

2 The social problem of sexual violence: Theoretical explanations, definitions and prevalence

2.1 Theoretical explanations of sexual violence

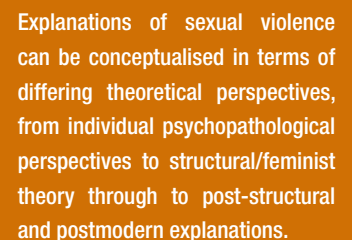
Overshadowing all theoretical explanations of sexual violence is the ongoing influence of the morality and punishment paradigm—the earliest explanations of sexual violence were based on questions of morality and punishment. Positions of morality and punishment discriminated against certain acts of sexual violence, but not others. This was highlighted in the early work of Gebhard, Gagnon, Pomeroy, and Christenson (1965), where they stated that the ‘...inevitable fusion of secular law and religious belief has given rise to some curious inconsistencies’ (p. 3) in what is deemed a sexual offence. These processes of morality and punishment are underpinned by factors such as:

- *the legacy of institutional patriarchal processes*—Women and children were property. In this way, these explanations focused on the external threat from men outside intimate or family relationships. Thereby, rape is seen as a heinous crime warranting severe penalties when committed by men who are not in legitimate positions of control over female victims.
- *the morality surrounding the sexual act*—This has influenced the law, regardless of the status of consent. This is especially evident in the case of homosexuality. In this way, sexual violence and what is categorised as sexual deviance have been collapsed into a range of sexual offences.

The historical legacy of these positions remains in community attitudes and the legal system. Until relatively recently, sex between men was a criminal offence, but rape within marriage was not considered a criminal act, and there remains a tenuous recognition of the occurrence and pursuit of charges relating to incest, especially where the offender is the father. The social norms surrounding what is considered acceptable sexuality and sexual relations continue to influence understandings and attitudes towards sexual violence (Taylor, 2004).

Explanations of sexual violence can be conceptualised in terms of differing theoretical perspectives, from individual psychopathological perspectives to structural/feminist theory through to post-structural and postmodern explanations. Each category has its internal variance. In some cases, explanations focus on the individual variation from ‘normal sexual practice’ or the abhorrence of the act within societal morality. It is important to view each of the explanations with these influences in mind.

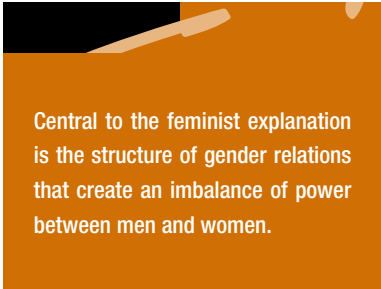
Much of the research in sexual offending stems from an aetiological premise to identify individual characteristics that cause sexual violence. These explanations are steeped in the tradition of scientific enquiry in the fields of biology, psychology and psychiatry, where the focus has been on psychopathological and cognitive behavioural causes of sexual offending. This has strongly influenced the historical (for example, see Gebhard et al., 1965) and contemporary (for example, see Doren, 2002; Schwartz & Cellini, 1997; Ward & Beech, 2006) perspectives on sexual violence shaping the overall debate, along with legal and treatment responses.



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Pioneering research by Gebhard et al. set out to identify how sex offenders differed from those who had not committed sexual offences. There continues to be a growing body of literature attempting to capture characteristics and circumstances to differentiate sex offenders from other 'normal' men.

Explanations within the psychological category include: biological functioning, neuroscience, cognitive deficits or abnormalities, and social learning theory. Ward and Beech (2006) utilised much of this literature on sexual offending to develop an integrated theory of sexual offending. Their theory placed particular importance on the integration of how biological functioning of the brain and social learning interact with neurological processes pertaining to motivation, emotion, perception, memory and decision-making. While they acknowledged the social and cultural environment, their emphasis was on individual aetiological factors that impacted on understanding and treating sex offenders. Ward's and Beech's theory provided an overview of individualistic explanations of sexual offending. The use of theories such as that proposed by Ward and Beech has resulted in most treatment approaches focusing on psychopathology, cognitive distortions and behavioural deficits.



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Social and structural explanations of sexual violence have attempted to attribute sexual violence to particular social structures and processes. Social psychology and sociology have utilised social learning and socialisation theory to explain how sexual violence is initiated and continued. For example, pornography has been linked to rape by social psychologists because of its portrayal of women as willing participants (Brehm & Kassin, 1989). Sociologists have also used class and power models of analysis to theorise about the causes of sexual offending.

This tradition of social enquiry has influenced the development of feminist perspectives on sexual violence. Central to the feminist explanation is the structure of gender relations that create an imbalance of power between men and women. Early feminist liberation work theorised that sexual violence was 'a conscious process of intimidation by which all men keep all women in a state of fear' (Brownmiller, 1975, p. 87). Overarching social, structural and feminist explanations of sexual violence have disputed that sexual offending is separate and deviant; rather it is seen as a consequence of current social and human conditions. This premise is at odds with individualistic explanations from within psychology and psychiatry.

Contemporary feminist theory has developed a sophisticated theoretical argument by not differentiating between men who commit sexual violence and those who do not (Cossins, 2000). This development has been influenced by postmodern/post-structural theory that recognises multiple explanations (Lancaster & Lumb, 1999). The focus of this social enquiry does not exclude individual or structural factors, but rather examines both the embodiment and institutions of sexual practice in gender relations. This makes it possible to examine acts of sexual coercion that remain hidden or taken for granted as 'normal' social practices within the confines of heterosexual dominance (Chung, 2005).

Postmodern and constructivist perspectives on sexual offending have evolved from a critique of sexual deviancy and power relations. A range of perspectives have emerged from postmodern theorists. Some writers in cultural studies have used postmodern theory to suggest that sexual offences have been constructed because they differ from ‘normal’ sexual practice. This literature critiques ‘contemporary concern’ for sexual violence—for example, in the case of child sexual abuse—suggesting that these concerns rest on essentialist and uncritical understandings of intergenerational sexual relations (Plummer, 1991).

Conversely, some writers examine the position of ethics, citing ways in which particular masculinities hold a position of privilege that overrides women’s and children’s right to consent. The use of a multilevel analysis of sexual offending in postmodern perspectives has utilised studies in masculinity, especially Connell’s (1995, 2000) concept of hegemonic masculinity. Connell suggested that a diversity of masculine identities exists, with differing amounts of social acceptability and power. However, there are dominant and dynamic constructions of masculinity, and this hegemonic version of masculinity is at the foundation of why sexual violence occurs. These theoretical perspectives have given rise to therapeutic approaches, using narrative therapy (White, 2000), which shift the focus from the causes of sexual violence to positively constructing men’s preferred identities in ways that exclude their use of violence. Jenkins (1990) also developed an approach to therapy that focuses on what ‘restrains’ men from engaging in respectful relationships.

Table 1 illustrates the diverse range of explanations of sexual violence. The paradigm of morality and punishment continues to strongly influence explanations and responses to sexual violence. Individualistic explanations focusing on psychopathology and cognitive/behavioural deficits have had the most influence on contemporary sex offender treatment. This has strongly shaped how sexual offending is constructed as a clinical deviance requiring treatment. These influences are elucidated and critiqued in more detailed in section 4.

Table 1 Explanations of sexual violence

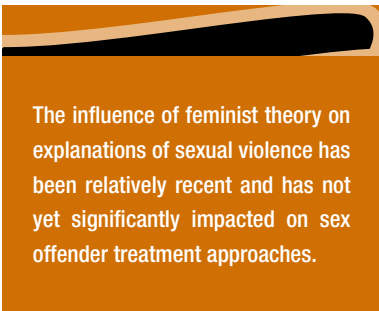
Morality and punishment paradigms overshadow all understandings of sexual violence		
Individualistic explanations	Early feminist, social and structural explanations	Feminist theory, post-structural/postmodern and constructivist explanations
Biological and genetic predispositions	Imbalances of power between men, women and children	Gendered social relations and institutions
Psychopathology and psychiatry	Feminist theory and analysis of patriarchy	Heterosexual dominance and sexuality studies
Cognitive/behavioural deficits and distortions	Social and cultural structures and processes	Contemporary feminist theory
Developmental psychology and insecure attachment theory	Social learning and socialisation	Critical studies in masculinity

In summary, the majority of explanations of sexual offending have largely focused on individual psychopathology, and this has had a significant impact on sex

offender treatment orthodoxy. More recent developments in post-structural and contemporary feminist theories offer an opportunity to better conceptualise sexual offending as occurrences within a complex set of social relations and institutions. This enables a more sophisticated understanding of sexual violence that allows for an environment of disproportionate power relations between men, women and children, which creates the social conditions for an independent conscious act of sexual violation, as opposed to a deviant unconscious act determined solely by intra-psychic processes. Incorporation of these contemporary understandings will allow for a more comprehensive response to sexual violence across society.

2.2 Towards a gendered analysis and response to sexual violence

The influence of feminist theory on explanations of sexual violence has been relatively recent and has not yet significantly impacted on sex offender treatment approaches. Rape and incest have long been acknowledged as crimes in Australia; however, it was not until the 1970s that the concept of sexual violence emerged (Cook, David, & Grant, 2001). The 1970s saw challenges to the prevailing notion that sexual assault was primarily 'stranger rape' (Cook et al., 2001); the feminist movement contested the notion that rape is a crime committed in public, by strangers, against women who 'asked for it', wore 'suggestive' clothing or lied to protect their reputation.



The influence of feminist theory on explanations of sexual violence has been relatively recent and has not yet significantly impacted on sex offender treatment approaches.

Until this time, rape and incest were understood solely as the individual pathology of the men who committed such acts. These sex offenders were considered 'deviant' from the rest of the population and were characterised as having poor impulse control and being poorly socialised in childhood. As a result, they were considered unable to have appropriate intimate sexual relations, which led to their 'deviant' sexual behaviour. Such an understanding of sexual assault implied that sexual gratification of a male biological sexual drive cannot be controlled. This individually focused 'hormonal'/'biological' understanding could then be used to explain why men are the perpetrators in the vast majority of sexual violence, while also reducing their level of responsibility for their actions by pointing to their biological drive. Consequently, it followed that reforming and treating sex offenders would require that such individuals be detected by the state and incarcerated and/or treated through a focus on their individual 'deficiencies' and with medical interventions that aimed to reduce their sexual drives.

Feminist analyses of rape and sexual assault that emerged in the 1970s did not view these actions as a matter of sex, but rather as the gendered abuse of power—an act of humiliation and control (Brownmiller, 1975). Feminists argued that sexual violence is a crime perpetrated by men against women in both the public and private spheres, and in the context of intimate partner and family relationships (Cook et al., 2001). The introduction by feminists of the term 'sexual violence' expanded the definition to include a range of sexual behaviours that could be used by men to degrade, humiliate and maintain power over women.

Such understandings of sexual assault place a very different emphasis on *who* is considered to be a perpetrator of sexual violence, and the policy and program

approaches to stopping sexual violence. Perpetrators of sexual violence within this explanation are broadened to include male partners and acquaintances who harass, coerce, pressure and/or force women to have sex against their will or engage in any sexual behaviour with women to which they do not or are unable to consent. A feminist analysis therefore assumes that the elimination of sexual violence is intrinsically linked to gender equality, as it is men's social power as a group and personal power in their intimate relationships which enables the continuation and condoning of sexual violence.

More recently, the study of masculinity, with its history in feminist understandings of gender, has provided insights in understanding men's use of gendered violence. Connell's concept of hegemonic masculinity (1995, 2000), which referred to dominant prescribed ways of being a man that emphasise heterosexuality, power, success, non-victimisation and control, has been influential. The consideration of masculinity has furthered our understanding of the ways in which sexual violence is a means of men having personal and social power over women; in particular, how acts of sexual violence are presented as 'normal' heterosexual masculinity that is all powerful and privileges men's 'needs'. The performance of successful heterosexual masculinity by men in groups is often predicated on the objectification and sexualisation of women. Recently, such behaviour has been considered within the context of men and sport (Benedict, 1998; Parissa, 2002). These social practices of hegemonic masculinity have also often been associated with victim-blaming in cases of sexual violence, where women are considered to be teasing and consenting to sexual activity by merely being present in such social settings. There has been an increase in knowledge about what sexual violence is and who commits such acts. However, the recent media responses to professional sportsmen's alleged sexual violence highlights how social attitudes still tend towards victim-blaming of women and normalising or trivialising of men's abuse of power. For example, sportsmen have been seen as victims of female fans' adoration, making accusations of sexual violence appear farcical.

2.3 Definitions and implications

Using a gendered analysis, policy approaches to sexual violence suggest the importance of responses being intersectoral, including the use of: law enforcement, justice and correctional systems to respond to individual perpetrators; education to promote gender equality and respectful intimate relationships; employment and community services to enable women to access resources for economic and personal equality; and changes in social attitudes to promote gender equality. These policy and program responses are much more complex and wide ranging than the detection of individuals committing sexual offences. One of the tensions that emerges in such approaches is that, while there is a social and political analysis of sexual violence, offences and treatment tends to remain individually focused for the safety of their victims and the community.

As knowledge and understandings about sexual violence have increased over the last 35 years, definitions have expanded to include a wider range of behaviours and circumstances. The variations in definitions of those who sexually abuse children are linked to both understandings of sexual violence and the discipline or field from which it has originated, as is shown below.

Psychopathological explanations have shaped the definitions outlined in the *Diagnostic and Statistical Manual of Mental Disorders*, 4th edition (DSM IV) (American Psychiatric Association [APA], 1994). The DSM IV classifies sexual violence towards adults and children within the broad category of 'paraphilias'. The essential diagnostic features of paraphiliacs described in the DSM IV are:

...recurrent, intense sexually arousing fantasies, sexual urges, or behaviours generally involving 1) nonhuman objects, 2) the suffering or humiliation of oneself or one's partner, or 3) children or other non-consenting persons, that occur over a period of at least 6 months (p. 522).

Within the broad category of paraphilias, those who are sexually attracted to and/or sexually assault children are referred to as 'paedophiles' and the definition of 'sexual sadism' best describes, amongst other behaviours, the sexual assault of adult victims.

The DSM IV definition of paedophiles has been criticised because it implies that such people are psychiatrically abnormal or are suffering with a mental disease or disorder predisposing them to perpetrate sexual offences, and that is very rarely the case (Glaser, 1997). Regarding paedophiles as psychiatrically abnormal can facilitate attitudes implying that the actions are not the perpetrators' fault, thus reducing their responsibility for their sexual offending. There are implications for treatment when the clinical diagnosis is regarded as an explanation for the offending behaviour. Treatment may focus on 'curing' or 'reducing' the diagnosis rather than addressing the offending behaviour and holding perpetrators accountable for their actions.

The DSM IV definition identifies paedophiles as those who have a sexual attraction and/or sexual fantasies about children, but do not necessarily act upon these attractions; whereas legal definitions of sexual violence, including paedophilia,¹ focus on the perpetrator's behaviours (James, 1996). Thus, a person can be clinically diagnosed as being a paedophile without sexually abusing a child.

The DSM IV description of the sexual sadist, which includes descriptions of non-consenting sexual acts being carried out, identifies the chronic nature of the problem (APA, 1994):

Sexual Sadism is usually chronic. When Sexual Sadism is practiced with non-consenting adults, the activity is likely to be repeated until the person with Sexual Sadism is apprehended (p. 530).

The category of sexual sadist does not refer exclusively to sexual assault; however, as is the case with the paedophilia definition, DSM IV pathologises the perpetrator's controlling and humiliating behaviour of another person.

1 There is no common law or statutory definition in Australia of paedophilia or paedophiles. Paedophilic offences are framed in terms of rape, sexual assault, sexual indecency, and creating or possessing child pornography (Law Reform Commission of Victoria, 1988).

The legal system relies on narrow definitions of child and adult sexual assault, based on the behaviours of perpetrators. The definitions have expanded from times when sexual assault was considered to only be heterosexual, vaginal intercourse for which there was no consent (Heath, 2005). Current definitions of adult sexual assault (Heath, 2005) and child sexual abuse (Bromfield & Higgins, 2005) vary between jurisdictions and states and territories in Australia. There are three key components to legal definitions of sexual assault, which include:

- behaviour defining sexual assault, such as genital sexual contact, oral sexual contact and the continuation of sexual activity after consent is withdrawn
- non-consent and the inability to consent to sexual acts²
- the mental state of the accused (Heath, 2005).

An example of a legal definition of sexual assault is the *Western Australian Criminal Code Act 1913* (section 319), which names the sexual offence as sexual penetration without consent. This definition defines penetration as:

- (a) to penetrate the vagina (which term includes the *labia majora*), the anus, or the urethra of any person with—
 - (i) any part of the body of another person; or
 - (ii) an object manipulated by another person, except where the penetration is carried out for proper medical purposes;
- (b) to manipulate any part of the body of another person so as to cause penetration of the vagina (which term includes the *labia majora*), the anus, or the urethra of the offender by part of the other person's body;
- (c) to introduce any part of the penis of a person into the mouth of another person;
- (d) to engage in cunnilingus or fellatio; or
- (e) to continue sexual penetration as defined in paragraph (a), (b), (c) or (d).

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...'consent' means a consent freely and voluntarily given and, without in any way affecting the meaning attributable to those words, a consent is not freely and voluntarily given if it is obtained by force, threat, intimidation, deceit, or any fraudulent means...

Legal definitions also influence the categorising of sex offenders based on: the types of sexual offences they perpetrate; victims' characteristics; and the relationship of the offender to the victim (Greenberg, Da Silva, & Loh, 2002). For example, offenders who perpetrate sexual violence against children are often referred to as 'child molesters' or 'paedophiles', and offenders who perpetrate sexual violence against adults are commonly known as 'rapists'.

2 It is acknowledged that the issue of consent is critical in the legal interpretations of sexual violence, as non-consent is contentious and difficult to prove. However, this paper does not allow for such a detailed discussion.

Such definitions and categorising of perpetrators rely on legal interpretations of sexual assault and arguably do not adequately define, nor account for, all forms of sexual violence because they usually exclude non-physical and non-assaultive offences, such as sexual coercion, exposure and voyeurism (Lievore, 2004).

An accurate assessment of the prevalence of sexual violence in any community is always likely to be underestimated because the vast majority of sexual violence remains unreported

As a result of the narrow legal definitions of sexual assault and the complex legal processes associated with sexual assault cases, only a relatively small percentage of such cases lead to a conviction.³ Therefore, a large number of people who are reported for sexual assault are not later convicted. This can be misinterpreted by the general public as indicating that there was no sexual assault and that women must be lying about being raped. Consequently, this perpetuates myths about sexual assault, such as: women commonly make false allegations, and women say 'no' when they mean 'yes'. Such myths lead to victim-blaming, and they play an important role in preventing women from naming the experience as coercion or assault, and in enabling men to see such behaviour as acceptable in a heterosexual relationship (Byers, 1996; Daws, Brannock, Brooker, Patton, Smeal, & Warren, 1995; Patton & Mannison, 1995; Russo, 2000).

3 Sexual violence and sex offenders in Australia

The notion that sex crimes are perpetrated by a small number of habitual, sexually deviant offenders, usually strangers, conflicts with the fact that most victims are sexually assaulted by someone they know (Lievore, 2005, p. 293).

An accurate assessment of the prevalence of sexual violence in any community is always likely to be underestimated because the vast majority of sexual violence remains unreported (ABS, 1996, 2002a; Mouzos & Makkai, 2004). Rates of prevalence will also differ according to a number of methodological issues (ABS, 2004b; Neame & Heenan, 2003; Schweitzer & Dwyer, 2003). These include:

- the *definition* of sexual violence used in a study—a narrow definition will produce smaller numbers than that of a broader definition, which may include experiences such as sexual pressure and coercion, and unwanted touching
- the study *sample*—prevalence may be estimated from what is commonly known as a 'clinical sample', which refers to those people known to have

3 National statistics on conviction rates are problematic due to differences in recording practices across states and territories, but state statistics can be estimated by factoring national population survey results on reporting rates into criminal justice statistics by the number of reports which end in conviction. For example, the *Seeking Justice* report, by the Queensland Crime and Misconduct Commission (2003), estimated that 17 per cent of sexual assaults *reported to police* end in conviction and the Women's Safety Australia survey found that 15 per cent of incidents of sexual assault were reported to the police (ABS 1996). This leads to an approximate sexual assault conviction rate of $(15 \times 17)/100 = 2.5\%$.