



## The Margins of Criminology: Challenges from a Feminist Epistemological Perspective

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### Abstract

From Zaffaroni's proposal for the production of a criminology with a marginal perspective, and based on the contributions of the feminist standpoint theory, this paper examines the limits of critical criminology in Brazil and the likely effect the stabilisation of the binary body-mind is able to produce in critical thinking.

### Keywords

Critical criminology; marginal realism criminology; feminist epistemology.

### Resumo

A partir da proposta de Zaffaroni para a produção de uma criminologia com uma perspectiva marginal e apoiada nas contribuições da teoria feminista do pensamento situado, analiso os limites da criminologia crítica no Brasil e os possíveis impactos que a estabilização da categoria corpo/mente são capazes de produzir nos estudos críticos.

### Palavras-Chave

Criminologia crítica; realismo criminológico marginal; epistemologia feminista.

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## Introduction

In the 1980s and 1990s, Zaffaroni (1988,1989, 2001) explored the margins of criminology and pondered the possibilities of some knowledge being able to understand the dynamics of violence of a racist and colonial criminal control in the region of peripheral power. The author considered the task of a criminology study from a marginal point of view to be the permanent ideological critique, defined by him as a way to 'establish a system of ideas able to access reality' (Zaffaroni 1988: 22). He claimed:

the marginal criminological realism critique is a kind of countercultural thinking within our own peripheral societies if by 'cultural' we mean the thought's issues and habits of our middle and intellectual classes. (Zaffaroni 1988: 24)

Throughout this paper, I will question which criminological margins should be inhabited almost 30 years after Zaffaroni's seminal work. The theoretical references and interpellations presented here are different from those the author set himself to answer at that time. However, I believe the Brazilian criminological field followed those questions as some of its guidelines (Andrade 2012, 2013; Batista 2003), hence, why I make use of this lead to reflect on the margins of our critical criminology, here, in Brazil. I will question the criminological thought produced by intellectual classes with the proposition to perform a 'permanent ideological critique' (Zaffaroni 1988: 24).

To provide this critique I will incorporate the contributions of a feminist epistemology perspective, especially the contributions of 'standpoint theory' and 'strong objectivity', developed by Sandra Harding. From this framework I will question the limits of critical criminology, especially those produced by the stabilised body-mind binary to cross those boundaries and reach a better comprehension of the penal system from the margins. My objective is to seek new epistemological-theoretical references to analyse the conditions of field production.

Finally, I sustain that criminology from a margin has the following challenges: a) to position itself in relation to the epistemic effect produced by the 'standpoint' of its researchers; and b) to overcome the mind and body dichotomy represented in its analysis of the criminalisation process.

## The critical criminology waves in Brazil

Brazil's field of critical criminology is one of theoretical production, especially organised by jurists whose object of study is the critical analysis of penal control. The paths of the academy and the activism cross in many different moments and, on both sides, shape the acting tendencies and research themes. Since the 1970s, the criminological field in Brazil has been attracting jurists who are committed, at the very least, to the conservation of basic democratic and equality standards, with some even committed to the critical perspective of the reformist actions of the State (Andrade 2012; Batista 2007; Martins 2015).

In the field's first wave in Brazil, the Marxist European readings (through the social class categorisation) were predominant on the choosing of analytical theories and methodologies of control within the central critical theories (Martins 2015). In this theoretical framework, Brazil was viewed as a peripheral country in the capitalist process of capital accumulation and reproduction. However, the Marxist theoretical tools (Santos 1979, 1981) were used to overvalue the categories as a whole and establish an insufficient dialogue with the local violence and power contexts, as well as the theoretical categories of colonialism.

As another consequence of this scenario, there was a deficit of empirical studies on punitive control practices, with rare exceptions (Martins 2015; Santos 1978; Thompson 1979). In the 1980s and 1990s, the field of study got closer to the Latin American discussions on criminology, incorporating the debates on peripheral geopolitics and colonialism, as well as organising itself around research on Latin America. The focus of discussion in those days was predominantly

about redistribution and transformation policies in a macro policy level and the criminalising selection process in capitalist society; this accompanied the issue of colonial geopolitical localisation already incorporated with strong influence of Latin American authors (Castro 1987; Olmo 1981; Zaffaroni 1988, 1989, 1991). In the late 1990s and the beginning of the year 2000, especially through Vera Andrade's (1996, 1997a, 1997b, 1998, 2003, 2004) research, gender studies also started to conquer in the field's agenda (Baratta 1999; Campos 1998, 1999; Zaffaroni 1992, 2000).

It was in the first decade of the 2000s that gender and race discussions became more present in the field's publications; however, few managed to pass through the mainstream of criminological criticism. Notably, Gindri (2018), in researching the main critical criminological journal in Brazil, 'Discursos Sediciosos', narrates the still refractory movement of the mainstream on the critical field to incorporate analyses in dialogue with feminist theories and theories of race relations. In the same sense, Campos (2013) states that since the publication of her first book on criminology and feminism in Brazil in 1999, little progress had been made in incorporating feminist theoretical frameworks in the wider criminological field.

The Marxist front remained the organiser of such discussions; although, it has been the target of critics by many authors who perceived its class interpretations as a mitigatory process of gender and racial regimes, and likewise responsible for the criminalisation process. The growing number of white female researchers—although inferior to the number of men participating in the wide circulation of journals and criminological research institutions (Perrone and Meneguetti 2014), and the smaller increase in the number of both black female and male researchers (Silva and Backes 2015)—produced a stronger consideration of the aforementioned themes and confronted the field's representation and research policies, as well as the methods and results of such investigations (Gindri 2018).

Despite this third wave debate, the criminological field often continues to promote academic representations that speak of theft based on cases of housekeepers who represent women on account of their necklines or who describe the black population based on their crushed, voiceless bodies, devoid of power. Regarding the political engagements, the field continues its path to resisting the political and epistemological interpellations that come from marginalised groups. This reveals a gap between the political aims that drive the production of criminological knowledge and its knowledge production practices.

The blockade of life forms and knowledge that are produced by and for the world outside is part of the ongoing 'academic racial confinement' (Carvalho 2006) of the academic *habitus*, which may explain a still very limited questioning of racial and gender issues in the field. This explains, in part, the lack of understanding criminological critics have about the complex relationship between feminist movements and criminal control, as well as the limited development on racial issues as a structuring element of punitive control (Flauzina 2008).

Considering this scenario, I intend to investigate the possible political and epistemological repercussions arising from the standpoint of feminist theory for criminology from a margin's perspective, or 'peripheral criminology'. Here, too, will be a revision of the concept proposed by Zaffaroni (1988, 2001).

### **Feminist epistemology: Criminological critics' challenges from a marginal perspective**

Feminist epistemologies have served to problematise the field of critical criminology. The focus has been on questioning the absence of a gender category and feminist theories in criminological analyses concerning the criminal justice system, as well as the crimes committed by and against women (Alimena 2010; Balfour 2006; Campos 2003; Comack 1999; Mendes 2012). Another problematisation that moves forward in the aforementioned debate is the opening of feminist

criminology to the new feminist subjects in analyses of violence and criminal control (Campos 2013). In Brazil, research that incorporates a feminist perspective follows the same direction; it associates such views to an incorporation of the gender debate, to understanding the insertion of women into the criminal justice system and to comprehending the androcentric dynamics of the functioning of penal systems (Andrade 1996, 2004; Campos 2003; Mendes 2012).

In this paper I instead propose using feminist epistemological critiques to modern science to problematise certain recurrent narratives of critical criminological thought in Brazil. I do not intend to deal with the absence of gender categories in the production of the criminological sciences or to apply the feminist critiques in a political way, through which one can point out the discrimination of women in the production of science. My objective is to advance the epistemological debate on the modern scientific production premises applied to the field of critical criminology in trying to comprehend its limits in Brazil (Harding 1993b).

Some researches venture in this direction, exploring the effects of feminist epistemologies beyond the issues that relate the criminal justice system to women or to the subjects of feminism. Chesney-Lind (2013) inquiries into the effects that feminist epistemology can have on the field of criminology, from the evaluation of patriarchal privileges in the practices of the justice system, to the control of bias that arises from the field's inherent masculinity. Flavin (2001), to address what she understands as a kind of feminism about women, also explores feminist perspectives from epistemological, theoretical, methodological and political areas that broaden the debate to the varied effects on criminological production. Meanwhile, Henne and Troshinsky (2013) question the uses that the hegemonic criminological field has been making on the subject of intersectionality, using it as a means to naturalise categories of class, race and gender. For the authors, postcolonial feminist theories can offer ways to confront these hegemonic uses so frequent in the field.

Moreover, in this paper I question the effects of feminist epistemologies in the criminological field, without restricting it to questions related to gender. I also consider the possible questions to criminological science itself built from modern science's epistemological foundations. In turn, I appropriate myself of feminist epistemologies of positioning in contrast to empiricist and relativist feminist epistemologies (May 2004: 37). The first mentioned are based on the understanding of standpoint knowledge and its consequences in the production of knowledge, but without resorting to an absolute relativism or an essentialisation of experiences and positions.

Recognising social positions in the production of knowledge involves at least two conflicts within modern Western thought: the split between emotion and reason, and the split between body and mind. Both pairs of conflict structure Western colonial knowledge and power, and are incorporated into the production process of modern science. This dichotomous thinking is not neutral, but hierarchical, defining one pair by negating the other. Body and emotion must be excluded from the knowledge production operation, as they are defined from what is missing (Grosz 1994). Each of these qualities of the negative-positive pair is associated with specific human groups: reason and mind are related to heteronormative white men, while emotion and body are the references given to the varied groups of women, black men, non-heteronormative people, Indigenous people and those of lower socio-economic class.

Regarding this dichotomy—or its subversion—I question the criminological production and its social position of knowledge production to confront the distance between the engaged proposals of critical criminology and the practices of knowledge production. For example, Bell Hooks (2015: 54) makes us rigorously investigate whiteness to understand why sometimes the same groups that claim to be engaged in anti-racist policies reproduce and reinforce racial dominance in their speech and practices. I follow this problematisation to consider the distances between such speeches and the critical criminological commitment to end criminal control's violence.

### *Inputs from the standpoint theory*

Some feminist epistemologies, from different perspectives, problematise and re-establish the place of emotion, trajectories and experiences, recognising that they continually influence the production of scientific knowledge (Jaggar 1997). Thus, feminist epistemologies challenge the fact that the relationship between knowledge and emotion is no longer a pair of opposites in epistemological debates, but the object of comprehension about the ways in which they mutually interact and constitute themselves (Harding 1993a).

In recognising their presence in the logic of discovery, positivist epistemology does not totally dismiss the place of emotions in which hypotheses are produced. However, when justification logic is reached, norms and methods are defined to eliminate what is considered emotional or what compose the repertoire of researchers' values and preconceptions. Taking this into account, scientific production intends to conquer objectivity, keeping separate from its results what is part of the subjective field (Jaggar 1997).

This perspective can find some success when it removes and prevents certain researchers' individual idiosyncrasies and values from defining the results of their research. However, the scientific methods and norms developed under this model of science are not enough to identify and eliminate shared values, agendas and interests in a scientific community more widely. Neither does the homogeneously constituted scientific community encourage the search for other observers whose 'social beliefs vary in order to increase the effectiveness of scientific method' (Harding 1993b: 57).

The proposal developed by one of the feminist epistemologies, known as standpoint theory, faces the limit of the research based on positivist epistemology. Essentially, it intends to enhance objectivity in the production of knowledge, applying it as a scientific resource for systematic evaluation (Harding 1993b, 2015). The plurality of observers and inclusion of other perspectives are important resources to ensure and support a scientific method. However, such observers are not all in the same social position. Some, especially those from marginalised groups, are more privileged to determine the starting points for research and to achieve maximum objectivity in its results, which deal with the lives of marginalised people in a social system. Although these places are not sufficient for the production of valid outcomes, they are still necessary for their achievement. Harding (1993b: 52) says:

the methods and norms in the disciplines are too weak to permit researcher systematically to identify and eliminate from the results of research those social values, interests, and agendas that are shared by the entire scientific community or virtually all of it ... Standpoint theory tries to address this problem by producing stronger standards for 'good method', ones that can guide more competent efforts to maximize objectivity.

Regardless of these matters, Harding (1993a) sustains the existent difficulty of hegemonic groups of the academy to position themselves in relation to their privileges and their effects in the field of research. Indeed, this is something that, from a methodological point of view, leaves these groups more debilitated for the production of valid knowledge, despite their 'good intentions'.

### *Peripheral intellectuals and situated thought in criminological criticism*

The social position of critical criminology researchers can not only reveal situated hypotheses, but also establish results transversed by social values that constitute the subjectivity of its investigators. In the whiteness and racial relations fields of research, Zuberi and Bonilla-Silva (2008) argue that the hegemonically white position of researchers limits their 'sociological imagination' regarding racial issues. In parallel, we can state that a critical criminologist's position in relation to the investigations of the criminalisation process restricts one's research conditions.

Zaffaroni (1988, 1989) and Olmo (1981) situate the criminalising processes in Latin America into the dynamics of colonial power geopolitically. Therefore, they propose that thinking about the peripheral power contexts, as is the case of Latin Americans, requires an understanding of such place situated in a differentiated way in modern times. Taking this into consideration, criminological studies have been able to advance towards an understanding of how colonial structural dynamics have singularly affected the region.

Conversely, those studies produced homologies among cultural, social and economic analyses, and understood criminological knowledge from an instrumental perspective, not differentiating the categories pertaining to 'interest of class' and 'production of ideas'. Thus, supposing that what interested the local dominant classes of the nineteenth and early twentieth centuries (viewed without contradictions and homogeneous in the context of world power) were exactly the ideas transplanted instrumentally into the field of criminological scientific production—or, more precisely, of positive criminology—they understood that local elites used central theories instrumentally to ensure control of the marginalised populations throughout such historical periods.

From Sozzo's (2014) perspective, despite these critiques on the native elite's instrumental appropriations of positive criminology production, many continued to make use of the central and now critical theories. In fact, both Olmo and Novoa Monreal proposed this self-reflection on the ways and uses of such central theories for the periphery in the production of critical criminology (Sozzo 2014). Zaffaroni, in turn, targets the universality of European knowledge and the need for a syncretic understanding to comprehend the dynamics of local power (Zaffaroni, 1989). In this sense, I propose to move forward with such questioning. Besides reflecting on how theories are located around colonial and geopolitical divisions, I suggest to evaluate the place of theoretical criminological production within the power context of the South, more specifically, in Brazil.

The intellectuals from critical criminology, which were produced in a context of peripheral power such as Brazil, are not the bearers of transparency in such a place of speech due to their habitat in the geopolitical periphery in the international dimension of postcolonial modernity. In its broad spectrum, the international labour division that draws both centre and periphery also reproduces itself in the international knowledge division and redefines intellectual alliances within the power's peripheral region.

The production and representation of the peripheral native elite must also be situated in this context. Such elites are not in the same place as all subordinate groups, but are even more distant from all those in extreme situations. The positionalities, important to problematise the places of knowledge, can only be understood from contexts that do not reproduce an absolute delimitation between oppressors and oppressed, as would happen between the North/imperialist and South/Third World. That is, these positions have value because they exist in relation to other positions.

Spivak (1988: 71) refers to the native elites of Third World countries as 'ideally subaltern elites'. The idea of knowledge circulation policy being considered ideally subaltern because it derives from the Third World risks harbouring privileges and situated positions hidden in his statement<sup>1</sup>. The standpoint theory points up the importance of discussing hegemonic positions of knowledge production, given that the widely shared beliefs tend to keep scientific productions away from the criteria of 'strong objectivity' (Harding 1993b, 2015). Indeed, a standpoint theory perspective recognises how important the plurality of positions in the production of knowledge is. Moreover, the monolithic division between North and South and the representation of South intellectuals—the 'ideally subalterns'—do not guarantee that the plurality of perspectives and the epistemological privilege of marginalised groups are assured. This notion certainly makes one contemplate the social position of the intellectuals of criminology produced in the Global South.

Which hypotheses on the criminological research produced in Brazil should we, then, investigate, and what academic production aspects can possibly be present in this field, upon re-registering the body–mind duality of modern science?

### ***Subjects of knowledge and objects of criminal control***

The distribution of power in the field of criminology ensures white men to speak about the bodies of ‘killable’ black people and ‘rapeable’ women. Criminology should talk about its masculine and white locus to verify systematically how and to what extent these positions affect the knowledge production methods and results considered scientifically valid.

The body associates itself with both feminine and racialised lives. Critical criminological knowledge, incidentally, has already pointed this out in the history of criminal control, demonstrating how the values of the uncivilised and savage, and of the ravished body by atavism, easily organised themselves around non-Europeans or around the lower European class in the process of colonisation. Consequently, this implied a justification for the permission of the State’s violent power.

Black and Indigenous people are interpreted as bodies in their context, while we, female and male researchers (with the majority being white), enjoy the privilege of disembodied appearance. The body as a dyad in opposition to the mind corresponds to the opposition between emotion and reason in modern Western thought. Therein, the body appears as a despised part, as an unruly, disruptive piece of meat that needs to be guided by the mind (Grosz 1994).

While feminist theories question the production of modern thought from its subordinating and excluding pairs, according to Grosz (1994: 4) they have not problematised or theorised ‘the role of the specific male body as the body productive of a certain kind of knowledge (objective, verifiable, causal, quantifiable)’.

The body that feminist theories have critically pointed out is one associated with one gender and some ethnicities, which have ‘taken on the burden of the other’s corporeality’ (Grosz 1994: 22). In other words, the subject who produces knowledge is a disembodied, abstract, unseen person. They exist within Butler’s (2014: 136) analyses of the documentary *Paris is Burning*, when she states that the masculine position has the privilege of producing an invisible look by which ‘it has the power to produce bodies, but which is itself no body’.

The bodies, represented as such, work productively and reproductively such that white individuals are free to produce and exercise theoretical and moral reflections (Grosz 1994). Such division produces a status of power in which black, Indigenous and women’s bodies exist as they do so that other bodies (white and masculine) can produce a disembodied, abstract and universal bases of knowledge.

### ***Representations of the ‘Other’ object of criminal control***

I suggest exploring and testing two paths in research projects to understand which constitute representations of ‘criminal control objects’. From a disembodied point of view of those who investigate criminology, representations of penal control bodies tend to reproduce two extremes: either they are homogenous and mortified, or they ‘speak for themselves’. In turn, various elements raise questions on two study issues: the researchers’ representation and positionality that significantly reduce their condition of imagining the ‘Other’ in a criminal control context; and the abandonment of social theorisation when one speaks of marginalised people as those who speak the truth, without representation or mediation.

In critical criminology debates on selectivity, the criminal control bodies’ representation comes in the form of a pile of monolithic, homogeneous, black and poor bodies, belonging to the idea of

the periphery as an abstraction in which coloniality, racism and subjectivities are not themes articulated as ways of understanding criminalisation (Gindri 2018). Therefore, such representations reinforce and reify the 'Other' of modern Western knowledge, as one that has a body (which is killable) and from which all texture, subjectivity and power relations are allowed to escape.

Notably, Spivak (1988: 280–281) argues:

the clearest available example of such epistemic violence is the remotely orchestrated, far-flung, and heterogeneous project to constitute the colonial subject as Other. This project is also the asymmetrical [sic] obliteration of the trace of that Other in its precarious Subjectivity.

This 'colonial Otherness' described in quantitative methods, such as the number of prisoners killed and killable by criminal control, is represented according to the hegemonic social position of researchers tending to reproduce racial bias (Zuberi and Bonilla-Silva 2008) based on their shared beliefs. Essentially, this questions the 'racial confinement' of academic spaces in Brazil (Carvalho 2006) and the absence of plural positions in the process of knowledge production as a condition to produce 'strong objectivity' in research (Harding 1993b, 2015).

Conversely, such representations also confront the field when it insists on describing and explaining the 'Other' without learning to represent itself in its hegemonic whiteness and masculinity, and in its disciplinary field. According to Spivak (1988: 289), the search for the effects of hegemonic research positions would also help question 'the implicit demand, made by intellectuals who choose a "naturally articulate" subject of oppression, that such a subject come through history as a foreshortened mode-of-production narrative'.

Regarding the studies associated with feminist criminology, the possible emergence of another form of subordinate bodies' reification deserves evaluation. Some researches on violence against women propose to 'listen to the women's voices', valuing their experiences, in turn. The concern of producing research democratically more engaged with the issues of marginalised groups, and that include new positionalities in the field, seems to appear here in the form of an epistemological populism that essentialises places and speeches in a sort of 'representationalist realism' (Spivak 1988: 274).

The denial of a theoretical ideology production in representations guarantees that this essentialism that relies on a transparent marginalised person falls, once again, into a colonial reification of the Other. Such representations are no longer constructed by means of an explicit speech made by 'Us', the scholars, about the homogeneous Other. Instead, they transpire through listening to the marginalised, also allegedly free of power and mediations that, in the end, reproduces an accessible and homogenous Other, produced by a positivist empiricism.

Within this set of the Other's representations, the essentialism of marginalised subjects who 'act and speak' is sometimes accompanied by the absence of a theoretical analysis when there lacks a social theory that, under the pretext of silencing visible oppressions through criminology, does not allow a macrostructural articulation in understanding the criminalising process. The exclusionary debate between the so-called (merely) cultural analyses of gender and race, and the material analyses of class and labour, reinforces the theoretical limitations that insist on treating capitalism as an economic category disconnected from its cultural dimension (Butler 2000). Indeed, this is not secondary, but constitutive of its expansion process, and organises the field of political economy.



### **Final considerations: Inhabiting the margins of criminology**

The condition for apprehending the dynamics of criminal control exercised in a region of peripheral power such as Brazil depends on a constant and critical interpellation of the field of knowledge, precisely as Zaffaroni calls on us to do in his proposal for a criminology from the margins. The stabilisation of a body–mind binary, assumed in modern knowledge, and its resulting research bias is an issue that warrants further investigation in the field. To this end, the support provided by critical feminist theories of the ‘standpoint theory’ can help us understand which epistemological and political limitations within the field tend to reproduce this duality and, therefore, prevent the production of knowledge based on ‘strong objectivity’.

Once the stabilities of the body–mind division reinstated in criminological production have been provoked, only then can the margins of criminology be thought through three central questions, which give feedback, among themselves:

- a) from new interpretive frameworks capable of systematically questioning the agendas and biases produced by the field, as well as the places of research—in this case, theories of race relations, feminist theories and postcolonial theories could be good investigative resources
- b) from an active agenda of researchers’ plural representations—a resource without which the abandonment of ‘colonial Otherness’ reproduction and the strengthening of ‘strong objectivity’ within research become unattainable
- c) from the use of new methods and new grammars in the production of research, which can be problematised and validated by the scientific community, ensuring that the bias of traditional methods and the exclusion of an unconventional and quantified grammar do not reinsert the epistemic violence into the field.

The opening of these three paths is an attempt to advance an engaged, critical criminology research field in Brazil, as well as an attempt to desecrate it. It was Agamben (2007) who, by historically recovering the meaning of the profaning act, recognised it as a form of restitution of sacred things to the free use by men; personally, I would argue it too rests in the liberty of those who inhabit the margins.

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<sup>1</sup> Throughout the text, I use Harding’s descriptive category ‘marginalised groups’ to refer to non-hegemonic social groups that do not share the distribution of social, economic, political and even academic power. The term ‘subaltern’ is a polysemic analytical category that follows specific contents according to the use of each author. In Spivak’s case, she develops a concept that does not coincide with the description of marginalised groups, nor with the political category of the Marxist tradition of oppressed persons. The term ‘subaltern’ in postcolonial studies, in which Spivak is included, means ‘everything that has limited or no access to the cultural imperialism is subaltern—a space of difference’ (de Kock 1992: 45).

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