



FEMALE OFFENDER, VICTIM OF THE PATRIARCHAL SYSTEM.

**A CRITICAL DISCOURSE ANALYSIS OF THE
CASE OF LISA MONTGOMERY.**

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Adultery, abortion, witchcraft, sex work, are crimes that have historically until today been identified as predominantly female crimes. By criminalizing them, the patriarchal society exercises a control of the body and sexuality of women to maintain and remain them in their gender norms. However, patriarchal society participated in their victimization. In fact, many women in prison have been abused in their childhood and often faced a continuous victimization. The aim of this thesis, using feminist theories and critical discourse analysis as part of a case study, is to understand to what extent the patriarchal system has an impact on the creation of the female offender arguing that female offenders are victims of the patriarchal system before being criminals. The analysis of discourses surrounding the case of Lisa Montgomery demonstrates that gender has an impact on how people are criminalized and punished. The abuses often overlooked by the system have an impact on the crime trajectories of female offenders. However, the justice system rarely takes those aspects into consideration, especially when the female offender does not fit her gender norms. She is then described as an inhuman monster who deserves a severe punishment. This participates to maintain and reinforce patriarchy by recalling societal norms of femininity. The case of Montgomery represents thus one of many cases in which female offenders are, before being an offender, a victim of the system that allowed her continuous victimization.

Keywords: Case study, court documents, critical discourse analysis, female offender, feminist, victimology, USA. 8964 words.

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1. INTRODUCTION

Many studies show that men commit more crime than women with women representing only 6 to 10% of the incarceration population (Heidensohn & Gelsthorpe, 2007; Vogel & Spa, 2019). For decades women have been disregarded by criminologist theory, and at the same time the justice system has been constantly concerned with controlling women and girl's bodies, sexuality, and behavior (Franklin, 2008). This oppression, feminist theorists argue, results from the patriarchal system which is defined by Johnson (1997) "as a society that is 'male-dominated, male-identified, and male-centered' and whose fundamental premise is the oppression of women" (cited by Franklin, 2008, p.342) where position of power, i.e., in politics, business and academia, are mainly male-dominated. However, researchers observed an increasing female crime rates, in particular violent crime, during the past two decades (Vogel & Spa, 2019) sparking a debate on why women commit fewer offenses than men and why the rate is increasing now.

Crimes committed by women are found to differ from those committed by men. Firstly, most crimes perpetrated by women are nonviolent and less serious than those committed by men (Carlen & Worrall, 2004). Yet, when women use violence, they often do so as a reaction or in self-defense (Carlen & Worrall, 2004). They desist from crime more easily than men (Heidensohn & Gelsthorpe, 2007) and frequently face mental illness (Cauffman, 2008). Moreover, women who commit crimes do so often with the complicity of a man, without whom they might have never committed any crime (Ricordeau, 2019). Except sex work, men have a higher rate for all crime categories (Steffensmeier & Allan, 1996; Gender and crime, 2021). And while both male and female offenders frequently commit minor offenses (i.e., robbery or murder), rather than violent crimes, men are responsible for the majority of sexual crimes (Steffensmeier & Allan, 1996). In *The National Intimate Partner and Sexual Violence Survey*, 98,1% of women reported that the perpetrators of all forms of sexual violence against them were men. Men, too, reported to have been predominantly abused by other men (Black et al., 2011). However, less than 1% of the rapist face a prison sentence (Van Dam, 2018).

In addition, many women in prison reported to have been sexually abused at some point in their lives (Carlen & Worrall, 2004). According to Batchelor (2009) a North American study about violent female offenders suggests that female violent offenders often experienced abuse and family disruption in their past life. This abuse is often committed by men and can take many forms, such as incest, harassment, sexual assault, rape, and (attempted) murder (Bannister, 1991). Wolf Harlow (1999) demonstrates that in state prison 16.1% of male and 57.2% female prisoners have been abused. Moreover, male offenders reported to have been mistreated as children, but female prisoners report such abuse as both children and adults, which demonstrates a continuous victimization. A longitudinal cohort study by Williams et al. (2012) on male and female prisoners found that male and female offenders can be compared in the fact that they have been often abused in their childhood. However, women experienced more abuse (53%) than men

(27%), especially for sexual abuses. These studies demonstrate that female offenders are more likely to have been abused, suggesting that it has an impact on their criminal trajectories (Cauffman, 2008). While it does not mean that abuse is the only determining factor for a person to commit a crime, it shows that to understand crimes committed by women we must consider patriarchal structures and sexual violence.

An example of the impact of patriarchy on the creation of the female offender and the relation between her crime as well as her sentencing to gender issues is the case of Jacqueline Sauvage. In France in 2012 she was sentenced to 10 years of prison, then pardoned by the president, for the murder of her husband who hit her for several years. Now the symbol of intimate partner violence in France, she states in her book that the killing was "[a]n act of survival, not revenge" (cited by Ballet, 2020). Bannister (1991, p.1) argues that she saw in the many female prisoners she worked with "the long-range consequences of the patriarchy and its violence against women". I argue that it is necessary to understand the pathways of female offenders from the angle of feminist theories, which maintains that we can only analyze women's crime under the prism of the structural and systemic oppression of patriarchy (Gueta & Chen, 2016).

It is within this debate that my research question: "To what extent has our patriarchal system an impact on the creation of the female offender?" is situated. The aim of my study, using feminist theories and a methodology of a critical discourse analysis (CDA) of a case study, is to demonstrate that the patriarchal system has an impact on the creation of the *female* offender and that before being a criminal female offender would be victim of the patriarchal system. In this thesis female/woman includes every person identifying themselves with the feminine gender, however, most of the data focuses on cis-gender women.

2. LITTERATURE REVIEW

Chesney Lind (1997, p.21), who largely participated in the raise of criminological feminist theory wrote: "It is clear that gender has a dramatic and consistent effect on delinquency causation". In fact, since the first law women have faced different laws and punishments than men. In the following I will discuss crime in history to today who have been most exclusive women's crime, which begin with adultery, follow by abortion, witches, sex work and today's crime.

2.1. Adultery

Mommessin (2010) argues that women have been criminalized throughout history because of their gender by rules made by men. Ricordeau (2019) goes further and explains that women have been criminalized and punished for their right to control their own bodies i.e., abortion, sex work. The first laws in Babylonia were therefore patriarchal laws in which the rules were notably different for women who owed honor and loyalty to their fathers and husbands. In fact, if women were seen as failing in their duties of honor and loyalty, they could receive a punishment up to death (Stol, 1995; Mommessin, 2010).

In Christian society, the first crime associated with women was Eve taking the forbidden fruit from the tree in Eden. This metaphor is echoed in women's

“crime” of committing the sin of adultery. During Christian Rome, adulterous women risked stoning, immolation or being suffocated in mud (Mommessin, 2010). However, per MacDougall (2014), in France during the Middle Ages, adultery was not treated as a female crime. In the fifteenth century unfaithful husbands were also punished for their infidelity to their wife. Nevertheless, new reforms made in the sixteenth century criminalized only adulterous women and their lovers (MacDougall, 2014).

Indeed, in many societies, for an extended time, female sexuality was punished differently from that of men.

2.2. Abortion

As with adultery, women’s bodies have long been controlled by men and have been reduced to giving birth, leading to abortion being classified as a crime (Mommessin, 2010; Ardener, 2020). The first abortion laws appeared in the Hammurabi legal text and the Old Testament, where it was punishable by death. However, the father was authorized to kill an unwanted child. This shows, not the importance of the life of the fetus but rather the importance of the decision of the father (Yarmohammadi et al., 2013). Likewise, the old laws emanating from Christian dogmas, and the men who dictated them condemned abortion. In 26 countries abortion is still prohibited (Center for Reproductive Rights, 2021) and even in countries where abortion is now legal, this right may vary, for example, in the USA, 42 states have authorized hospitals to refuse to perform an abortion (Pontillon, 2019).

2.3. Witches

While adultery and abortion were criminalized in order to men to keep control over women’s bodies and sexuality, witches embodied the free woman, without husband or children, and being capable of creating abortive remedies. During the Middle Ages women had long used potions made of plants as contraception or abortive methods. Their control over their bodies was criminalized as witchcraft. In fact, abortion and contraception were condemned as *maleficium*, meaning ‘malicious magic’ (Federici, 2004). In Europe, the great witch-hunt started at the end of the 15th century, lasting until the 17th century, during which 50 000 to 100 000 persons were condemned at the stake. 70-80% of them were women (Mommessin, 2010). Magic and witchcraft were officially claimed to be the reason for the witch-hunt, but it was above all misogyny that was at the heart of the persecutions (Chollet, 2018). Moreover, in these circumstances of generalized suspicion where being a woman could be criminalized, it was men who often profited from it “to get rid of clumsy wives or lovers, or to prevent the revenge of those they had seduced or raped” (Federici cited by Chollet, 2018, p.17). The relentlessness against women happened not only in Europe but also in the USA. The famous trials of Salem have become the symbol of the American witch-hunt. During 1692 and 1693, 200 people, mostly women, were accused of witchcraft in Massachusetts and 20 were sentenced to death (Blumberg, 2007). For Chollet (2018) this witch-hunt represents a war against women, more precisely against the independent woman in a time when misogynistic laws made impossible the autonomy, emancipation, and enfranchisement of women.

2.4. Sex work

Women found a way to win their own autonomy. Prostitution, for instance, known as the oldest work in the world, was used for a long time as emancipation for women. Federici (2004) explains that during the 16th century the loss of power

regarding wage employment of women, which was reduced to less than that of men or even nothing as their work was defined as “housekeeping”, led to a massification of prostitution all over Europe. In a climate of intense misogyny, prevalent during the late Middle Ages, prostitution was consequently criminalized and punished with torture.

Sex work was already practiced at the dawn of civilization and is since then constantly repressed and criminalized (Mommessin, 2010). At the present day, sex work is still criminalized in many countries, or not recognized as work. Male prostitution exists and appears at the same time as female prostitution. However, men represent only 20% of the world population of sex workers (West, 2012; ProCon.Org, 2018). Feminists who are not abolitionists argue that the patriarchal system controls the female body and sexuality by criminalizing women in order to keep them in a reproductive role. They support that most sex workers choose their occupation based on their own free will, and for them it is a work like any other. Furthermore, this sexual re-appropriation appears as a powerful emancipation factor. The criminalization of sex work and its non-recognition as work endangers its workers who i.e., cannot report (potentially) violent clients (Comte, 2014). This discrimination is even more elevated for transgender women who are numerous to work as sex workers, seen as their most accessible job in a society in which they face systemic discrimination and non-recognition. The criminalization that comes with their work and the systemic bias toward transgender people continue to allow their victimization by exposing them to a spectrum of dangerous outcomes like physical, or emotional abuses which can lead to significant traumas (Nadal, Davidoff, Fujii-Doe, Whitney, 2013).

2.5. Today's crime

Today, even if society has evolved, women still grow up in a patriarchal system. Chesney Lind (1997; cf. Franklin & Courtney, 2008; Cauffman, 2008) demonstrates that young women who commit crimes have often run away from their parents' home due to the abuses they suffered there. This coping strategy forces them into crime to survive on the street. In correctional establishments, women reported that their first detention was due to run away or robbery (Chesney Lind, 1997). An American study found that 67% of women who have been condemned for the homicide of someone close to them were previously victimized by this person (Ricordeau, 2019). In fact, women who kill their spouse often do so after years of psychological and/or physical abuse they suffered at the hands of their partner. Most of the time, the homicide is not premeditated but a reaction, self-defense or exhaustion which is underlined by the fact it is often perpetuated with a kitchen knife and not a gun (Chesney Lind, 1997, Murdoch et al. 2012). These findings suggest that patriarchal structures contribute to women becoming criminal offenders.

As Franklin (2008, p.348) argue:

“Women who have endured years of patriarchal terrorism (Johnson, 1995) and violent victimization from abusive intimate partners are punished because the police respond and, without taking the gendered context of violence into consideration, may be unable to identify a primary aggressor and instead arrests both parties”.

Women still live in a patriarchal system where they are raped, hit or killed by men which can lead to serious trauma that has the potential to push them to commit

homicide. An example is the case of Jacqueline Sauvage, a French woman who killed her husband as a response to his years-long violence against her. She became the symbol of domestic violence and injustice and appears as a good representation of what Chesney Lind describes. At first instance as on appeal, Jacqueline Sauvage had been sentenced to ten years of imprisonment for having killed her husband with three bullets in the back. Thanks to a huge mobilization mostly by feminist groups, and after four years in jail, President Holland granted pardoned her (AFP, 2020). Even if she was pardoned, the justice failed in the first extent to see that she was a victim and to recognize her action as self-defense.

Morrissey (2003) explains that only women that killed their partner and managed to prove their abuses suffered by him and that their action was a desperate act of survival thus limiting their agency, can obtain the sympathy of the court and the people. Female offenders who do not correspond to this ideal victim are seen as inhumane and monsters. And still, studies demonstrate that women who killed their husband, even if it was self-defense, face harsher punishment than men killing their wives (Franklin, 2008). This stands in contrast to women in the justice system having generally lighter sentences than men for the same crime. Women are 12-23% less likely than men to have prison sentences and if they do, it is often shorter. This difference is due to gender stereotypes of both women and men that portray women as childlike, weak, easily influenced and not fully responsible for their actions. Courts thereby adopt a paternalistic decision to protect them instead of punishing them. Yet, if this is certainly true for minor offenses, studies indicated that conversely women who commit more violent crime will be similarly or more harshly punished than men because they transgressed their gender norms (Rodriguez et al. 2006; Heidensohn & Gelsthorpe, 2007; Cauffman, 2008). Studies also found that the bias of a female offender appearing as a “good” or “bad” mother has an impact on their sentences (Heidensohn & Gelsthorpe, 2007).

Female violent offenders, especially murders, are seen as more evil than male violent offenders. When a woman kills, she presents a double deviance from society’s norms: being a criminal and not complying with female gender norms which see women as good, nice and sweet. This rejection of the gender norms contributes to their labeling as: ‘monster’, ‘nasty girl’, ‘manipulator’ (Collins, 2016). Contrary to that male violence exists on a continuum: force, aggressivity and violence are associated with testosterone and are part of male gender norms, reinforcing perceived virility and masculinity (Morrissey, 2003).

The female murderer is thus seen as a danger for society. This threat is often consolidated by neglecting the reason for the crime committed thereby contributing to a form of moral panic that crime could happen randomly at every moment to everyone. To enhance this effect, the victim is often portrayed as an ‘ideal victim’, which in victimology theory is defined as “a person or a category of individuals who - when hit by a crime - most readily are giving the complete and legitimate status of being a victim” (Christie, 2018, p.11). It characterizes the weak and random person who has a normal life with which anyone can associate (Barron & Lacombe, 2005; Collins, 2016). As a result, female violent offenders are frequently harshly punished.

3. METHOD AND ETHICS

To answer my research question: “To what extent has our patriarchal system an impact on the creation of the female offender?” I chose the qualitative methodology of a single case study and critical discourse analysis (CDA). The case that I use is that of Lisa Montgomery who has been sentenced to death in the USA for kidnapping resulting in death. I decided to use a qualitative approach which is appropriate for my topic and research question, as I am trying to gain in-depth understanding of the impact of the patriarchal system on the creation of the female offender. Moreover, the topic needs a deeper understanding of complex issues for which quantitative studies would provide less in-depth explanations (Cresswell & Poth, 2017). Furthermore, qualitative studies permit the empowerment of individuals by sharing their voices and stories that could be silenced (Cresswell & Poth, 2017).

In the following, I will argue for my choice to analyze a relevant case to answer my research question. I will provide arguments both for the particular case I selected (3.2), as well as for my choice of analyzing it using CDA (3.3). This is followed by a reflection on ethical concerns regarding my research (3.4). In the last section (3.5) I will illustrate the various steps of which my CDA consists, including my choice of data and coding categories.

3.1 Case study

To support my approach, I chose to investigate a single case study. Yin (1994, p.13) defines a case study as “an empirical inquiry that: Investigates a contemporary phenomenon within its real-life context, especially when the boundaries between phenomena and context are not clearly evident”. This method is criticized for the lack of objectivity and rigor contrary to other methods; however, it is useful for an exploratory, descriptive or explanatory research, which is well-suited for my question. Case studies permit a deeper investigation while using documents such as interviews, court documents and media, which allow to answer questions such as *how* and *why*. Case study research is also appropriate to analyze contemporary events (Meyer, 2001; Rowley, 2002). As my study explores a contemporary case with a behavior that is not fully understood, namely the crime of a woman, a case study is an effective method to explore and explain how the patriarchal system shaped her to commit this crime and why.

3.2 The case

I decided to work on the case of Lisa Montgomery which is characterized by patterns of patriarchal impact on the creation of the female offender, although in a more subtle and concealed way than other cases. Contrary to Jacqueline Sauvage, who has been pardoned for the murder of her abusive husband having been recognized as a victim of him and her act having been recognized as self-defense, Montgomery has been sentenced to death. However, when we look at her personal life, we find that it is marked by abuse by men. Analyzing a case about a woman sentenced to death is a study of a rare case as Montgomery is the first female prisoner executed by the federal government in almost 70 years (Autran, 2021). It makes her one of the seventeen women have been executed in the USA since 1977 (Death Penalty Information Center, 2021) compared to 1532 men. Despite this and the impact of the patriarchy being less obvious than in a case where the crime has been recognized as self-defense, the case

and its study are highly relevant. The analysis of the case Montgomery provides a deeper understanding of the, at times subtle, ways in which patriarchy impacts the creation of the female offender.

3.3 Critical discourse analysis

To investigate the case of Lisa Montgomery, I adopt a critical discourse analysis method.

Kramer (2007, p.93) defined critical discourse analysis as:

“A system of analysis that attends to discrete portions of the language with a particular socio-historical context with an aim of providing a multi-layered analysis of how the language operates communicate surface level language as well as underlying dynamics of interpersonal relations, cultural traces, institutional influences, and ultimately power.”

Today, many researchers are using CDA, especially when they are working on gender, or feminist theories. CDA is appropriate to explore those subjects as one analyzes the power relation between persons and/or institutions through the used linguistics (Lazar, 2005; Bucholtz, 2008). In fact, Fairclough stated that the power structure of society, that is set by the conflict between the dominant and dominated, is reflected in discourse (Zupnik, 1991). While we cannot truly know the mind and intention of a person, CDA is useful to understand and dismantle power structures and underlying biases in hegemonic discourse (van Dijk, 1997). In a court document, even if the language is practical, standardized and universal, it is still possible to analyze it while considering power relations between actors. This is done by examining the choice of words, text structure as well as paying close attention not only to what can be found in the text but also to what is not present.

Social power is defined by Van Dijk (1996; 84) as:

“The control exercised by one group or organization over the actions and/or the minds of another group, thus limiting the freedom of actions of the others, or influencing their knowledge, attitudes or ideologies”

This power comes from privilege and access to social resources i.e., job, wealth, status, which give actors access to discourse and communication. In fact, the dominant group or powerful institutions (i.e., State, church, justice) have control of public discourses and may influence text and speech to maintain their hegemony by acting on dominant norms, attitudes, ideologies and values (Van Dijk, 1996). Unequal power distribution can be based on gender, race, class and/or sexuality, when the hegemonic group exercises a dominant and oppressive system on a minority group, i.e.: men on women, white on black people, rich on poor (Griscom, 1992; van Dijk, 1997). The importance of discourse is here linked to patriarchy, where discourses of the dominant group, here men, have interest to keep their privileges by maintaining patriarchal structures.

Jäger's (2004, p.129 cited by Schneider 2013) reflects that discourse is used in the creation, production and normalization of truths, norms, beliefs and values (Halperin & Heath 2017, p.343) so that i.e., gender norms are no longer seen as opinions on how certain people should behave but are seen as the truth about the identity of women. Once these beliefs are normalized the discourse does not stop but reinforces and maintains these beliefs (Schneider 2013)

I base my analysis method on Schneider's (2013) toolbox on how to conduct a CDA which is inspired by Fairclough and Chilton (YEAR – if there is a specific text that

Schneider references). His method suggests 10 steps on how to carry out the analysis. The first step is to develop the literature background related to the topic which provides an overview of the following analysis and arguments and presents a first step to answer my research question. It also gives the general context of my study which can be found in section 3.2. The second step is to establish the context of the case which I did by informing myself about the case, and reading several documents on the case's background, Lisa Montgomery, her crime, as well as the accusation and mitigating circumstances. This context and further steps will be outlined in section 3.5.

CDA in my case allows me to analyze not only the power relationship between the judge and the appellant but also that of a male judge over a woman. It further takes into account the socio-historical context that led Montgomery to commit a crime. However, this method has some limitations. Firstly, it has been critiqued for the vagueness and indistinctness of concepts. Secondly, while emphasizing the context of texts' production, CDA does not consider how people read the text, and in which social circumstances. The greatest limitation is that CDA conveys a certain ideology which is forced up to the reader. Likewise, the researcher might project their own political point of view which can result in biased data selection and interpretations (Blommaert & Bulcaen, 2000). To reduce these limitations, I follow Schneider's toolbox. By strictly following and transparently outlining Schneider's steps I seek to ensure the reliability of my data and make it possible for others to repeat my analysis thereby testing my findings. (This reflexivity will be more developed in the section below 3.4). While others' interpretation may differ from mine to some extent, it does not mean that either one interpretation is invalid. Instead, the differing interpretations can be used as data themselves (Halperin & Heath, 2017, p.355-356).

3.4 Ethics reflexivity

I chose to analyze a famous and mediatic case in the USA which makes ethical concerns an important part of my research. My position of researcher is to not judge but to understand and analyze the case. I know that during my analysis biases can interfere, whether cognitive or coming from our own judgement or moral (Van Loon, 2018). Even if my preconceived notions and personal opinion have interfered with the analysis, this bias is reduced, and validity is ensured by the sources that I chose from different academic authors which can be found in the final section (6). The transparency that I developed along my thesis can permit other people to repeat and thus test it and to corroborate or invalidate my results. I am presenting reliable data, namely several court documents that I coded in a consistent manner. Doing so, I aim for objective and reflexive analysis which does not represent the truth or the reality, but which contributes to answering questions about complex structures.

Concerning consent, as it is a famous judicial case and Montgomery was sentenced to death, consent cannot be given. I decided not to anonymize Montgomery, the main subject of this case study. The first reason is that her name is linked to her story which should not be silenced and made invisible. As mentioned previously, studies can permit the empowerment of individuals by sharing their voices, and stories (Cresswell & Poth, 2017). Voices, stories, names of women have been silenced throughout history (Houston & Kramarae, 1991). Therefore, citing Montgomery's name permits to not invisibilise her name and the history that comes with it, as it has been the case for many other women. However, not hiding the identity of Montgomery does not mean that I speak for her and make assumptions about her without her consent. Rather, through the utilization of CDA, I analyze the patriarchal and power structures that led to her criminalization. Keeping her name contributes to her emancipation through the

analysis of the power structure. On a large scale, it shows that she is a victim of the patriarchal system which contributes to rehabilitating her name.

3.5. Data collection

3.5.1. Case background

To collect my data, I decided to work on several American court documents that I could find on the internet. Those documents are all connected to the case of Montgomery, an American woman who has been executed on January 13, 2021, for the murder of a pregnant woman by cutting her fetus out of her and kidnapping it (Carrega, 2021). In 2003, Montgomery and the victim, Jo Stinnet, met at a dog show. They were in contact via social media, where in 2004 Stinnet told her community that she was pregnant. At the same time, Montgomery began telling her family and friends that she was pregnant. However, this was impossible as her mother and ex-husband had forced her to have a sterilization. Montgomery contacted Stinnet online to buy a puppy from her. She went to her home and attacked Stinnet to take her fetus which resulted in the death of Stinnet. Montgomery took the baby with her and passed it off as hers.

Montgomery first lied to the police saying that the baby was hers but shortly thereafter confessed her crime. She was sentenced to death for kidnapping resulting in death (United States court of appeals for the eight circuit No.08-1780. Filed April 5, 2011; Petition alleging violation of the human rights of Lisa Montgomery by the United States of America and urgent request for precautionary measures. Filed on November 5, 2020). Montgomery's history is full of abuse; she was raped several times by her stepfather when she was a child, was forced into prostitution by her mother, beaten and raped by several of her spouses, and suffered from several mental diseases including psychosis, post-traumatic stress disorder and bipolarity (Badcock, 2020).

3.5.2. Documents

To collect my data, I searched court documents related to Montgomery on the internet; I used search engines for the keywords "Lisa Montgomery court documents", "Lisa Montgomery criminal case", and "Lisa Montgomery's crime". After I found some documents, I searched her name in the main link which is the supreme court website which permits access to public court documents. All the documents' names, their number and their websites can be found in the *table 1* below.

I tried to find the original court case, but I could not which represents a limitation that will be discussed in section 4.3. In the next step, I decided to not take into consideration documents that were irrelevant as they do not contain anything about the crime or on the personal history of Montgomery as this is the focus of my analysis. Therefore, I removed two documents: the "United States district court for the district of Columbia No. 20-3261 (RDM). Memorandum opinion and order. Filed on 12/24/20.", and the "United States district court for the district of Columbia No. 1:20-cv-03261-RDM. Plaintiff's reply memorandum in support of motion for partial summary judgment. Filed on the 12/21/20." The documents 4 and 5, which are both applications petition from Montgomery's attorney will not be discussed as they did not contain any information that I needed, however I decided to keep them because the documents 8, 9 are answers to those petitions.

I used both documents that are in favor of Montgomery, such as petitions from her attorneys, as well as some that promote her execution. The indictment is the only document which has been written in 2005, around the time of the crime. In 2011 the

case of Montgomery resurfaced after her appeal. All other documents date to after her process (2020-2021) when she had already been sentenced to death. At this time, then-President-Elect Biden was about to succeed then-President Trump. As Biden opposes the death penalty, he might have pardoned Montgomery. It suggests that Montgomery's lawyers tried to win time and while the others pressed for her execution. The table below (*Table 1*) provides an overview of the sampled court documents.

1. In the United States district court for the western district of Missouri St. Joseph Division. Indictment. Filed December 1st, 2005. (<http://courtweb.pamd.uscourts.gov/>)
2. United States court of appeals for the eighth circuit No.08-1780. Filed April 5, 2011. (<https://law.justia.com/cases/federal/appellate-courts/ca8/08-1780/081780p-2011-04-05.html>)
3. Petition alleging violation of the human rights of Lisa Montgomery by the United States of America and urgent request for precautionary measures. Filed on November 5, 2020. (<https://deathpenaltyworldwide.org/>).
4. Supreme Court of the United States. No 20 A_. Application for stay of execution. Filed on January 9, 2021. (<https://www.supremecourt.gov/>)
5. In the Supreme Court of the United States No. 20_. On Petition for a Writ of Certiorari to the United States Court of Appeals for the District of Columbia Circuit. Filed on January 9, 2021. (<https://www.supremecourt.gov/>)
6. United State Court of Appeals, for the district of Columbia circuit No.21-5001. Filed on January 11, 2021. (www.dccourts.gov/court-of-appeals)
7. United States Court of Appeals, For the Seventh Circuit Chicago, Illinois 60604. No. 2:21-cv-00020-JPH-DLP. Filed on January 12, 2021. (www.ca7.uscourts.gov)
8. In the supreme court of United State No. 20A124. Response in the opposition to application for stay of execution. Filed on January 2021. (<https://www.supremecourt.gov/>)
9. In the supreme court of United State Nos. 20-922 and 20A121. Brief for the United States in opposition to application for a writ of certiorari and to application for a stay of execution. Filed on January 2021. (<https://www.supremecourt.gov/>),

Table 1

Step 3 on Schneider's (2013) list is to prepare the material. To do so, I saved all documents on my computer. I read them several times to know my material, and then I printed and numbered them in chronological order and proceeded to code them.

3.5.3. Coding

To analyze the documents in addition to the context, I developed coding categories as described by Schneider (2013) representing step 4 of his toolbox. Since I wanted to

concentrate on lexical language, that is words and sentences used to describe the crime or Montgomery’s personal history, I developed coding categories based on language. Initially, I thought it would be difficult to identify these different languages in the text, as court documents must be standardized and practical. However, I noticed that emotional language was used and came up with two categories which are represented in the table (*Figure 1*) below.

Montgomery’s background	Montgomery's crime
Emotional language	Emotional language
Neutral language	Neutral language

Figure 1

Analyzing language permits to interpret possible differences in discourses of both sides, and to expose feasible power structures. I focus on emotional language as it is used in both cases as a way to intensify arguments whether they are for or against Montgomery’s execution. As these are court documents, neutral language is often used to describe events, however, this presents relevant information, especially when neutral shifts to emotional language.

Using the approach of evolutionary coding (c.f. Schneider, 2013), I developed another useful category: the utilization of morality, which is used here in the moral sense of what is good and what is not. Emotional language using morality is a way to reinforce arguments and calls on the reader to show good values. To make the analysis of emotional language more precise, I added a focus on positive and negative emotional language. I furthermore added the category “victimization” to analyze descriptions in the data that are used to enhance the empathy of the audience with the victim as an ideal victim or to show that Montgomery was a victim, too. I developed another additional category: the victimization of the children of Montgomery, which is used to emphasize that Montgomery is a bad mother. Which is represented in the table (*Figure 2*) below.

Montgomery’s background	Montgomery's crime	Victimization
Emotional language Positive / Negative	Emotional language Positive / Negative	Bobbie Jo Stinett
Neutral language	Neutral language	Lisa Montgomery
Morality	Morality	Montgomery’s children

Figure 2

Steps 5 (text structure), 6 (discursive statements), 7 (cultural references), and 8 (linguistic and rhetorical mechanisms) are interlinked with the coding categories. Text structure can be used to emphasize certain aspects tied to morality or aimed at emotional effect, so that even seemingly neutral statements are used to influence the audience’s perception. Similarly, cultural references such as the mention of particular traditions or holidays may evoke emotional responses in the audience, and linguistic and rhetorical means such as metaphors can be used to convey emotional or moralizing messages. The coding categories in themselves are aimed at the identification of

specific groups of discursive statements. Hence, these steps were carried out parallel to the coding of the selected documents. The interpretation and presentation of the findings (steps 9 and 10) are carried out in the following analysis.

4. ANALYSIS

In the analysis I first present (4.1) and then discuss (4.2) relevant discourse strands found in the selected documents that relate to the crime and Montgomery's personal history. Both the findings and the discussion are structured based on theme. First, I will analyze the ideal victim and moral panic, then move on to the argument of morality and the monster labeling. I finish with the victimization of Montgomery. This analysis serves to answer my research question: "To what extent has our patriarchal system an impact on the creation of the female offender?". The documents will be named by their number which can be found in *table 1* page 12. I will finish the analysis by the limitations of the thesis.

4.1. Findings

4.1.1. *The ideal victim and moral panic*

In almost all documents, whether they are for or against the execution of Montgomery, emotional language can be identified which accentuates the authors' arguments and opinion and serves to persuade the audience of their accuracy. In fact, using emotion has been found to impact the behavior of others and is a powerful way to convince (Rocklage et al., 2018). In the Document 1 the authors wrote: "Montgomery killed the victim Bobbie Jo Stinnett, in an *especially heinous, cruel and depraved* manner" (1, p.3, emphasis added). Negative emotional language and the accumulation of adjectives is used to emphasize and amplify the cruelty of the crime, which is also present in the documents 2, 8 and 9.

The victim is described as "particularly vulnerable due to her young age" (1, p.3) and "particularly vulnerable due to her infirmity" (1, p.4) which portrays Stinnett as a victim that appears weak and an easy target. Christie (2018) describes five points that make someone an ideal victim: being weak, young, carrying a respectable project (here being a mother), being somewhere where she couldn't be blamed for during the daytime (here Stinnett's home at 3:30 pm [2, p.3]) and that her offender was bad, unknown and in no personal history with her, which is the case for Montgomery.

4.1.2. *Morality*

Wall's (8; 9) appeals to the judge to show morality by arguing that it is his duty to sentence Montgomery to death, and that the public and government want to punish the guilty. He also uses emotions saying that Stinnett's family have already suffered, that they cannot wait anymore and will only move forward when the murderer has been punished. This can be seen in statements such as the following:

"This Court has repeatedly emphasized that the public has a powerful and legitimate interest in punishing the guilty and that [b]oth the [government] and the victims of crime have an important interest in the timely enforcement of a [death] sentence. Only with an assurance of real finality can the [government] execute its

moral judgment in a case.” (8 p.24). I argue that morality and emotion is used by Wall to persuade the judge that executing Montgomery is a good and a necessary act.

Moreover, by writing that the “public”, “both the government and the victim of crime” want the punishment and by recalling that the role of the court is to “fairly and expeditiously” execute the sentences (8p.24-25), Wall calls to the moral standard of society which is to punish criminals.

4.1.3. Monster labeling and the bad mother

In Document 6, cultural reference and emotional language is used: “A few days before Christmas in 2004” (6 p.2), followed by “Montgomery strangled Stinett, butchered her with a kitchen knife” (6 p.2). Showing that the crime has been committed around Christmas, which is a family, religious, jovial celebration, especially in a country like America where religious holidays are an important part of the culture, serves to accentuate the inhuman nature of the crime. The term “butchered” has been never used in any of the other documents, which further accentuates the violent nature of the scene and makes Montgomery pass for an inhuman monster.

Wall proceeds in the same manner, qualifying the crime as: "a crime of staggering brutality" (8 p.4) and “[Montgomery] committed one of the most horrific crimes imaginable” (applicant refer here to Montgomery who applied for a stay of execution and a writ of certiorari documents 4 and 5) (8, p.29; 9, p.33). It represents yet another representation of Montgomery as a heartless monster.

Wall mentions that Montgomery cannot be trusted because she is a manipulator: “Applicant’s history of manipulation and deception is well established.” (8p.16), Those words and what they evoke – which is the absence of femininity implied by the horror of the crime committed – reminds of the labeling of witches (Federici, 2018).

In the second document it is stated that various witnesses testified during Montgomery’s trial that she was “a good and loving mother” and that she had a “harmonious relationship” with her children (3, p.13). However, the prosecutor supports the fact that Montgomery “was not a good mother and that a good mother would not force her children to testify in this high-profile trial” and that by doing so she “victimized them again in the front of the world” (2, p.13;34). He also tried to show that Montgomery was a bad mother by asking her daughter if she ever apologized for what she has done. Even though those arguments were seen as improper by the court, they were nonetheless taken into consideration and contributed to her sentence. This characterization of Montgomery as a ‘bad’ mother contributed to and reinforced her monster label.

4.1.4. Montgomery’s victimization

Contrary to the documents previously mentioned, the petition filed by Montgomery’s new female attorneys (3), takes a stand against the execution of Montgomery. The first sentence describes Montgomery as a “survivor of multiple rapes, child abuse, torture and domestic violence” (3, p.1). The word *survivor* is not trivial and is often used by feminists to avoid victimizing people that have been abused. However, this first sentence, using emotional language, demonstrates victimization and is used to create empathy for Montgomery. Apart from this sentence very little emotional language is used during this 64-page petition. We can make the hypothesis that descriptive neutral

language in this case was dense enough to prove the importance of Montgomery's personal history.

The petition assesses that "the story of Lisa Montgomery's childhood reads like the script of a horror movie." (3, p.7). If Wall intended to describe Montgomery as a monster, the use of "a horror movie" is the opposite, showing that she herself is the victim of a monstrous act. The long-detailed description of the abuses suffered by Montgomery throughout her life shows a continuous victimization that led Montgomery to commit her crime. However, almost none of this is mentioned in the others court documents. This show that they tried to dehumanize her by describing her as a monster rather than providing a balanced account of what she did and the victimization she faced and let her commit the crime. Her mother Judy was an alcoholic, who tortured Montgomery, forcing her to prostitute. (3, p.7-9). Montgomery's stepfather, Jack, beat, abused and raped Montgomery and her sister several times per week for years. He also invited his friends to the home to rape Montgomery one after the other. She was "anally, orally, and vaginally raped by several men for several hours at a time" who finished by urinating on her (3, p.9). Her first husband, Carl, as well as the second, Kevin, brutalized, tortured, sexually assaulted and raped her for years (3, p.15-16). After her fourth child, her mother and her first husband, Carl, forced her to have a sterilization (3, p.15). Moreover, according to the petition, several state agents knew about the condition of Montgomery at home and did nothing (3, p.10-12).

The petitioners argues that national expert asked Judy Clark, an experienced female lawyer, to join the legal team. Clark, as a woman, quickly managed to build a trust relationship with Montgomery who had difficulties with trusting men because of her history of abuse. They wrote that one of the lawyers was a misogynist who would not work with a female lawyer and asked the male federal judge to remove her from the case. Consequently, Clark could not work on the case anymore (3, p.19-21). Moreover, their biases made them view Montgomery as a sweet and weak woman who could not have committed the crime on her own and accused Montgomery's brother (3, p.41).

4.2. Discussion

In accordance with Collins (2016), the victim is often presented as innocent, weak, a good and 'ideal victim' which creates empathy and emphasizes the contrast between the good innocent victim and the bad monstrous murderer. In this case, the audience develops empathy for the victim as someone who did nothing to deserve being in their particular situation and identifies with her thinking that the specific crime could happen to anyone at random; family, friends, even to "me". This contributes to creating "moral panic", whereby the female offender, portrayed as a monster, is seen as out of control and a danger for society which results in the consolidation of the perception of the risk that she represents for people (Barron & Lacombe, 2005). Moreover, none of the documents that explain the crime name a motive except for the petition in Montgomery's favor in which the attorneys argue that her abusive ex-husband, Carl, knew she had been forced to be sterilized and two days before the crime he threatened to use her fictitious pregnancy to obtain custody of their children (3, p.17). The apparent non-existence of a motive and the action of the criminal participate in the creation of this subjectivity which, yet again, portrays the criminal as uncontrollable, as someone who kills without any logic (Morrissey, 2003). This reinforces public opinion and court judgement which will ask for a harsh punishment.

According to Morrissey (2003), the narrative morality play is often used in crime reporting, by placing on one side the evil criminal and on the other the side the good (judge, judiciary, lawyer). Morality play has then the effect to make the good overcome the evil. She explains that violence threatens the law and judicial order. She further claims that it is therefore that they frequently cast violent offender events as morality plays to reinforce the illusion that society keeps control of the citizen which assures the outcome of punishment and allows the dominant hegemony – in this case patriarchy – to stay in place. Moral panic is used in the same way: the fear and threat that offenders induce, will push people to ask for harsh punishment and put their trust in the justice system to punish the guilty. In fact, those crime stories have “the purpose of reaffirming the basic moral standard of society demonstrating both the might and the rightness of institutional authority” (Morrissey, 2003, p.16).

This process functions through portraying the criminal as a monster. As discussed, female killers only receive empathy if they kill their husband in self-defense and manage to show the extreme victimization they suffered from him (Morrissey, 2003) which is the case with, for instance, Sauvage. Women who killed their husband in these circumstances face the stereotype of losing their agency and self-determination. Like the ideal victim to receive empathy females’ offenders need to appear as weak, without agency, if not they are seen as inhuman. Contrary to that, violent male offenders are regularly, in fiction or in real life, glorified, idealized, or fantasized. Unlike criminal women who deviate from gender norms, male offenders are the symbol of virility and masculinity which make them appear more human (Morrissey, 2003). It is not trivial as female offenders are often characterized as “monster, misfit and manipulator” (Collins, 2016, p.2) which results in their portrayal as masculinized hyper violent women. It breaks the societal gendered convention that women should be feminine, i.e., kind, sweet and obedient.

Moreover, for Chesney Lind (1997, p.4), the labeling as “Witches, whores” that often comes with female offenders is a way to enforce the boundaries of the “good girl” and women’s place in patriarchal society which is maintained by the criminal justice system. Thus, female violent offenders embody the double deviance of being a criminal and of deviating from their gender and societal norm of how a woman must act. Those kinds of female violent offenders are often treated more harshly which is the case with Montgomery who is the first female prisoner executed by the federal government in almost 70 years (Collins, 2014; Autran, 2021).

Studies found that the sentencing of female offenders could be biased by the fact that mothers appear as a ‘good’ or a ‘bad’ mother. Children and family would be the focus of courts to exercise their judicial paternalism, a feminist criminological concept which argues that the patriarchal institution will treat female offenders different than male offenders. This would be the case in particular for status offense in order to keep and enforce institutional authority (i.e., parental, school, civic) (Heidensohn & Gelsthorpe, 2007, p.399; Spivak et al., 2014).

In fact, if women have long been reduced to their biological duty to give birth and raise children properly, bad mothers break the moral and gender norms/roles associated with femininity (Spivak et al., 2014). Whether it is the ideal victim, moral panic, the morality play, the monster labelling and the bad mother or the ideal victim, those

arguments serve to maintain and reaffirm the patriarchal system by reinforcing and punishing what goes out of the norm. Although this same system is allowed this victimization.

Indeed, concerning the petition Montgomery's attorney tries to create empathy and understanding for Montgomery by describing her as a victim of misogyny and not culpable for her actions because of the mental illnesses she developed as a coping strategy. Childhood victimization has been found as a high-risk factor for male and female offending but is stronger among female (Cauffman, 2008). In fact, according to Wolf Harlow (1999), in state prison 16.1% of male and 57.2% female prisoners have been abused in the past. Moreover, female offenders experienced a high rate of victimization, but they also have less abilities to cope with their traumas. Dysfunctional family and relationship have also a bigger impact on female delinquency than on men (Cauffman, 2008). Montgomery faced a continuous victimization from childhood to adulthood which, contrary to men, women face regularly (Wolf Harlow, 1999). It has been shown that being a survivor of sexual abuse can lead to serious physical and psychological damage (Thomas, 2016). This assemblage of research demonstrates that Montgomery is not a special case but rather a victim among many others, unable to develop effective coping strategies after the traumas she experienced, without which she would most likely not have committed a crime.

Moreover, the agents of her victimization, which are her mother, her stepfather, his friends, and her two husbands, have, contrary to her, never been punished for what they did to her, namely torture, exploitation to prostitution of minors, rape, pedophilia, and gang rape of minors. I do not take a stand on who should be punished or not, however, the comparison between the dissimilar responses to Montgomery's crime and those committed against her illustrates that the justice system is based on patriarchal structures, which has an impact on who is punished and how. In fact, less than 1% of the rapist face a prison sentence, even if some characteristics must be taken into consideration like the fact that rape can be difficult to prove, this mainly masculine crime is slightly punished (Steffensmeier & Allan, 1996; Van Dam, 2018). According to feminist theorists, rape is a way to assert male power over women and maintain patriarchal structures (Fisher & Pina, 2013). While there certainly is a culture of silence concerning men who have been raped, including rape being seen as a loss of their masculinity, it is often perpetrated by another men (Kramer, 1998; Andersson, 2007; Fisher & Pina, 2013). This shows again that the patriarchal system has an impact on the victimization of women by allowing this victimization, and influences who is punished. In fact, society often denies, minimizes or justifies sexual assault and place the culpability on the victim, which participates in creating a culture of acceptance of sexual violence and maintains patriarchy (Fisher & Pina, 2013). Contrary to female offenders, male rapists are not a danger for the system and its standards and norm because the male rapist is part of it through showing masculine stereotype of strength, authority, and dominance while women are seen as sexual tempters, submissive and passive (Morrissey, 2003; Fisher & Pina, 2013).

The description of the misogyny that the male lawyer showed by asking for the exclusion of the only female lawyer proves once again that Montgomery is a victim of the same misogyny she has suffered all her life. Instead of showing that Montgomery is above all a survivor, the male lawyer portrayed her as a weak and innocent woman who couldn't have done this 'monstrous' crime and putting the crime on a man. This

demonstrates again that instead of showing that all the abuses and her mental illness led Montgomery to commit this act, the male lawyers seen her by the norms of the society, that a woman is too nice, fragile, and obedient to commit a violent crime, contrary to a man (Morrissey, 2003). I argue therefore that before being a criminal, Montgomery is above all a victim of our patriarchal society which allowed this victimization and condemned her to death.

4.3. Limitations

This research inevitably faces some limitations. Firstly, no documents from the first trial could be analyzed potentially leading to the omission of information. Secondly, the most relevant critics come from Chesney Lind (1997) who argues that seeing female offenders as victims and not truly responsible for their action suggests that women couldn't make their own choice thus denying them their agency. Thus, further research on the issue will be beneficial for a holistic understanding of its complexity. However, the critical analysis of discourse surrounding the case Montgomery within a framework of transparent and consistent methodological tools contributes to a deeper understanding of female violent crime and its causes.

5. CONCLUSION

There is no indisputable answer to my research question “To what extent has our patriarchal system an impact on the creation of the female offender?” due to the complexity of the world and the brain. However, this thesis gives relevant responses and analysis that contribute to the understanding of how the patriarchal system has an impact on the creation of the female offender. It is undeniable that gender has an impact on how people are criminalized and punished. Would Montgomery have committed this crime without the abuses she suffered all her life? Or if the different state agents had put her in a safe place? Or would have been sentenced to death if the male lawyer had not been misogynist and biased? The findings of this thesis suggest that the answer is “no”. There will always be an example to demonstrate an exception. However, the discourses in the case of Montgomery, alongside the literature, examined in this thesis underline that the continuous abuses that female offenders suffer have an impact on their crime trajectory which contribute to the understanding of how the patriarchal system has an impact on the creation of the female offender. In fact, the results demonstrated that the justice system rarely takes gendered aspects into consideration, especially when the female offender does not fit gender norms. And that the patriarchal system allows women victimization by not punishing rapist and the agent responsible for the victimization of Montgomery. But sentenced her to death in order to maintain and remain the norms and standards of the society which keep the hegemonic group in place without taking her victimization in consideration. In effect, the patriarchal system and the institutions that reproduce it have an impact on the creation of the female offender. Montgomery is an example among others that she is first a victim of the patriarchal system before being a criminal.

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