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“Improperly” Feminine: A Case Study in American Female Convicts Awaiting Execution, 1981–2019

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Albert Camus once wrote “what then is capital punishment but the most premeditated of murders, to which no criminal’s deed, however calculated it may be, can be compared?”¹ There are many women in America currently waiting for their “premeditated murders.” These are “the worst of the worst.” They have committed the most abominable, cruel, heinous crimes. These are the “fallen women” of society – immoral, dishonorable, wicked, depraved, improper. These are the ones who have irrevocably lost their “natural,” feminine innocence. Who are they exactly? What have they done? Are they judged solely based on their actions or is it their womanhood that is also on trial? The article aims at presenting an overview of cases of female convicts who received the death penalty sentence in 1981–2019 in the United States.

The U.S. incarceration rate (the number of prisoners per 100,000 American citizens) is five times higher than that in any other country in the world.² If we were to evaluate the incarceration rate in each of the 50 American states as if they

¹ Albert Camus, *Resistance, Rebellion, and Death*, from “Réflexions sur la peine Capitale,” 1957, Calmann-Lévy, p. 199, <http://users.clas.ufl.edu/burt/deathsentences/CamusGuillotine.pdf>, access: 16.11.2020.

² Research has shown that the U.S. prison population is growing because of the “political environment,” not precisely because of crime rate changes. See: Kevin B. Smith, “The Politics of Punishment: Evaluating Political Explanations of Incarceration Rates,” *The Journal of Politics* 66/3 (2004); Marc Mauer, “Comparative International Rates of Incarceration: An Examination of Causes and Trends, Presented to the U.S. Commission on Civil Rights,” *The Sentencing Project* (2003).

were independent countries, 23 of them would have higher incarceration rates than the USA as a whole.³ Surprisingly, Massachusetts, the state with the lowest incarceration rate in the United States, would take ninth place in the world, below Brazil and above Belarus and Iran.⁴ It is important to note that the countries classified alongside the least punitive states in the United States, such as Thailand, Russia, or Rwanda, are those with the history of authoritarianism or those that “have recently experienced large-scale internal armed conflicts.”⁵

Why is the punishment for as much as 70% of all convictions in the U.S. criminal justice system confinement?⁶ As widely argued, the issue of mass incarceration in America is linked to the country’s history of enslaving people of color.⁷ Slavery in America was an economic system; in fact, the United States’ economy was built on the enslavement of Black people. According to Matthew Desmond and Mustafa Emirbayer, since most inmates in the U.S. are non-white and many Black people will be imprisoned somewhere in their lifetime, we can see the economic parallel between slavery and mass incarceration of African Americans.⁸ As Desmond and Emirbayer claim, just as every slave was considered an asset, every inmate in a correctional facility is an asset; instead of being abolished, slavery was replaced by mass incarceration of (especially) African Americans because of the need to rebuild the United States’ economy after the ratification of the 13th Amendment, as even the 13th Amendment itself says that slavery is illegal with the *exception* of being “a punishment for a crime.” In a case *Ruffin v. Commonwealth* of Virginia in 1871,⁹ “a Virginia court ruled that a prisoner, during his term of conviction, ‘is for the time being the slave of the state.’”¹⁰ That also brings to mind the noteworthy issue of felon disenfranchisement in America.¹¹ Americans who have received a felony conviction are deprived of their right to vote (both convicted felons and ex-felons), which, considering the large number of the disenfranchised, of the citizens who have been denied one of the basic rights of citizenship in a democratic country, definitely has an impact on shaping (and re-shaping) the government body.

³ Peter Wagner, Wendy Sawyer, “States of Incarceration: The Global Context 2018,” *Prison Policy Initiative*, <https://www.prisonpolicy.org/global/2018.html>, access: 11.03.2020.

⁴ *Ibidem*.

⁵ *Ibidem*.

⁶ *Ibidem*.

⁷ See: Michelle Alexander, *The New Jim Crow: Mass Incarceration in the Age of Colorblindness* (New York: The New Press, 2010); Marc Mauer, *Race to Incarcerate*, rev. ed. (New York: The New Press, 2006); *13th*, dir. by Ava DuVernay (Kandoo Films, 2016), <https://www.netflix.com/title/80091741>.

⁸ Matthew Desmond, Mustafa Emirbayer, *Race in America* (New York: W.W. Norton & Company, 2015), 210.

⁹ *Ruffin v. Commonwealth*, 62 Va. 790, 21 Gratt. 790 (1871).

¹⁰ Susan Kang, “Forcing Prison Labor: International Labor Standards, Human Rights and the Privatization of Prison Labor in the Contemporary United States,” *New Political Science* 31/2 (2009): 146.

¹¹ See: Jeff Manza, Christopher Uggen, *Locked Out: Felon Disenfranchisement and American Democracy* (New York: Oxford University Press, 2006), 41–68.

As Jeff Manza and Christopher Uggen claim, “the adoption and expansion of [felon disenfranchisement] laws in the United States is closely tied to the divisive politics of race and the history of racial oppression.”¹² Adding the number of 2.3 million people in correctional facilities to people on probation or parole, it is estimated that nearly 7.3 million people are currently being supervised by the American criminal justice system,¹³ a historical peak of the American mass incarceration rate. The prison population increased immensely from the stricter sentencing laws introduced in the 1980s and 1990s, such as the “Three Strikes and You’re Out” policy (third offense conviction results in 20 years or life imprisonment), mandatory minimum sentencing laws, and the SB1070 bill, the outcome of which was to further criminalize the non-white population in America.¹⁴ Having been so broadly analyzed and discussed, both the overall oppressiveness of the American authorities and the racial disparity still pervading the U.S. criminal justice system in particular are not easily deniable.¹⁵ Discourse suggests that these disparities are a result of various, intertwined factors, ranging from systematic and institutional racism, overt bias, omnipresent but individual prejudices, racially influenced social circumstances, and structural racism.¹⁶ It should be recognized, however, that the mass incarceration of people of color, although of immense importance in the U.S., is a very different issue than the issue of the death penalty itself.

U.S. capital punishment has been a controversial topic for years, and it is still the harshest punishment in most American states. The 27 states with the death penalty are: Alabama, Arizona, Arkansas, California, Florida, Georgia, Idaho, Indiana, Kansas, Kentucky, Louisiana, Mississippi, Missouri, Montana, Nebraska, Nevada, North Carolina,

¹² *Ibidem*, 9.

¹³ Hadar Aviram, “Are Private Prisons to Blame for Mass Incarceration and Its Evils? Prison Conditions, Neoliberalism, and Public Choice,” *Fordham Urban Law Journal* 42/2 (2014): 412–413.

¹⁴ 13th, dir. by Ava DuVernay.

¹⁵ Robert J. Sampson, Janet L. Lauritsen, “Racial and Ethnic Disparities in Crime and Criminal Justice in the United States,” *Crime and Justice* 21 (1997): 311–374; Bryan Warde, “Black Male Disproportionality in the Criminal Justice Systems of the USA, Canada, and England: a Comparative Analysis of Incarceration,” *Journal of African American Studies* 17 (2013): 461–479, <https://doi.org/10.1007/s12111-012-9235-0>, access: 30.04.2023; Julian M. Rucker, Jennifer A. Richeson, “Toward an Understanding of Structural Racism: Implications for Criminal Justice,” *Science* 374 (2021): 286–290; William J. Chambliss, “Crime Control and Ethnic Minorities: Legitimizing Racial Oppression by Creating Moral Panics,” in *Ethnicity, Race, and Crime: Perspectives Across Time and Place*, ed. Darnell F. Hawkins (New York: State University of New York Press: 1995), 235–259; Coramae R. Mann, *Unequal Justice: A Question of Color* (Bloomington and Indianapolis: Indiana University Press, 1993); Samuel Walker et al., *The Color of Justice: Race, Ethnicity, and Crime in America*, sixth ed. (Boston: Cengage Learning, 2018); Katherine Beckett, Theodore Sasson, *The Politics of Injustice: Crime and Punishment in America* (California: SAGE Publications, 2004).

¹⁶ Zinzi D. Bailey et al., “Structural Racism and Health Inequities in the USA: evidence and interventions,” *The Lancet* 389/10077 (2017): 1453: “Structural racism refers to the totality of ways in which societies foster racial discrimination through mutually reinforcing systems of housing, education, employment, earnings, benefits, credit, media, health care, and criminal justice. These patterns and practices in turn reinforce discriminatory beliefs, values, and distribution of resources.”

Ohio, Oklahoma, Oregon, Pennsylvania, South Carolina, South Dakota, Tennessee, Texas, Utah, and Wyoming. The 23 states without the death penalty are: Alaska (since 1957), Colorado (2020), Connecticut (2012), Delaware (2016), Hawaii (1957), Illinois (2011), Iowa (1965), Maine (1887), Maryland (2013), Massachusetts (1984), Michigan (1847), Minnesota (1911), New Hampshire (2019), New Jersey (2007), New Mexico (2009), New York (2007), North Dakota (1973), Rhode Island (1984), Vermont (1972), Virginia (2021), Washington (2018), West Virginia (1965), and Wisconsin (1853); additionally, the U.S. government declared a hold on executions in four states: Arizona (2023), California (2019), Oregon (2011), and Pennsylvania (2015).¹⁷ Execution as a punishment for crime has been enforced in the United States since the early seventeenth century, with the first case reported in official records being the execution of Captain George Kendall in Jamestown (Virginia) in 1608.¹⁸ In a 1972 case, *Furman v. Georgia*,¹⁹ the death penalty was deemed unconstitutional by the verdict of the Supreme Court (violation of the 8th Amendment to the U.S. Constitution, forbidding cruel and unusual punishment).²⁰ This case was so fundamental in the discourse of death penalty that the issue of capital punishment is now discussed with the distinction of the pre- and post-*Furman* eras. Right after *Furman v. Georgia*,²¹ “a majority of the affected jurisdictions enacted new death penalty legislation. These states chose to take one of three forms of legislative action: impose mandatory death penalties for certain categories of crimes; draft statutes which offer guidelines for sentencing; or enact ‘quasi-mandatory’ statutes.”²² The Supreme Court ruled capital punishment constitutional in the 1976 case *Gregg v. Georgia*,²³ and since the 1970s over 8,500 people have been sentenced to death and 1,516 executions have been performed in the United States (as of March 2020).²⁴

The issue of capital punishment is so controversial not only morally and ethically and as a result of the injustice within the criminal justice system, but also because the system has made numerous errors and wrongfully convicted many people. Since 1973, as many as 172 wrongfully convicted people have been exonerated and released from death row.²⁵ In January 2000, the Governor

¹⁷ *State by State*, Death Penalty Information Center, <https://deathpenaltyinfo.org/state-and-federal-info/state-by-state>, access: 29.04.2023.

¹⁸ Greg Roensch, *Great Supreme Court Decisions. Furman v. Georgia: Cruel and Unusual Punishment* (New York: Infobase Publishing, 2007), 10–11.

¹⁹ *Furman v. Georgia*, 408 U.S. 238 (1972).

²⁰ Greg Roensch, *Great Supreme Court Decisions*.

²¹ *Furman v. Georgia*, 408 U.S. 238 (1972).

²² J.C. England, “Capital Punishment in the Light of Constitutional Evolution: An Analysis of Distinctions between *Furman* and *Gregg*,” *Notre Dame Law Review* 52/4 (1977): 601.

²³ *Gregg v. Georgia*, 428 U.S. 153 (1976).

²⁴ *Sentencing Data*, Death Penalty Information Center, <https://deathpenaltyinfo.org/facts-and-research/sentencing-data>, access: 25.01.2020.

²⁵ *Limiting the Death Penalty*, Death Penalty Information Center, <https://deathpenaltyinfo.org/facts-and-research/history-of-the-death-penalty/limiting-the-death-penalty>, access: 29.10.2020.

of Illinois, George Ryan, “declared a moratorium on executions and appointed a blue-ribbon Commission on Capital Punishment to study the issue” as a result of the execution of 12 persons and the release of 13 innocent people from death row all of which happened “in the same time.”²⁶ We may never know how many executed persons were innocent and wrongfully convicted.

Although women constitute only 7.1% of the American prison population²⁷ and about 2% of death row inmates,²⁸ the female incarceration rate in the U.S. is much higher than in any other country. American women constitute merely 4% of the world’s female population, yet they account for one third of the imprisoned women across the globe.²⁹ Between 1980 and 2011, the number of incarcerated women in America increased by 587%.³⁰ Interestingly, numerous studies have found that both death penalty convictions and executions remain fewer for female offenders than for male ones.³¹ Researching women on death row in the context of gender discrimination in the criminal justice system is quite challenging as, in general, women in America are less likely to receive the death penalty or to be executed than men;³² however, there are many cases that clearly signal the presence of gender bias in the overall sentencing practices of the defendants categorized as females. For instance, in a 2005 case in Oklahoma, a state often called “the world’s prison capital,” a male defendant received probation for physically abusing his partner and their children, whereas the female defendant (the victim of the male defendant’s abuse) was sentenced to 30 years of imprisonment for failing to protect her children from the abusing partner.³³ Analyzing the issue of gender in the criminal justice system is not new either in or outside of the U.S., and ongoing debates about gender equality under the law are continuously fueled even more by controversial sentencings such as the one from Oklahoma. The American case is particularly interesting because since the 1980s, the U.S. criminal justice system has clearly become more eager to sentence females.³⁴

²⁶ *Ibidem*.

²⁷ *Inmate Statistics: Gender*, Federal Bureau of Prisons, https://www.bop.gov/about/statistics/statistics_inmate_gender.jsp, access: 26.01.2020.

²⁸ *Death Row Overview*, Death Penalty Information Center, <https://deathpenaltyinfo.org/deathrow/overview>, access: 25.01.2020.

²⁹ Aleks Kajstura, *States of Woman Incarceration: The Global Context 2018*, Prison Policy Initiative, <https://prisonpolicy.org/global/women/2018/html>, access: 11.03.2020.

³⁰ Desmond, Emirbayer, *Race in America*, 209.

³¹ *Death Row Women*, Death Penalty Information Center, <https://deathpenaltyinfo.org/death-row/women>, access: 25.01.2020.

³² Elizabeth Rapaport, “The Death Penalty and Gender Discrimination,” *Law & Society Review* 25, 2 (1991): 367.

³³ Kajstura, *States of Woman Incarceration*.

³⁴ Desmond, Emirbayer, *Race in America*, 209; Stephanie S. Covington, Barbara E. Bloom, “Gendered Justice: Women in the Criminal Justice System,” *Gendered Justice: Addressing Female Offenders* (Carolina: Academic Press, 2003): 3.

Documented executions of females in the U.S. go back to the seventeenth century. Jane Champion was the first “lawfully executed” female in the colonies in 1632.³⁵ When it comes to age, Hannah Ocuish, a 12-year-old girl, was the youngest female sentenced to death and executed in the U.S. in 1786.³⁶ Having analyzed female executions in the U.S. from 1632 to 1997, David V. Baker suggests that “female executions increase when women challenge the social, political, and economic interests of the male dominant group.”³⁷ Interestingly, the colonial period exhibited a high rate of White female death penalties when they “challenged the male dominated leadership of newly established colonial settlements,” whereas “Black female executions increased under the extreme controls imposed on protecting institutional slavery and when black females challenged their subordinate status as slaves.”³⁸ To what extent were these female executions meant to uphold the patriarchal (and perhaps also white-supremacist) “nature” of the society? What about women who will be executed now, in the twenty-first century?

Research has shown that women on death row are often recognized and described as breaking gender and social norms.³⁹ Gender is usually perceived as “a sign of its internal or inherent truth; gender is prompted by obligatory norms to be one gender or the other” within the framework of dichotomy, and “the reproduction of gender is thus always a negotiation with power.”⁴⁰ Appearing in both private and public spheres as those who fail to (or choose not to) “live their genders in intelligible ways” significantly increases the threat of persecution, violence, and biased judgement.⁴¹ Kathryn Ann Farr argues the presumptions and biased portrayal of nonheteronormative female defendants, who are “depicted as manly and man-hating women [...] who vent their rage and irrational desire for revenge through killing,” may influence judgement by serving as “an additional ‘aggravating circumstance’ in an already heinous crime.”⁴² Farr also points out that in the majority of cases, crimes committed by females who received the death penalty are very similar to the ones that did not result in capital punishment.⁴³

³⁵ Timothy V. Kaufman-Osborn, *From Noose to Needle: Capital Punishment and the Late Liberal State* (The United States of America: University of Michigan Press, 2002), 166.

³⁶ Andrea Shapiro, “Unequal Before the Law: Men, Women and the Death Penalty,” *Journal of Gender, Social Policy & the Law* 8/2 (2000): 435.

³⁷ David V. Baker, “A Descriptive Profile and Socio-Historical Analysis of Female Executions in the United States (1632–1997),” *Women & Criminal Justice* 10/3 (1999): 57.

³⁸ *Ibidem*.

³⁹ *Ibidem*.

⁴⁰ Judith Butler, “Performativity, Precarity and Sexual Politics,” *AIBR Revista de Antropología Iberoamericana* 4, 3 (2009): 1.

⁴¹ *Ibidem*, 1.

⁴² Kathryn Ann Farr, “Defeminizing and Dehumanizing Female Murderers: Depictions of Lesbians on Death Row,” *Women & Criminal Justice* 11/1 (2000): 49.

⁴³ Kathryn Ann Farr, “Aggravating and Differentiating Factors in the Cases of White and Minority Women on Death Row,” *Crime & Delinquency* 43/3 (1997): 263.

Could the “manly,” the non-feminine, the improperly feminine portrayal of defendants be what is tilting the scale toward death penalty sentences?

In research on the gendering of capital punishment, Joan W. Howarth suggests that the act of judicial execution has historically been and still is a “masculine work” regardless of the biological sex of the operator (the person conducting the execution); however, there might be a disruptive factor to the execution of a convict, that is, “when the object of the execution is perceptibly and appropriately feminine, that is, a feminine female.”⁴⁴ In other words, the execution of a non-feminine, or an improperly feminine convict is recognized as easier than the execution of a more “ladylike” convict. Although the law supposedly grants gender, racial, and economic equality, Howarth further explains, “[p]roper femininity” is more likely to be found in “White women than in women of color, in heterosexual women instead of lesbians, and in middle-class rather than poor women.”⁴⁵ In this case, an ideal, “properly” feminine female would be a white, heterosexual, middle-class woman, whereas a non-white, homosexual, lower-class woman would be at the bottom of the “proper femininity” scale and thus disadvantaged at sentencing. As Ania Wilczyński points out, numerous feminist studies have demonstrated that female defendants are judged not only for the crime itself, but “the degree to which they conform to standards of appropriate female behaviour,”⁴⁶ which perhaps could constitute a partial explanation for disproportionate sentencing of similar crimes as mentioned by Farr, meaning that defendants deemed less-feminine might be more likely to receive harsher punishment than those considered “properly” feminine. Could judgement through the prism of femininity of the female defendants have been a factor in them receiving death sentences?

Data for this article was collected using the social history method from December 2019 to March 2020. The inmate population studied consisted of 52 women on death row who received their sentences from 1981 to 2019. These were all the female convicts awaiting execution in the United States during the time this research was conducted; hence, the sample studied could be considered relatively small. The data concerning the inmates’ cases were gathered from the Death Penalty Information Center, trial and appeal transcripts, victims’ autopsy documents, and scholarly works. The press coverage of the defendants’ cases, such as news magazines, newspapers, media reports, and other online media outlets, also constituted an important source in this study. Information about the death penalty, as well as data on death row inmates in the U.S. can be accessed via the Death Penalty Information Center (deathpenaltyinfo.org), an American

⁴⁴ Joan W. Howarth, “Executing White Masculinities: Learning from Karla Faye Tucker,” *Oregon Law Review* 81/1 (2002): 204.

⁴⁵ *Ibidem*.

⁴⁶ Ania Wilczyński, “MAD OR BAD? Child-Killers, Gender and the Courts,” *The British Journal of Criminology* 37/3 (1997): 419.

non-profit organization, founded in 1990, whose purpose is to analyze and share information concerning capital punishment. Another useful resource is Leagle, Inc. (leagle.com), which provides the public with U.S. court decisions and opinions. Leagle’s archive contains court documents of over five million cases since 1950, all of which can be accessed through a simple search – by entering the case name or the name of a lawyer. There is also the possibility of conducting advanced searches, for instance, by entering an exact phrase, party names, attorneys, judges, dates, or courts. Another useful source, Thomson Reuters – FindLaw (caselaw.findlaw.com), is an online database for free legal information with a Cases and Codes section containing resources such as case summaries, constitutions, and applicable laws in different jurisdictions. A browsing option includes searching by court, companies, legal topics, or conducting advanced searches similar to those on Leagle. Access to information on death row inmates in America for the public is still quite limited, especially for those seeking such information from European countries. While general information on people sentenced to death and many case descriptions are available, full access to information concerning some female death row cases and detailed information on convicts’ possible history of abuse, their mental health state, or even criminal record remains limited. Researchers from countries of the the European Economic Area (EEA) including the European Union face another legal challenge; access to some information on U.S. death penalty cases cannot be granted because of the General Data Protection Regulation (GDPR).

This paper is an overview of 52 cases of females who were sentenced to the death penalty from 1981 to 2019 and who were on death row when the study was conducted. The time frame of the cases studied is particularly fortunate since all the convictions were made in a period with a significant increase of female incarceration in the U.S., as discussed before. Out of the 52 cases researched, most women on death row, 36.5%, received their sentences between 1991 and 2000. In the subsequent ten years (2001–2010), 18 female defendants, who constitute 34.6% of female death row population, were sentenced to death. From 2011 to 2019, the number of convictions decreased with 12 female death penalty sentences (23.1%). The rest of the American female death row population (5.8%) are those who have already spent an average of 40 years awaiting execution after being sentenced in the 1980s.

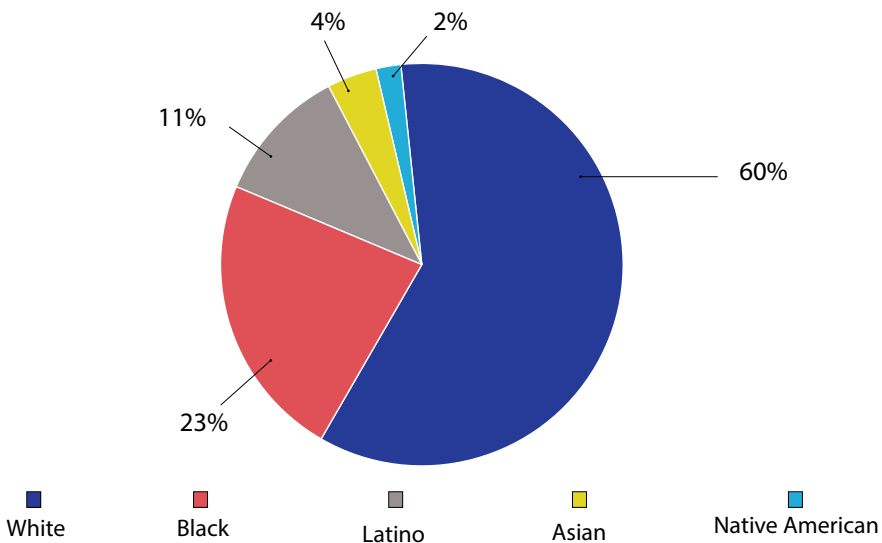
It is important to clarify that all 52 convicts were classified based on the racial categories prevailing in the institutionally racist American system.⁴⁷ The convicts that are the subject of the current study were (unwillingly and sometimes unwittingly) categorized as: White, Black, Latino, Asian, or Native American. Although I aim to avoid racial stereotyping, the appellatives listed above will be used in this paper. These categories are a socio-political construct and are not

⁴⁷ See: Desmond, Emirbayer, *Race in America*, 202–243.

legitimized by natural science; however, since they were the categories used in the judgements and sentencing processes of the defendants, they must be considered in the analysis.

With an awareness of sensitive information, I use the full names of female death row inmates, as well as the names of persons involved in the cases analyzed. Capital punishment cases in the United States are discussed publicly. The sensitive information used in this paper is public information and has appeared in media reports, newspapers, online media outlets, scholarly works, and by organizations such as the Death Penalty Information Center.

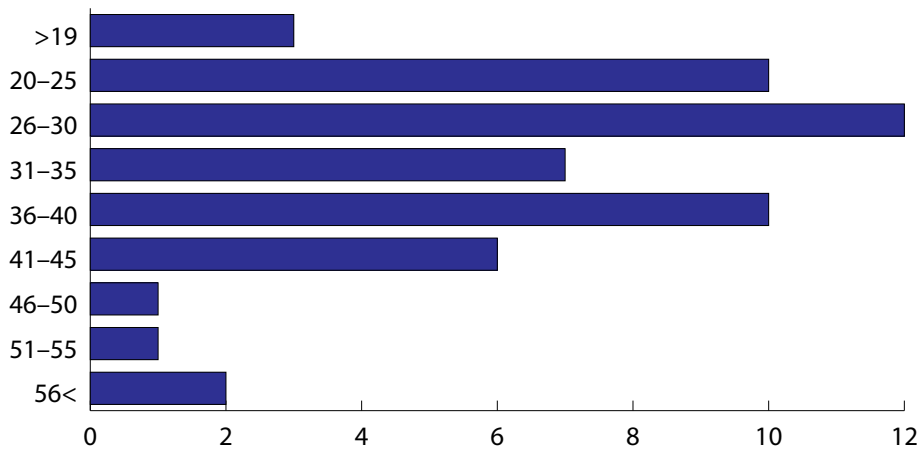
As of March 2020, one Native American, two Asian, six Latino, 12 Black, and 31 White women constitute the female death row population in America (see Table 1). Statistics show that non-white inmates are a minority among females awaiting execution in the United States. This data is quite surprising since, when it comes to racial disparities in America's prison population, Black and Hispanic women are incarcerated at rates several times higher than those of White women.⁴⁸ The fact that over half of the female death row inmates in the U.S. are White might also undermine Howarth's claims about race being such an important factor in judging how feminine a person is (ascribing "proper" femininity to whiteness and "improper" femininity to non-whiteness). Perhaps it might also mean that non-heteronormativity and social class could be considered more meaningful in evaluating the "level" of the femininity of convicts.



Tab. 1. *Female death row inmates by race*. Statistics by Author, table by Florian Hoppe (European University Institute)

⁴⁸ *Ibidem*, 209–210.

Regarding the age of the convicts, nearly half of them (48.08%) were under 30 years old when they committed their crimes. Nearly as many (46.15%) female death row inmates received sentences for crimes committed when they were between 31 and 50 years of age. In only three cases (5.77%) were women sentenced for offenses they committed when over the age of 51 years (see Table 2). The youngest women sentenced to death were Maria del Roso Alfaro (Latino, 20 years old when she committed her crime and sentenced in 1992 for killing a child)⁴⁹ and Christa Pike (White, 18 years old when she when committed her crime and sentenced in 1996 for murdering a colleague),⁵⁰ whereas the oldest was Donna Roberts (White, 56 years old when she committed her crime and sentenced in 2003 for murder for financial gain).⁵¹



Tab. 2. *Defendants’ age when committing crime.* Statistics by Author, table by Florian Hoppe (European University Institute)

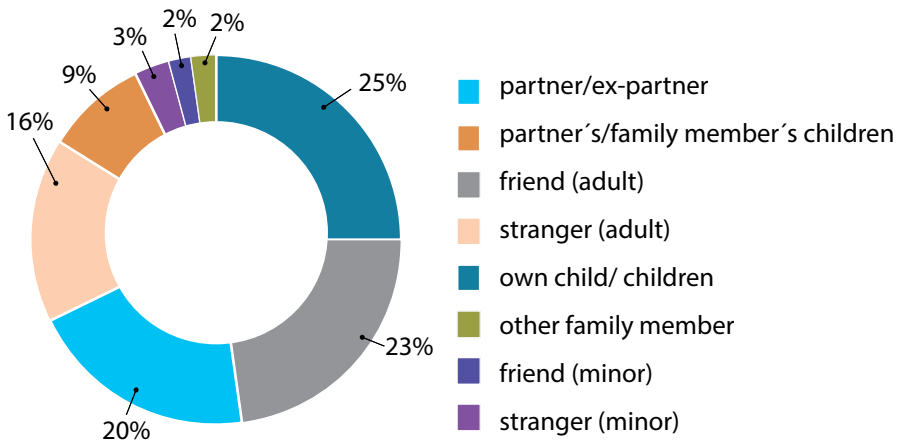
⁴⁹ Charles Montadlo, “Women on California’s Death Row: 20 Infamous Female Inmates Sentenced to Be Executed for Their Crimes,” <https://www.thoughtco.com/women-on-death-row-in-california-973502>, access: 22.02.2020; M. Dolan, “Death Penalty Reinstated for Woman Who Fatally Stabbed Orange County Girl in 1990,” <https://latimes.com/local/lanow/la-me-In-death-penalty-9th-circuit-orange-county-20170714-story.html>, access: 25.02.2020.

⁵⁰ Candace Sutton, “The Brutal Crimes of Death Row Women,” <https://www.centraltelegraph.com.au/news/the-terrible-crimes-committed-by-women-on-death-ro/3602672/>, access: 27.02.2020.

⁵¹ Jackie Borchardt, “Ohio Supreme Court Affirms Death Sentence of Only Woman on Death Row,” https://www.cleveland.com/metro/2017/05/ohio_supreme_court_affirms_dea.html, access: 1.03.2020.

The most common victims in the 52 cases studied were the convicts' children, followed by adults known to the convicts and the convicts' partners/ex-partners. Studies have shown that women are more likely to kill their loved ones or persons they know rather than strangers; with male convicts it is quite the opposite.⁵² Vickie Jensen argues that women kill more frequently "in response to conflict, abuse, and direct attack from the victim that makes lethal violence more likely," whereas males commit murder "related to felonies or economic gain" more often.⁵³

Overall, family members of convicts constitute 55.36% of the victims, friends and acquaintances account for 25%, and strangers for 19.64% of the victims in U.S. female death penalty cases (see Table 3). In nearly 40% of the cases researched the victims included one or more child or minor. It is noteworthy that the statistics refer only to the relationship status between the convict and the victim, and not the number of victims with a given relationship status with the convict. For instance, if a crime included five victims – a convict's partner and four children, the data for the statistics would be one case for the "partner/ex-partner" status and one case for the convict's "own child/children." If we were to count four children here, the overall statistics would show the number of child victims in all the cases and not the number of cases where females murdered their children.



Tab. 3. *Victims in the U.S. female death penalty cases.* Statistics by Author, table by Florian Hoppe (European University Institute)

⁵² Kathryn Ann Farr, "Aggravating and Differentiating Factors": 275; Coramae R. Mann, *When Women Kill* (Albany: State University of New York Press, 1996), 63–64.

⁵³ Vickie Jensen, *Why Women Kill: Homicide & Gender Equality* (United States: Lynne Rienner Publishers, Inc., 2001), 18.

In cases of female capital punishment, defendants are judged through the prism of gender standards. They also tend to be defeminized as they do not conform not only to overall gender and social norms themselves, but they do not even conform to homicidal gender norms (female killers are usually portrayed as victims of abuse and male killers are portrayed as violent oppressors). When sentencing women, not only is the defendants' femininity questioned, but so is their conformity to the ideology of motherhood for all females, specifically in cases involving child victims. This seems to at least partially explain the high percentage of U.S. female death penalty cases with child or minor victims. The "motherhood mandate" assumes that the lack of desire to be a mother is abnormal and that "to be successful in the female role, a woman must have children and must spend her time with them."⁵⁴ Judging women through the prism of motherhood also influences the evaluation of their femininity. Moreover, when women do have children, they are expected to conform to the expectations associated with motherhood regardless of the circumstances or their own physical and mental health (such as postpartum depression). Failing to fulfill any aspect of this role results in social judgement and heavy criticism – mothers are either "good" or "bad." Western literature and the law, according to Marie Ashe, identifies the "bad mother" as "the woman whose neglectful, abusive, reckless, or even murderous behaviors threaten or destroy her children."⁵⁵ What is also interesting in this case is that these socially normalized high expectations of parenthood do not apply to males or even actual fathers (the prism of fatherhood rarely plays a significant role in the judgement and sentencing of male child-killers). This is visible, for instance, in social criticism of single mothers in the public sphere, even though these mothers are the parent who stays with the child and is the sole caregiver of it. Dorothy Roberts comments on judging and sentencing women who kill their children, or even someone else's child, as follows: "these women not only break the law, but by breaking the law they transgress their own female nature and their primary social identity as a mother or potential mother."⁵⁶ Female child-killers are perceived, discussed, and judged differently than male child-killers because of the socially normalized mother figure-identity ascribed to all females regardless of their choice or even their ability to bear children. No such identity is associated with males and "proper" or "improper" masculinity. Of course, we cannot justify harsh sentencing on the grounds of gender discrimination. The crimes committed by the convicts discussed in this paper were truly horrific and cannot be rationalized by oppression against women or the social pressures ascribed to womanhood and/or motherhood. However, we can and

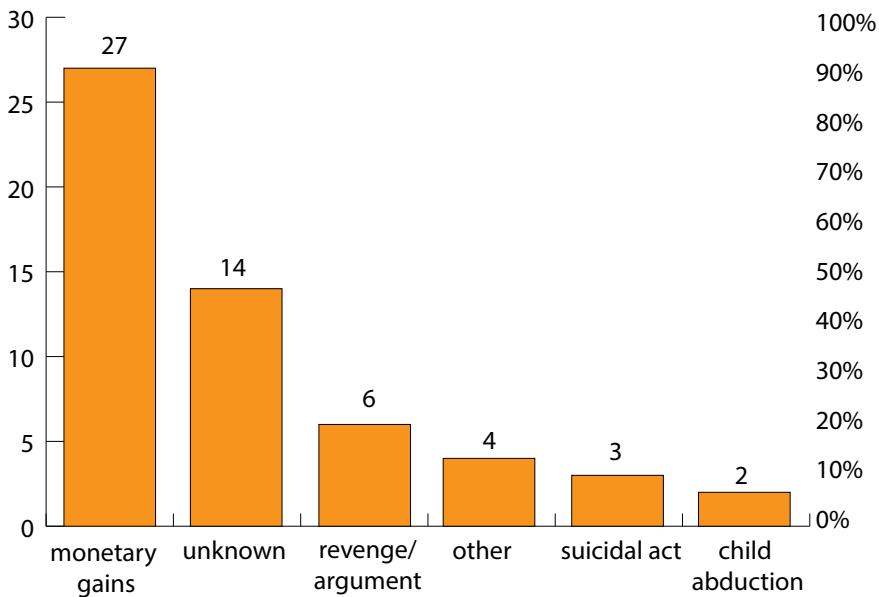
⁵⁴ K. Mottarella et al., "Exploration of 'Good Mother' Stereotypes in the College Environment," *Sex Roles* 60 (2009): 223.

⁵⁵ Marie Ashe, "The 'Bad Mother' in Law and Literature: A Problem of Representation," *Hastings Law Journal* 14/4 (1992): 1019.

⁵⁶ Dorothy Roberts, "Motherhood and Crime," *Iowa Law Review* 79 (1993): 107.

should question why the level of conformity to gender norms, to femininity and motherhood associated standards, and the “virtues of womanhood” constitute such a crucial factor in judging and sentencing female defendants.

In the cases discussed, the most common motive for the crimes was the desire to obtain financial benefits, and, again, killing for economic gain is inconsistent with homicidal gender norms for female offenders, that is, women usually commit murder for reasons other than financial gain.⁵⁷ Very often the reason for the offense was unknown, especially in cases involving child or minor victims who died from physical and mental negligence or torture lasting several days, months, and sometimes even years. In some cases, more than one motive for a crime was noted, which was included in the statistics (see Table 4). The category of non-typical motive, constituting 7% of the statistics, includes four cases in which the cause of the crime was racial hatred, the desire to escape from a life situation at that time, sexual desire, and getting rid of the only witness in another pending criminal case.



Tab. 4. *Motive to commit the crime*. Statistics by Author, table by Florian Hoppe (European University Institute)

In 24 cases, only one type of crime was specified (e.g., beating); in another 24, murders consisted of more than one act. In the rest of the cases the defendants were charged with hiring or conspiring with a third party to commit murder. Coramae Richey Mann points out “[t]he choice of weapon” was dependent on “the location

⁵⁷ Vickie Jensen, *Why Women Kill*, 18.

of the homicide” and “the age and gender of the victim.”⁵⁸ Sharp objects were used when women were in the kitchen or “away from a residence,” guns were associated with bedroom or living room killings, and “other methods such as drowning, strangling, or the use of clubbing weapons or hands and feet typically involved child victims.”⁵⁹ In the most of the 52 studied cases, i.e., in 21 of them, the victims were beaten or hit with a heavy/sharp object, which, since the majority of victims were children, is consistent with Mann’s observations. In 12 cases, the offender’s act was arson or burns to the victim resulting in death. In 11 cases, stabbing with a knife or other sharp instrument was noted. Of all 52 cases, a total of 10 shootings, 10 cases of asphyxiation, and nine kidnappings were identified. In five cases the victims were poisoned, in four they were starved, and in three cases they were raped. Only one case each of drowning and burying the victim alive are reported.

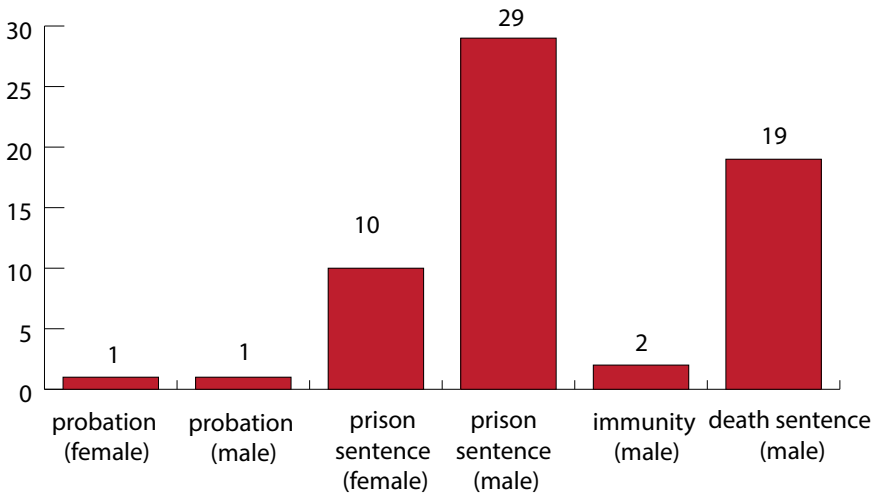
When it comes to background knowledge of the female defendants prior to being sentenced to death, 19.23% of them are reported to have been addicted to intoxicating substances (alcohol, prescription medicine, or drugs). In the remaining 42 cases there was no official information on this subject. Statistics on the convicts who were victims of violence in the past or around the time their crimes were committed are almost identical – 11 of 52 cases mention that the female convicts experienced psychological, physical, and/or sexual violence at the hands of third parties; however, there is no evidence if and how the abuse they experienced contributed to the offense. As for mental disorders, four of the defendants were diagnosed with mental illnesses and another four with brain damage or brain dysfunction (which, seemingly, was not considered during sentencing). In the rest of the cases (84.61%), no disorders or dysfunction were confirmed, or there was no information about the mental state of the defendants.

Of the 52 female capital punishment cases discussed, only 17 defendants acted alone (32.7%). A total of 62 people participated in the remaining 35 crimes (82.3% of which were males). Only 19 male accomplices were sentenced to death alongside female defendants. Of the accomplices sentenced to imprisonment, 74.4% were men and 25.6% were women. One male accomplice and one female accomplice received probation. There have also been two cases of immunity given to two male accomplices for providing information related to the crimes (see Table 5).

Only five of the convicted females (9.6%) had criminal records. In the remaining 47 cases (90.4%) the crime punishable by death was a first offense or no information on previous criminal records was provided in the case. Unfortunately, the current Bureau of Justice statistics on criminal records prior to receiving the death penalty concern only race and ethnicity and do not include information on the gender of the convicted persons. Of all persons sentenced to death in the

⁵⁸ Coramae R. Mann, *When Women Kill*, 63.

⁵⁹ *Ibidem*, 63–64.



Tab. 5. *Accomplices' punishment by gender*. Statistics by Author, table by Florian Hoppe (European University Institute)

United States, 67.8% had a prior felony conviction.⁶⁰ When it comes to race, 63.9% of White people, 73.1% of Black people, and 65.8% of Hispanic people had been convicted of other crimes prior to receiving death penalties.⁶¹ The female death row inmates with documented previous convictions are Susan Eubanks, Tiffany Moss, Robin Row, Angela McAnulty, and Kimberley Cargill.

Susan Eubanks, a White woman from California, received the death penalty in 1999 for the murder of her four sons (by shooting) prior to her alleged suicide attempt (gunshot wound to her stomach) in 1997.⁶² Eubanks's only runs-in with the law was in 1996 when she was convicted of drunk driving.⁶³ The defendant's husband, whom the woman was divorcing at the time of the killings, had previously been convicted of domestic violence. Moreover, the divorce papers indicate that the woman had repeatedly tried to free herself from her abusive husband; eventually the court ordered the man to stay away and stop harassing Eubanks and her children. The husband was not a suspect in this case.⁶⁴

⁶⁰ Bureau of Justice Statistics, *Capital Punishment, 2018 – Statistical Tables*, Report No. NCJ 254786, U.S. Department of Justice, <https://www.bjs.gov/content/pub/pdf/cp18st.pdf>, access: 24.10.2020.

⁶¹ *Ibidem*.

⁶² Dana Littlefield, "Death Sentence OK for Mom who Killed Sons," <https://www.sandiego-uniontribune.com/sdut-death-sentence-stands-for-mom-who-killed-4-sons-2011dec19-story.html>, access: 8.02.2020.

⁶³ Tony Perry, "4 Boys Killed; Wounded Mother is Suspect," <https://www.latimes.com/archives/la-xmp-1997-oct-28-mn-47552-story.html>, access: 8.02.2020.

⁶⁴ *Ibidem*.

Tiffany Moss, a Black woman from Georgia, was sentenced to death in 2019 for starving, torturing, and eventually burning the corpse of her 10-year-old stepdaughter, Emani Moss.⁶⁵ The defendant was already on probation for physically abusing the same child.⁶⁶ The father of the victim, Eman Moss, who helped the defendant “get rid of” the girl’s corpse was sentenced to life imprisonment.⁶⁷

Robin Row, a White woman from Idaho, received the death penalty sentence for killing her husband and two children by setting fire to their family home in 1992.⁶⁸ As for Row’s motive to commit crime, she was accused of murder for economic gain from six insurance policies for a total amount of \$276,000, one of which was taken out 17 days prior to the fire. During the investigation it turned out that Row was previously sentenced to one year of imprisonment for theft, as well as that two of the woman’s other children had died years earlier: Row’s daughter died from Sudden Infant Death Syndrome in 1977 and the her son died in an accidental house fire in 1980.⁶⁹

Angela McAnulty, a White woman from Oregon, a mother of several children, who experienced abuse as a child, was sentenced to death for killing her 15-year-old daughter, Jeanette Maples, in 2009.⁷⁰ The girl was beaten, starved, and tortured for years, which had been repeatedly reported to Social Services by the child’s grandmother. The defendant previously served time in prison for drug possession. The victim’s stepfather was sentenced to life imprisonment with the possibility of parole after serving 25 years.⁷¹

Kimberly Cargill, a White woman from Texas, a mother of four, received the death penalty for killing the mentally handicapped nanny of her children, Cherry Diane Walker, whose burnt corpse was found on a roadside in 2010.⁷² The victim was supposed to testify against the defendant in a child abuse case, and before the Walker murder case was investigated, Cargill was under arrest for physically injuring her son.⁷³

⁶⁵ Madeline Holcombe, “A Georgia Woman Has Been Sentenced to Death for Starving Her 10-Year-Old Stepdaughter,” <https://edition.cnn.com/2019/05/01/us/georgia-tiffany-moss-death-penalty/index.htm>, access: 29.02.2020.

⁶⁶ Doha Madani, “Tiffany Moss Sentenced to Death for Starving 10-Year-Old Stepdaughter,” <https://www.nbcnews.com/us-news/tiffany-moss-sentenced-death-starving-10-year-old-atpdaughter-n-1000346>, access: 29.02.2020.

⁶⁷ *Ibidem*.

⁶⁸ Charles Montadlo, “The Robin Row Case: The Final Betrayal of Motherhood,” <https://www.thoughtco.com/the-robin-row-case-971317>, access: 11.03.2020.

⁶⁹ *Ibidem*.

⁷⁰ Charles Montadlo, “The Crimes of Child Killer Angela McAnulty: The Most Horrific Case of Child Abuse in Oregon’s History,” <https://www.thoughtco.com/crimes-of-child-killer-angela-mcanulty-973491>, access: 2.03.2020.

⁷¹ *Ibidem*.

⁷² David V. Baker, *Women and Capital Punishment in the United States: An Analytical History* (Jefferson, North Carolina: McFarland & Company, Inc., 2016), 354.

⁷³ *Ibidem*.

All five of these cases were indeed heinous crimes, particularly because they involved child victims; however, the defendants were judged not only by the atrocity of the crimes themselves, but also by the special relationships with their victims. Their femininity, their ability (or lack thereof) to fulfill the expectations symbiotic to a mother or a motherly-figure role, which, according to the “motherhood mandate,” should be natural and easy. Finally, they must have also been judged according to the homicidal gender norms for females.

In almost 60% of the cases with a child or a minor victim, the barbaric and inhumane nature of the crime was repeatedly accentuated both in the court documents and by the media (that often provide quotations from the court). The terms such as particularly cruel, horrific, evil, brutal, calculating, deviant, etc. are used to describe both white (51.6%) and non-white (33.3%) defendants. The motherhood standards regarding race in the U.S. have changed throughout history. For a long period, a white Republican Mother, who cared for and educated her sons in civic virtue, was the maternal ideal. A white mother was also often portrayed “in opposition to the superstitious or unhygienic ethnic or black mother.”⁷⁴ Around the 1950s, however, women of color were claimed to “naturally” (due to their “maternal ‘instincts’”) do “a better job of carrying for very young children than did educated white women,” which is an assumption connected to the stereotype of the “mammy,” an older female slave who cared for children on plantations.⁷⁵ This case study does not provide enough information to determine whether the race of the defendants influenced judgements in the context of the “motherhood mandate.” Further research is necessary to analyze what roles race, sexual orientation, and social class play in looking at the defendants through the prism of motherhood.

Siobhan Weare analyzed how modern identities for female filicide are constructed by “legal language, discourses, and narratives” in England and Wales.⁷⁶ It is notable that judicial and media narratives concerned with the death penalty for females in the United States also attempts to construct the identities of the defendants within these three categories – “bad,” “mad,” and “sad” women. As Weare explains, “[a]lthough such identity construction [...] may not always be damaging to these filicidal women per se, its pervasiveness within legal discourse reinforces and reproduces damaging gender stereotypes surrounding women and femininity.”⁷⁷

⁷⁴ Rebecca Jo Plant, *Mom: The Transformation of Motherhood in Modern America* (Chicago: The University of Chicago Press, 2010), 13.

⁷⁵ *Ibidem*, 14.

⁷⁶ Siobhan Weare, “‘Bad, Mad or Sad?’ Legal Language, Narratives, and Identity Construction of Women Who Kill their Children in England and Wales,” *International Journal for the Semiotics of Law* 30 (2017), <https://link.springer.com/article/10.1007/s11196-016-9480-y>, access: 17.08.2020.

⁷⁷ *Ibidem*.

The term “bad” signifies “extreme deviance from appropriate feminine behavior, and more specifically [the defendant’s] deviance from the motherhood mandate,” that cannot be excused by mental health conditions or other circumstances – “[t]he filicidal ‘bad’ woman is so non-feminine, that she is non-woman, non-human, and thus discursively constructed as a monster.”⁷⁸ Besides Tiffany Moss and Angela McAnulty, the case of Melissa Lucio is an example of the “bad” woman identity narrative. Lucio, a Latino woman from Texas, aged 38 when she committed her crime, a mother of 14, received the death penalty in 2008 for torturing and beating her two-and-a-half-year-old daughter to death in 2007.⁷⁹ The investigation revealed that Lucio is “mentally retarded” and that her children were taken away from her from 2004 to 2006 because of “physical neglect and neglectful supervision.”⁸⁰ Lucio’s common-law husband received four years of imprisonment “for failing to prevent the beatings suffered” by the child victim. Lucio’s mental health condition did not contribute to any leniency in sentencing, and her death penalty conviction was upheld three times in 2011, 2012, and 2013.⁸¹

The concept construction of a “mad” woman is “dichotomous to that of the ‘bad’ woman,” and “mad” women are not stripped of their humanity or femininity.⁸² The violent behavior and filicide of a “mad” female “invoke pathological and medical discourses to explain such deviance.”⁸³ The defense of Lisa Montgomery seems to have attempted to convey a “mad” woman narrative. Montgomery is the only female federal death row inmate in the United States. A White woman from Missouri, who was 36 years old when she committed her crime and the mother of two teenagers, was sentenced to death in 2008 for strangling a 23 year old pregnant woman, Bobbie Jo Stinnett, cutting the infant from the victim’s womb, kidnapping the baby, and later claiming it was her own child.⁸⁴ The defendant “willfully and unlawfully kidnapped, abducted, carried away, and held Victoria Jo Stinnett, and willfully transported Victoria Jo Stinnett in interstate commerce from Skidmore, Missouri, across the state line to Melvern, Kansas, the actions of the defendant resulting in the death of Bobbie Jo Stinnett.”⁸⁵ Montgomery’s defense attorneys argued that the defendant’s severe mental health issues drove her to commit the crime. The defense claimed the defendant “was suffering from pseudocyesis, which causes a woman to falsely believe she is pregnant and exhibit outward signs of pregnancy,” as well

⁷⁸ *Ibidem*.

⁷⁹ Baker, *Women and Capital Punishment*, 363.

⁸⁰ *Ibidem*, 363.

⁸¹ *Ibidem*.

⁸² Weare, “Bad, Mad or Sad?”.

⁸³ *Ibidem*.

⁸⁴ *Ibidem*.

⁸⁵ *United States of America, Plaintiff, v. Lisa M. Montgomery, a/k/a Darlene Fischer, a/k/a Fischer4kids*, [DOB:XX/XX/68], U.S. Department of Justice, 2005, https://www.justice.gov/sites/default/files/usao-wdmo/legacy/2007/09/27/montgomery_indictment.pdf, access: 26.03.2020.

as that Montgomery “had post-traumatic stress disorder brought on by mental, physical, and sexual abuse in her childhood.”⁸⁶ Pursuing the “mad” woman identity, the defense portrayed Montgomery as “a victim of severe mental illness whose delusion of being pregnant was being challenged, causing her to enter a dreamlike state when the killing took place.”⁸⁷ The “mad” woman narrative did not convince the Grand Jury that stated Montgomery’s act was “especially heinous, cruel and depraved [...] involved serious physical abuse” and “constituted a reckless disregard for human life.”⁸⁸ Montgomery’s execution by lethal injection was initially scheduled for December 8, 2020 at the federal penitentiary in Terre Haute. It was going to be “the first federal execution of a woman in nearly 70 years.”⁸⁹ Eventually, Montgomery was executed by lethal injection on January 13, 2021.⁹⁰

When it comes to the “sad” woman narrative with filicidal cases, it “typically discursively constructs these women as pitiful, as ‘social casualties’ [37: 424], as being unable ‘to cope with social pressures’ [22: 199] and thus reacting, often irrationally, in response to their circumstances and inadequacies as women and as mothers [34: 424].”⁹¹ The “sad” woman identity might bring some leniency in sentencing, but it did not for U.S. female death row inmates.⁹² It seems that the “sad” woman identity would be most likely and most accurately ascribed to the defense of females who murdered and then attempted suicide, such as that of Susan Eubanks discussed previously.

The issue of the defeminization and dehumanization of females on trial is socially significant and seems to leave us with more questions than answers. Although the defense often attempts to construct the “mad” and “sad” identities of their defendants to gain some leniency and avoid the death penalty (which is understandable), we must note that such narratives still reproduce female gender norms, the idea of “proper” and “improper” femininity, and the “motherhood mandate,” which are harmful because they perpetuate stereotypes affecting all women in various aspects of life. The females awaiting execution in the United States eventually all fall into the “bad” woman category, and they are defeminized

⁸⁶ S. Dulcos, “Fetus-Snatching Murderer, Lisa Montgomery, Sentenced to Death,” <https://www.digitaljournal.com/article/252727>, access: 26.03.2020.

⁸⁷ *Ibidem*.

⁸⁸ *United States of America, Plaintiff, v. Lisa M. Montgomery, a/k/a Darlene Fischer, a/k/a Fischer4kids, [DOB:XX/XX/68],* U.S. Department of Justice, 2005.

⁸⁹ Marisa Iati, *U.S. to Execute First Woman in 67 Years for Strangling Acquaintance, Kidnapping Unborn Child*, <https://www.washingtonpost.com/nation/2020/10/19/lisa-montgomery-execution/>, access: 24.10.2020.

⁹⁰ See: Ann E. Marimow, Robert Barnes. *U.S. executes its first female death row inmate in decades*, https://www.washingtonpost.com/local/legal-issues/lisa-montgomery-execution-delayed/2021/01/12/ba2e066e-54d9-11eb-a817-e5e7f8a406d6_story.html, access: 7.09.2023; Ed Pilkington, *‘A lifetime of torture’: the story of the woman Trump is rushing to execute*, <https://www.theguardian.com/world/2021/jan/05/lisa-montgomery-death-row-execution-history>, access: 7.09.2023.

⁹¹ Weare, “Bad, Mad or Sad?”

⁹² *Ibidem*.

and dehumanized by both prosecutors and the media. Should we not wonder whether these women would have been sentenced to death if their femininity or “natural” ability to fulfill the expectations of motherhood had not been questioned? What about defendants who are socially categorized as females but do not identify as such themselves? How frequently have we heard or read about “improper” masculinity affecting how a defendant is sentenced? Are there crimes committed by males where failure to conform to male gender and social norms constitutes an aggravating factor in the case and therefore influences sentencing? According to Jackson Katz, the “sociocultural construction of manhood” is the core of the issue of male violence.⁹³ A “properly” masculine male is “strong” and dominant over women, not “soft” or emotional. Since men are expected to be violent (which is also harmful stereotyping), their ability to fit in gender norms and their masculinity are not questioned in courts of law similarly to women’s femininity. How about other females who committed similar crimes but were not given capital punishment? Were they defeminized and dehumanized as well? Is defendant femininity also questioned with less serious crimes? Is crime initially conflicting or contradictory to the ideas of “true” or “pure” womanhood?

Anna Podciborska

**“Improperly” Feminine:
A Case Study in American Female Convicts Awaiting Execution, 1981–2019**

Summary

Women who are sentenced to death are often defeminized and dehumanized by prosecutors and the media. One of the factors influencing the severity of the punishment received is the assessment of the degree of femininity portrayed by the accused. These women are judged based on social and gender norms, stereotypes surrounding the role of women and femininity, their ability to fit into the “natural” primary social identity as mothers, and even homicidal gender norms. In cases of female filicide, the defendants often fall into three narrative identities constructed by defense attorneys, prosecutors, the media, and the public – “bad,” “mad,” or “sad” women. Those who have been sentenced to death are eventually labelled as “bad,” that is, extremely deviant from “proper” femininity. Although the “mad” and “sad” identity creations, if successful, might earn some leniency in sentencing, they still perpetuate harmful stereotypes that affect all women. The article presents an overview of 52 cases of women who received the death penalty from 1981 to 2019 in the United States. These women are perceived as “improperly” feminine.

⁹³ Jackson Katz, “Reconstructing Masculinity in the Locker Room: The Mentors in Violence Prevention Project,” *Harvard Educational Review* 65, 2 (1995): 163–175, <https://doi.org/10.17763/haer.65.2.55533188520136u1>, access: 28.11.2020.