and the criminal law. Thus they are bad women deservingly be neglected, forgotten and disposed by humanity. The fact that every woman-prisoner has had a life-narration of their own prior to the incarceration -lived experience of structural marginalization as well as victimization, often colored by harshness and bitterness of domestic violence that too many time is masked by spousal love or obedience and loyalty; and the fact that their being in the prison has granted them an entirely different life that entails problems of separation, caretaking, schooling, or antisocial behavior during childhood of their children remains hidden. This leads to a question of whether the women prisoners are victims or criminals. Such a problem seems to root on the mutually distinction of victims and criminals in criminology. I hereby propose a redefinition of the two by borrowing from Stuart Henry and Dragan Milovanovic's constitutive criminology (2000). Crime, according to constitutive criminology is the power to deny others their ability to make a difference (Henry and Milovanovic, 1996: 116). There are two types of crimes thus victims within the definition: crimes/victims of reduction and crimes/victims of repression along a continuum of deprivation (Henry and Milovanovic, 2000: 272). An analysis of the women prisoners' narration using constitutive criminology, arguably would point to the fact that they are victims of crimes of reduction and crimes of repression.*

**Keywords:** prison, women prisoners, victims, criminals,

## I. The framework

By referring to their own earlier work (Barak, Henry and Milovanovic, 1997: 93) Henry and Milovanovic (2000: 276) briefly explain that:

The essence of constitutive argument is that crime and its control cannot be separated from the totality of the discursively ordered, structural and cultural contexts in which it is produced... This new criminology addresses crime's interwoven connection with the wider complexity of social relationships through a

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synoptic analysis whereby crime is related to "the symbolic", "the imaginary" and "the real". It is an open ended approach proposing that human subjects are responsible for actively creating their world with others, a world which simultaneously acts back, shaping the subject's own identity. Through social interaction involving language and symbolic representations, people identify and evaluate differences, construct categories, organize their activities to reflect those categories, and share a belief in the reality of that which is constructed. This shared belief gives order to otherwise chaotic states while it also recursively construct their lives. By investing energy in socially constructed realities, human subjects are not only shaped, but they also help shape the world around them. Constitutive criminology thus furnishes a dynamic conception of social structure as a virtual and infinitely revisable society where human subjects dynamically and contingently interact.

To understand constitutive criminology, one has to set aside any preconceptions of a legalistically-rooted ideology (Bak, 1999: 27) since crime is something more than a violation of written laws derived from a societal consensus norms and values. Bak, further, asserts that such legalistic definition of crime fail to consider the context or meaning of crime and do not consider the evolutionary and ever changing aspects of discourse which lead to the construction and interpretation of what forms of discourse are criminal. In addition to that, Bak believes that legalistic interpretation of crime fail to realize and consider the circumstances under which human discourse becomes criminal.

Henry and Milovanovic (1996: 116) propose crime –from the perspective of constitutive criminology- as the power to deny others their ability to make a difference. According to Henry and Milovanovic (2000: 272), unequal power-structure of human relations that is built on the constructions of difference provide conditions for harms, hence, crimes. Therefore, crime –from constitutive criminology point of view- is the harm resulting from humans investing energy in harm-producing relations of power. Crimes are people being disrespected due to their inequality. This happens when humans are denied or prevented from becoming fully social beings. Humans are fully social beings if they can make a difference to the world, to act on it, to interact with others, and together to transform the environment and ourselves. When such a process is prevented, they become less human –the are harmed.

There are two types of crime according to constitutive criminology (Henry and Milovanovic, 2000: 272-273): "*crimes of reduction*" and "*crimes of repression*" [sic!].

Harms of reduction occur when offended parties experienced a loss of some quality relative to their present standing. They could have property stolen from them, but they could also have dignity stripped from them, as in hate crimes. Harms of repression occur when people experience a limit, or restriction, preventing them from achieving a career goal because of sexism or racism, or meet a promotional "glass ceiling". Considered along a continuum of deprivation, harms of reduction or repression may be based on any number of constructed differences...: gender (sexism)... Whatever the construction, actions are harms either because they move an offended person away from a position or state they currently occupy, or because they prevent them from occupying a

position or state they currently occupy, or because they prevent them from a position or state they desire, the achievement of which does not deny or deprive another.

## **II. Crime and Its Control as Parts of the Totality of Structural and Cultural Context in which it is Produced**

Four women prisoners' life narrations of the study of Supatmi et.al (2008) are discussed in this paper. These women are all mothers. One them had just given birth to her baby while she was in the prison. In order to protect their true identities and privacy, they are all given aliases in this paper. Following are their short life stories.

### ▪ **Yanah**

Yanah was a domestic helper allegedly stole her employer's cellphone. During the investigation, Yanah admitted her stealing, yet she also stated that she did that in order to fund her youngest daughter's initial year at the kindergarten. As she and her husband separated a few years ago, Yanah became the breadwinner that has to support her two children. Prior to her arrest, Yanah's eldest daughter called her and informed that her youngest daughter had to start kindergarten schooling soon and therefore needed a handsome amount of money. Realizing her financial inability, Yanah begged her employer to lend her some money that she would pay back in installments by some of her next monthly salaries. Her employer refused it and went out of town leaving behind her cellphone. Yanah took it and sold it. When her employer returned and did not find the cellphone, she reported Yanah to the police. Yanah was then arrested and legally processed until she ended up in the prison.

### ▪ **Suzie**

Suzie was a micro-scale businesswoman with a jobless husband. She was arrested together with her husband based on the charge of distributing counterfeit money. It was a difficult time since her business was low. Then her husband told her to exchange the fake money bill with small changes. She had no idea that it was illegal money until the victims reported the case to the police. Suzie had five children that already lived separately and independently from her previous marriage and her husband had seven children from his previous marriage. The seven children, according to Suzie, were still dependent on him and her financially. Prior to her imprisonment, Suzie was a locally well known religious teacher and also as a traditional massasseur. She continued her career in the prison setting.

### ▪ **Lois**

Lois was an employee at a night club with a very small salary. As a side job, she sold marijuana since the price was quiet good. She was arrested red handed together with her husband. Lois and her husband had a child.

### ▪ **Jenny**

Jenny had just delivered her baby a few days before the interview. She was arrested while her pregnancy was approximately in the seventh month. The police alleged her as her husband's accomplice in stealing at her former employer's house in the nearby neighborhood. She insisted of not knowing it, yet the police did not believe

her and rendered her guilty as well due to the fact that a wife had to know her husband's thinking and behavior.

The three women have taken their best effort in order to support the lives of their family members. They have committed actions that Zaitzow (2004: 45) in her study on social control techniques in women prison has mentioned: that the biggest crimes the women prisoners have ever done was their trying to feed their families in whatever ways they opted with whatever means available.

Henry and Milovanovic (2000: 273) see criminals -a single human being or collective of human beings- as "an excessive investor" in the power to dominate others. Such "investors" put energy into creating and magnifying differences between themselves and others. The husbands of the four women, by not providing financial support for their families, actually have invested their energy into creating and magnifying gender based differences between themselves and their wives. Unfortunately, the structural and cultural context justify the husbands to irresponsibly leave the household matters in the wives' hands. The power relation between husbands and wives is never equal. Our social and organizational structures has long granted the husbands privileges due to their gender role in our society. The husbands are allowed to not be able to support their families. They can even abandon their families altogether. There will be no question about it since it is the wives, the mothers that must be responsible for the family welfare. In addition to that, culturally and structurally the wives agree as well to dutifully and loyally fulfill their role as "good spouses and mothers" by not only never questioning the husband's economic neglect but also by committing law-breaking actions to provide financial support for their family members.

The fact of these four women equates what Steffensmeier and Allan (1996: 467) termed crimes in the name of love; that is due to the deeply embedded gender inequality in the cultural and social structure; then when women commit crimes, they generally do so for threats of losing their dearly personal relations.

This investment of energy, according to Henry and Milovanovic (2000: 273), disadvantages, disables, and destroys the wives' human potentialities. The husbands act toward the wives as objects of domination such that the wives -as subjects and victims- lose some of their humanity in the process. The wives are denied their power to make a difference to the world for they cannot nurture, educate, stand by their children as they wish. They cannot contribute their ideas to and participate in the activities of the society around them. The wives then rendered non-persons, nonhuman or less complete beings (Henry and Milovanovic, 1996: 116).

The explanation above is a reflection of Henry and Milovanovic's (1996) idea that crime and its control cannot be separated from the totality of structural and cultural contexts in which it is produced. Therefore, on the ground of Henry's (1999: 7) explanation, crimes committed by these women are integral parts of the total production of our society. Their crimes are coproduced outcome of us -as humans and the social and organizational structures that we develop and endlessly rebuild.

### **III. Victims of crimes of reduction and crimes of repression**

The imprisonment of the four women have relatively moved them from their particular standing at that time as mothers. The following excerpts depict their true feelings:

A noted interview due to Jenny's objection to be recorded in November 2007:

A theft case together with her husband, her husband was from Subang, confused, Jenny was very sad because there was no relatives from her or husband's side that cared for her and her baby... Her family intended to temporarily take care of her baby, so that when she is free, she can take care of her baby herself. Jenny did not want her baby to be adopted, taken away from her, taken care of by unknown people,... it had been ten days her baby in the prison, slept on rugs everyday, she could not give her baby a bath and breast feed her because she did not produce any breast milk, she was very troubled by that, her baby could only drink canned-soy milk. The night before,...her baby suffered from oral ulceration...ulceration...probably because the milk was too hot, she already contacted the nurse, the nurse already checked on her baby...

Jenny, during her pregnancy and prior her arrest, has planned to really take a good care of her baby. However, her sentence has changed her life plan such that she had to bitterly accept that she could not be a good mother to her baby. What worse than the fact is that she even had to consider letting her baby taken away from her and cared of by other people. She has been moved from her very close truth to be a good mother and she has been prevented from reaching her desired goal to be a good mother that takes care her baby herself.

In an interview with Yanah in November 2007, she expressed her opinion on the food ratio that sometimes was not equally distributed for every inmate [my emphasis]:

"...when we returned after some activities, there was none for us. The officer sometimes scolded us for not getting it cos we were counted, if there were 72 of us then there were 72 portions,..but you know it...there are some of us who like breaking such kind of rules... But we try our best to obey the rules,...you know, **we left behind our kids, our families**...we don't want to end up here ever again...God Forbid."

While on another interview in December 2007, Yanah explained:

Interviewer: What is it that you really want right now?

Yanah: **I really want to go home as soon as possible, to meet my kids, I want to meet my family.**

Interviewer: How is your feeling right now?

Yanah: Well, you know it...an inmate's feeling...not good, awful...

Interviewer: What is it that makes you sad here?

Yanah: **Yeah, as we rarely meet our families, while we usually do this...and this... together.**

Interviewer: So, what are you truly feeling right now?

Yanah: **Hum...right now...I really want to go home, want to meet my kids, want to meet my family. Who wants this kind of life here?... We often remember them when we sit after prayers. When we do activities, we do not remember them. However, when we have nothing to do, we remember them.**

Similar to Jenny, Yanah has been moved from her particular standing as what she termed a good mother because of her sentence in prison. She has also been a victim

of repression due to her being prevented from achieving her dream to be always there for children and family.

Lois, expressing a future plan in an interview in November 2007 [my emphasis]:

“My future plan is, umm...**go on Hajj Pilgrimage, be a pious wife**, er...I mean be a housewife that...humm...how do you say it...**a good housewife, bring up our kids, together, in life and death...**”

Lois is also a victim of repression because her incarceration has restricted her from successfully becoming a Hajj, pious wife, good house wife, bringing up her children and living life side by side with her husband.

Suzie’s spontaneous remark in an interview in December 2007 was a picture of her desired goal prevented from being achieved for her imprisonment [my emphasis]: “Ah...that’s what you mean by that question, I thought you’re asking something else... **I really wanna go home and meet my relatives...**It will be dealt with though it’s not done yet...”

The anecdotes of the four women have shown that they are victims of crimes of reduction and of crimes of repression. I argue theretofore of urgency to redefine these women. Instead of naming them criminals, I define them victims.

#### **IV. Conclusion**

The redefinition of these women as accordingly requires us to reconsider our view on women prisoners in general. Statistical data (Supatmi et.al, 2008: 42) has brought the fact that of 24 women prisoners, 19 of them were sentenced for poverty and drug related offences that in Devlin’s (in Ballinger, 1999: 269-270) argument did not need imprisonment except for the most dangerous ones and; not for violence –a similar data resulted as well in Zaitzow’s study (2004: 33) The fact has encouraged Devlin (in Ballinger, 1999: 269-270) to offer a notion that women imprisonment has not only created disturbances and social wounds but also never solved the underlying problem causing women to break the law and not made any sense at all.

In my opinion, the redefinition and reconsideration are the beginning of our effort to deconstruct the old definition of criminal women and to reconstruct the definition along the sources and practices into they be the victims. The reconstruction will eventually lead to a discourse that hopefully will end in less harmful forms of discourse. Conclusively, as Henry and Milovanovic (2000: 271) has stated, this is an effort of putting a replacement discourse that will affect the wider social order and open up the potential for human growth.

## REFERENCES

- Henry, S. & Milovanovic, D. (1996). *Constitutive Criminology: Beyond Postmodernism*. London: Sage.
- Henry, S. & Milovanovic, D. (1999). Introduction: Postmodernism and Constitutive Theory. In Henry, S. & Milovanovic, D. (Eds). *Constitutive Criminology at Work Application to Crime and Justice* (pp.3-16). New York: State University of New York Press
- Henry, S. & Milovanovic, D. (2000). Constitutive Criminology: Origins, Core Concepts, and Evaluation. *Social Justice Vol.27, No.2(2000)*, 268-290
- Bak, A. (1999). Constitutive Criminology: An Introduction to the Core Concept. In Henry, S. & Milovanovic, D. (Eds). *Constitutive Criminology at Work Application to Crime and Justice* (pp.17-38). New York: State University of New York Press
- Ballinger, A. (1999) 'Invisible Women by Angela Devlin Reviewed Work' dalam *Journal of Law and Society* 26 (2) Pp.268-271
- Steffensmeier, D. and Allan, E. (1996) 'Gender and Crime: Toward A Gendered Theory of Female Offending' dalam *Annual Review of Sociology*, 22 Pp.459-487
- Supatmi, S., Sari, H. P. & Widagso, K (2008) *Pengalaman Perempuan dalam Penahanan (Kajian atas Pengalaman Enam Perempuan di Lapas Paledang Bogor)*, Laporan Penelitian Dana Hibah Direktorat Jenderal Pendidikan Tinggi, Departemen Pendidikan Nasional 2007
- Zaitzow, B. H. (2004) 'Pastel Fascism: Reflections of Social Control Techniques Used with Women in Prison' dalam *Women's Studies Quarterly* 32 (3) Pp.33-48)