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Donne, omicidio e femminilità.

Aspetti di criminologia femminista



Anno XIV – n. 2 maggio 2021

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Laura Baccaro

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Immagine di copertina "Donna con libro" Fernand Leger – 1923, in <https://it.wahooart.com/@@/8XY2BN-Fernand-Leger-donna-con-a-libro>

RIVISTA DI PSICODINAMICA CRIMINALE

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Editoriale, *Laura Baccaro*

Per la Giornata della Donna l'associazione Psicologo di Strada di Padova, con la partecipazione della Scuola Superiore per Mediatori Linguistici "P. M. Loria" e Società *Umanitaria Milano*, ha organizzato l'incontro con Lizzie Seal, autrice di 'Women, murder and Femininity: Gender Representations of Woman Who Kill' (Palgrave MacMillan, Londra 2010), fondamentale monografia socio-criminologica femminista sulle rappresentazioni di genere di donne accusate di omicidio e contesto sociale da cui prendono origine.

In questo numero riportiamo sbobinati i contributi degli Autori e integriamo con ricerche scientifiche e modelli teorici riportati in riviste scientifiche internazionali.

Questo numero si concentra sulle tematiche e difficoltà della criminologia femminista inteso a sostenere la necessità di sviluppare una teoria femminista della violenza femminile.

I rapporti ufficiali sui crimini negli Stati Uniti e mondo anglosassone indicano che negli ultimi due decenni il divario di genere per aggressioni aggravate, rapine e aggressioni semplici si è ridotto realmente, alcuni Autori invece sostengono che la riduzione sia a causa di diversi cambiamenti nelle politiche che hanno introdotto nuove tipologie di reati che hanno portato ad un aumento degli arresti di ragazze.

Questo aumento di reati da parte delle donne è vero? È il prodotto di nuove forme di controllo sociale, di cambiamenti nei metodi di registrazione delle informazioni, di cambiamenti politici, è un aumento della violenza delle ragazze oppure è lo specchio di un mutato atteggiamento nei confronti delle donne autrici di reato?

In sintesi, le spiegazioni per l'aumento dei tassi di violenza femminile rimangono controverse.

In più dobbiamo anche dire che la violenza femminile in qualche modo minaccia anche le vecchie interpretazioni femministe della femminilità come "sesso debole" e come "donna vittima" e le studiosse femministe (non tutte!) sono spesso restie ad accettare e riconoscere l'uso della violenza da parte delle donne posizionando la violenza femminile in un contesto meno grave, ovvero di aggressività sociale e relazionale oppure di uso di violenza per autodifesa contro partner violenti.

In realtà è abbastanza preoccupante voler spiegare la maggior parte dei casi di violenza femminile come risultati del controllo sociale, della vulnerabilità o della vittimizzazione perché rappresentare la donna violenta come vittima piuttosto che come autrice fa sì che alla donna, proprio in quanto femmina, non sia consentito di apparire moralmente o personalmente colpevole. Così come la costruzione nei mass media della donna violenta come "pazza", "cattiva" o "vittima". Queste modalità rafforzano il costrutto della vittima riposizionando quello delle azioni della donna violenta

in un contesto di responsabilità ridotta.

La ricerca femminista, quindi, ha bisogno di affrontare la specificità dei contesti in cui le donne usano la violenza, come varia e cosa significa.

LUNEDÌ 8 MARZO 2021 (ore 18)



Per la **Giornata della Donna**
l'associazione *Psicologo di Strada di Padova*, con la partecipazione della *Scuola Superiore per Mediatori Linguistici "P. M. Loria"* della *Società Umanitaria Milano*,
organizza un incontro con

Lizzie Seal

Autrice di 'Women, Murder and Femininity: Gender Representations of Women Who Kill' (Palgrave MacMillan, Londra 2010), fondamentale monografia socio-criminologica femminista sulle rappresentazioni di genere di donne accusate di omicidio e contesto sociale da cui prendono origine.

- LIZZIE SEAL** Docente e ricercatrice di criminologia e sociologia presso l'Università del Sussex
- SILVIA CAMPANINI** Docente e ricercatrice nel campo della lingua inglese e della traduzione presso l'Università degli Studi di Trieste, Dipartimento di Scienze Giuridiche, del Linguaggio, dell'Interpretazione e della Traduzione
- DANIELE GALLO** Giornalista, saggista e Docente di Letteratura Italiana del Novecento. Direttore didattico della Scuola Superiore per Mediatori Linguistici P.M. Loria della Società Umanitaria di Milano.
- MARTINA DAL CASON** Neolaureata magistrale in Traduzione Specializzata presso l'Università degli Studi di Trieste
- Coordina **LAURA BACCARO**, psicologa, criminologa, presidente di Psicologo di Strada

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e ad ingresso libero sul gruppo Facebook **Psicologo di Strada**
Per prenotazioni all'incontro Zoom e informazioni scrivere a
segreteria@psicologodistrada@gmail.com o **Whatsapp al 3475220363**

Donne, omicidio e femminilità: aspetti di criminologia femminista

Laura Baccaro

Ringrazio tutti per essere presenti e per l'interesse dimostrato. Un grande ringraziamento particolare è dedicato alla prof.ssa Eva Tilton, docente di lingua inglese alla Scuola Superiore per Mediatori linguistici P.M. Loria-Umanitaria di Milano, interprete simultanea e traduttrice, che rende possibile la traduzione simultanea alla prof. Seal e che coordina Micaela Cervi e Dalila Giuliana Sacchi, sue studentesse, nella traduzione ai partecipanti.

La scaletta degli interventi è in questo modo:

farò una breve introduzione su come mai l'associazione Psicologo di strada, che si occupa di violenza nelle relazioni e di genere, sceglie questo argomento per la data dell'otto marzo. A seguire l'intervento di Lizzie Seal, docente e ricercatrice presso l'Università del Sussex, tradotto dalle nostre studentesse, che ringrazio.

Poi interverrà la prof. Campanini, che ha seguito la traduzione di questo importante manuale, traduzione fatta da Martina Dal Cason per la sua tesi magistrale. Chiuderà l'incontro il prof. Daniele Gallo con una riflessione sul significato culturale dell'omicidio compiuto dalle donne.

Come mai questa tematica e perché proprio l'8 marzo? A mio avviso è importante che ci si occupi di criminologia femminista. Perché dobbiamo capire, e poco se ne parla nella criminologia, del contenuto di genere del comportamento e del crimine. Sia in ambito maschile sia femminile, il contenuto legato al genere viene studiato poco pur essendo molto importante per la comprensione dell'azione comunicativa deviante. Non se ne tiene conto anche negli aspetti più squisitamente criminologici, nelle statistiche per esempio per quanto riguarda i reati, negli interventi di prevenzione oppure nel trattamento. E comunque tutti gli ambiti più finemente di applicazione del diritto penale, dove noi spesso vediamo una disparità di applicazione del diritto quando si giudica un'autrice di reato, quando ci occupiamo di reati per così dire insoliti, come vedremo dopo. Spesso ravvisiamo come il diritto penale venga applicato in base a degli stereotipi legati proprio al genere dell'autrice del reato.

Per esempio è capitato che una mia cliente, che di mestiere si prostituiva, sia stata valutata come donna-prostituta e quindi poi giudicata assolutamente in modo più grave soprattutto per quanto riguarda la percezione della gravità del reato, rispetto al fatto se lo stesso reato fosse stato compiuto da una buona e brava madre di famiglia.

Questi stereotipi che imbrigliano le donne, non solo nel comportamento-reato ma soprattutto rispetto al contenuto di genere nel reato stesso diventano fondamentali per capire l'impatto del preconcetto nell'ambito della giustizia, ma anche rispetto alle aspettative del ruolo sociale e culturale, ma anche determinato dallo status sociale dell'autore o autrice di reato. E questo lo vediamo soprattutto quando l'autrice è una donna, povera e con una cultura inesistente. Parlare di criminologia femminista è attuale, soprattutto dopo il lockdown poichè stanno aumentando le

tipologie di sfruttamento delle donne, di perdita del lavoro e dell'autonomia economica con un ritorno all'essere casalinghe "per forza".

Parlare di criminologia femminista significa parlare anche di pregiudizi, degli interventi e di violenza di genere, di vittimologia, di giustizia penale e di criminalizzazione delle donne e del corpo femminile, ma anche degli stereotipi delle donne che lavorano in ambito giudiziario. Dove il ruolo delle donne per esempio è legato a un concetto di femminilità ed esclude la commissione di alcuni reati, oppure vengono letti dal punto di vista biologico interpretati e legati al femminile, per esempio la depressione *post-partum*.

Le riflessioni e gli interventi di oggi vogliono andare a riflettere sulla criminalità nelle rappresentazioni di genere, ma soprattutto sulla destrutturazione di questi concetti per rifondare un'attenzione al reato, alle dinamiche socioculturali della devianza. Ecco perché ci tenevo molto a questa modalità di riflettere sull'otto marzo, come giornata internazionale per i diritti delle donne, diretti anche a far sì che gli stereotipi nell'ambito giudiziario e penale vengano ad abbassarsi o che almeno se ne parli con strumenti diversi.

Ho parlato anche troppo, passo la parola a Lizzie Seal che ringrazio di essere qua con noi, è un onore per noi. È autrice del volume: *Women, Murder and Femininity. Gender Representations of Women Who Kill*¹, monografia a stampo sociologico, criminologico e femminista.

I suoi lavori non sono stati tradotti in italiano e abbiamo l'occasione di poter discutere con lei della sua modalità di lettura e di indagine degli stereotipi femminili delle donne autrici di omicidi insoliti.

Grazie di essere qua.

Lizzie Seal²

Inizierò a parlare in linea di massima di quello che era il mio progetto circa il libro. Io sono stata sempre interessata al tema dell'omicidio per mano delle donne, poiché ritengo molto affascinante l'analisi di questo tipo di trasgressione da un punto di vista femminile. Quindi mi sono interessata all'omicidio da un punto di vista più femminista, ho voluto sviluppare una narrativa che ruotasse intorno alle donne che uccidevano i propri partner, ma non solo. C'è un'ottica femminista più incentrata sulle donne che commettono infanticidio. Io sono affascinata e mi sono concentrata di più su donne che hanno commesso omicidi, ponendo particolare attenzione al XX secolo in particolare su casi avvenuti in Inghilterra e in Galles.

Il primo concetto che emerge nel mio libro sono delle storie, che sono basate su modelli preesistenti, che si basano su stereotipi. Storie che sono profondamente radicate nella nostra cultura e che anche noi conosciamo, che caratterizzano il sistema giudiziario e spesso vanno a condizionare gli esiti dei processi. Queste storie stabiliscono che cosa dovrebbe essere tradizionalmente maschile e femminile e fanno parte di molte culture. È molto comune sentire che la donna uccide per pazzia, o è molto frequente vedere che la donna uccide perché assume il ruolo di vittima. Queste storie hanno ovviamente un'implicazione legale in base a chi le racconta

¹ *Women, Murder and Femininity: Gender Representations of Women Who Kill*, <https://www.palgrave.com/gp/book/9780230222755>

² Dr. Lizzie Seal, Reader in Criminology (Sociology), Reader in Criminology (Sussex Rights and Justice Research Centre) School of Law, Politics and Sociology, <https://profiles.sussex.ac.uk/p307545-lizzie-seal>

e pur andando avanti nel tempo si tratta di linee guida che proseguono nel tempo pur modificandosi il contesto, sono sempre ricorrenti.

A proposito di queste storie che ho citato prima, che sono basate su dei modelli preimpostati, ho deciso di analizzarli e mi sono accorta che in base a queste storie ho trovato dei significati culturali diversi dei crimini e soprattutto di come vengono riproposti nel sistema giudiziario e nei processi.

Ho lavorato sullo studio di alcuni casi di omicidio e ho identificato questi significati, sicuramente significati sociali, come appunto una donna che uccide possa rompere la nostra concezione sociale di quello che una donna potrebbe fare e può essere posta l'attenzione sul fatto che questi omicidi, anche se vengono riproposti tramite modelli che possiamo definire stereotipati, possono avvenire in momenti e luoghi diversi. Molto spesso l'opinione pubblica è rimasta scioccata da quello che è accaduto, molti casi sono un simbolo della femminilità trasgressiva, inoltre c'è una visione della sessualità delle donne che commettono atti criminali, abbiamo fatto l'esempio di Amanda Knox e la Kercher, queste giovani donne, proprio perché giovani, la loro sessualità è vista in modo diverso, ma comunque varia di caso in caso.

Ho strutturato il mio libro prendendo in esame cinque storie basate su modelli stereotipati di donne che hanno ucciso. Si tratta di una serie di temi che si trattano quando si parla di donne criminali, tra questi abbiamo la donna mascolina, analizzata anche dallo storico criminologo italiano Cesare Lombroso.

Tra i casi più conosciuti abbiamo senza dubbio quello di *Aileen Wuornos* una serial killer statunitense, che fu giudicata particolarmente mascolina, che era omosessuale. La sua omosessualità, ma in generale l'omosessualità nel XX secolo, venne studiata come interesse medico; si studiò come due donne potessero intrattenere delle relazioni. Ho portato avanti delle ricerche anche circa il caso di una donna che uccise la propria zia dopo una discussione; l'interesse non era tanto il motivo dell'omicidio, ma il fatto che questa donna intrattenesse relazioni sia con uomini che con donne.

Questa dicotomia della quale ho parlato prima riguardo il concetto della donna mascolina è stata portata avanti anche quando abbiamo visto episodi che in qualche modo hanno dimostrato la violenza di determinati tipi di atti, sebbene alcune narrative siano ispirate da questi crimini, c'è un caso molto noto, soprattutto in Gran Bretagna, che è il caso di questa coppia³ che rapivano e uccidevano dei bambini a Manchester. Lui ora è morto, ma il suo caso rimane tra i più interessanti da studiare, perché ha preso in considerazione il concetto della mente criminale, di colui che pianifica l'atto criminale. Questo caso mette in risalto la dicotomia della donna criminale, da una parte la donna che è soggiogata dall'uomo e commette reati, dall'altra parte la mente del crimine, della donna come musa ispiratrice dell'evento criminale. Questi due aspetti tendono a guidare la nostra analisi criminologica, il modo in cui si approccia alle figure femminili che hanno commesso questi reati, sono due aspetti senza dubbio diversi ma che per certi aspetti si sovrappongono. Anche laddove la donna è vista come quella che è stata coinvolta dalla figura maschile, rappresenta sempre e comunque una sorta di ispirazione per il lato maschile.

Questa dicotomia emerge in maniera molto chiara in questo caso, siamo alla metà degli anni 50-60, dove proprio la parte femminile di questa coppia è stata una figura affascinante, sia per i

³ *Moors Murders* "omicidi delle brughiere", commessi da Ian Brady & Myra Hindley

criminologi sia per la stampa; dove veniva vista talvolta in un modo talvolta in un altro, addirittura fatta oggetto di analisi.

Un altro caso di cui vorrei parlare è l'esatto opposto della donna mascolina, che rappresenta un'identità considerata deviata all'interno del genere femminile, ed è la donna rispettabile; la donna che rientra negli stereotipi di genere, quindi che riprende i canoni di femminilità tradizionale. Ho analizzato diversi casi a questo proposito, come il caso di una donna americana del XIX secolo accusata di omicidio, che fece scandalo perché la donna appartenendo a una classe agiata e rientrando nei canoni di genere tradizionali, era incredibile pensare che potesse aver commesso un simile atto. Un altro caso analogo riguarda una giovane donna, infermiera sposata con cinque figli, che era stata accusata di aver ucciso la propria cognata.

Il tema della rispettabilità è particolarmente evidente negli anni cinquanta del Novecento, dove nel Regno Unito iniziano ad essere frequenti i casi di migrazione e iniziano ad essere presenti persone di etnie e culture differenti. Per quanto non fosse esplicitato, il razzismo, era comunque una tematica legata alla differenza di genere, ma sicuramente le donne che rientravano nei canoni all'etnia britannica/bianca, erano meno soggette a determinati tipi di accuse e discriminazioni. Questo ultimo concetto di rispettabilità, costruito e influenzato dal colore della pelle, è una tematica molto sentita in quel periodo, il colore della pelle andava ad influenzare la rispettabilità; diventa un approccio deviato anche al momento della valutazione di questo reato, tanto che appunto la donna rispettabile bianca, che rappresenta la classe lavoratrice sebbene abbia ucciso, diventa in qualche modo oggetto di sostegno della opinione pubblica che si dispiace che venga accusata.

Laura Baccaro

Ti ringrazio per queste informazioni, per questo taglio criminologico e un nuovo aspetto per leggere anche i nostri crimini quotidiani.

Ora passiamo la parola alla Prof. Campanini dell'Università di Trieste che ha seguito e tradotto come relatrice di tesi, il lavoro di Lizzie Seal; perché è importante il suo lavoro? Intanto per la difficoltà di tradurre i termini giuridici, con sistemi giudiziari diversi, ma poi c'è anche l'approccio di genere che credo non sia stato facile.

Silvia Campanini

Innanzitutto devo ringraziare la mia studentessa Martina Dal Cason perché francamente sono un'assoluta ignorante di questioni femminili o femministe; non sono neanche una criminologa, sono una traduttrice e una linguista. Non ho svolto io la traduzione, ma la mia studentessa; io ho fatto semplicemente una revisione. La mia studentessa mi ha aperto un mondo che non conoscevo e mi ha permesso di approfondire anche alcuni aspetti linguistici legati al genere. Ho riflettuto molto sugli stereotipi e sui pregiudizi e mi sono resa conto, leggendo il libro di Lizzie Seal, che nonostante le battaglie decennali per la parità dei sessi, nonostante ci riteniamo una società illuminata e culturalmente progredita, di fatto i pregiudizi e soprattutto gli stereotipi legati al genere perdurano e sono potentissimi. Si autoalimentano anche attraverso il linguaggio, che

crea la realtà; la lingua non solo riflette la realtà, ma effettivamente la plasma. Comunque è spiegabile, anche se non accettabile, come mai gli stereotipi siano tanto radicati, se si considera che in quanto modelli conoscitivi stabiliti culturalmente essi sono lo strumento con cui noi tutti, la società, cerchiamo di interpretare fatti molto complessi. Abbiamo bisogno di modelli e schemi per interpretare una realtà che ci sfugge e lo stereotipo è uno di questi, in quanto è un modo di semplificare la complessità del reale.

Quali siano gli elementi costitutivi degli stereotipi di genere è noto: la donna viene percepita come più emotiva, fragile, gentile, più dedita alla cura rispetto all'uomo. In sostanza, le è stato assegnato un ruolo; va da sé che una donna che trasgredisce l'immagine che le è stata assegnata dalla cultura cui appartiene, viene percepita come deviante. Qui siamo al tema della devianza, che viene solitamente ritenuta una caratteristica incontrollabile, da sanzionare e reprimere. La donna che commette un omicidio, soprattutto se insolito (es. plurimo, commesso fuori dalle mura domestiche, a danno di sconosciuti), trasgredisce due volte: prima di tutto la legge, si macchia cioè di una colpa fattuale, ma contemporaneamente trasgredisce in senso metaforico, cioè i limiti della femminilità appropriata, quel cliché che la società le ha imposto.

Se alla trasgressione dei limiti della femminilità si aggiungono i pregiudizi rispetto all'appartenenza etnica, alla classe sociale, all'orientamento sessuale o allo stato mentale, allora entrano in gioco delle immagini che, se manipolate da un'accusa astuta, superficiale e subdola, può dar luogo a delle narrazioni che oscurano la vera personalità della donna, le sue problematiche pregresse, le quali in molti dei casi analizzati dalla Seal non sono state minimamente prese in considerazione. Ad esempio i trascorsi famigliari di ragazze seviziate, vissute in uno stato di sofferenza totale, le quali hanno di conseguenza sviluppato delle forme di instabilità psichica che le hanno condotte a commettere crimini. Ma tutti questi particolari nell'ambito dei processi penali non sono stati tenuti in considerazione.

Vorrei a questo punto riallacciarmi alla questione della donna mascolina che è una delle narrazioni più sfruttate in ambito processuale. Fra i casi che la Seal analizza il caso *Wuornos* è il più famoso. Ne è stato tratto anche un film⁴ che per curiosità ho voluto guardare, un film che mi è parso molto fedele alla realtà. Aileen Wuornos fu giustiziata in Florida nel 2000 per gli omicidi che aveva commesso negli anni '88 e '89. Era omosessuale, quindi sessualmente "deviante", come fu sottolineato anche durante il processo, e pertanto aveva trasgredito i limiti della femminilità appropriata; inoltre contravveniva allo schema generalmente accettato per cui è una prostituta che subisce la violenza dei maschi. In realtà era lei ad ammazzarli. Uccideva uomini ai quali offriva i suoi servizi, spesso li adescava sulla strada fingendosi una donzella in pericolo, e durante il processo fu sottolineato più volte che questa femminilità simulata era una ulteriore dimostrazione della sua mascolinità. Inoltre uccideva in un contesto virtualmente riservato ai maschi, ovvero per strada, all'aperto, non all'interno delle mura domestiche. In sostanza, tutti gli ingredienti, tutti i dettagli, di questo caso furono manipolati astutamente dall'accusa per sostenere la tesi della mascolinità dell'accusata quale aggravante dei suoi crimini. Questo caso, come pure il prossimo che delinearò, dimostra per conto mio l'oscurantismo della classe borghese americana, ancora legata ad una moralità fortemente puritana, nonostante i progressi sociali compiuti negli ultimi decenni dai movimenti per la parità degli omosessuali.

⁴ *Monster 2004*, regia di Patty Jenkins

Un altro caso, relativamente recente, che rientra nello stereotipo della donna mascolina, è quello di *Wanda Allen*⁵, che fu giustiziata in Oklahoma nel 2001 per aver ucciso la propria partner⁶. Come la Wournos era omosessuale, ma non propriamente una serial killer, anche se era stata accusata per un precedente omicidio. Wanda Allen, essendo di ceto basso, come del resto la Wuornos, non aveva potuto permettersi una difesa adeguata, e per di più era afroamericana. Quindi è ovvio che il pregiudizio rispetto alla razza andava a sommarsi al pregiudizio riguardo alla lesbica come necessariamente mascolina. Fu descritta dall'accusa come un *black brute*, cioè un bruto di colore nero, facendo leva sulla credenza, ancora diffusa negli Stati Uniti, che le persone di colore siano dei selvaggi. La donna di colore negli USA viene di fatto percepita come più mascolina della donna bianca.

Molto interessante è poi il discorso sulla donna malata di mente, ovvero la narrazione della personalità disturbata. Perché questo discorso è interessante ed anche più complesso? Perché la follia è sempre stata considerata per secoli come l'invasione del corpo da parte di uno spirito maligno, uno stereotipo che perdura per così dire nell'inconscio, per cui chi uccide e al contempo mostra segni di instabilità mentale è giocoforza malvagio. Pur avendo il malato di mente già almeno da due secoli conquistato lo status di un malato in senso stretto, quindi una persona bisognosa di cure, uno psicopatico rimane pur sempre un tipo particolare di disabile, la cui malattia evoca l'ignoto, l'irrazionalità, istinti che prevalgono sulla ragione e quindi è un criminale pericoloso, incontrollabile.

La Seal sottolinea, analizzando casi di donne omicide che soffrivano patologie mentali, come in ambito forense i termini "psicopatia" e "disturbi gravi della personalità" siano stati usati più volte come sinonimi di malvagità, quasi confondendo la causa con l'effetto o l'effetto con la causa; in pratica, se un crimine è efferato deve essere efferato anche chi lo ha commesso, tanto più se è donna; senza andare ad indagare se queste donne avessero avuto patologie anche incurabili, per cui avevano ucciso per motivi indipendenti dalla loro volontà.

Emblematico è il caso, risalente agli anni '60, di una bambina inglese, Mary Bell di Newcastle, la quale a 11 anni fu processata per aver ucciso senza motivo due bambini, rispettivamente di 3 e 4 anni, per strangolamento⁷. Durante il processo due psichiatri constatarono che la bambina soffriva di gravi disturbi della personalità; l'accusa, ripetutamente, accostò il termine "psicopatica" a parole come malvagia, subdola, pericolosa, quasi ne fossero sinonimi, riuscendo così a dimostrare che la bambina era moralmente condannabile. Nulla fu detto durante il processo del suo passato di infante prostituita dalla madre e continuamente sottoposta ad abusi sessuali. Il passato di Mary fu in seguito indagato e riportato in *Cries Unheard*, libro citato anche dalla Seal, scritto dalla giornalista Gitta Sereny⁸ e pubblicato in italiano da Rizzoli con il titolo *Grida dal silenzio. Storia di una bambina (1999)*. Sereny intervistò l'ormai adulta Mary Bell ottenendo informazioni fondamentali per la comprensione della sua storia: era stata una bambina non voluta dai genitori giovanissimi; la madre l'aveva data alla luce a 17 anni e l'aveva ripetutamente seviziata e brutalizzata. Tutto questo al processo fu taciuto. Mary fu condannata all'ergastolo.

⁵ Documentario di Liz Garbus *The Execution of Wanda Jean* 2002

⁶ Gloria Jean Leathers

⁷ Martin Brown (4 anni) e Brian Howe (3 anni), uccisi nel dicembre 1968

⁸ Gitta Sereny che aveva seguito come giornalista il caso pubblicò nel '72 un atto d'accusa contro il sistema penale inglese. A trent'anni dai fatti, ormai donna libera, Mary Bell entra in contatto con la giornalista e riguarda il suo intero passato insieme a lei.

Analogo è il caso di un'altra "folle", che ha suscitato molto clamore nella recente storia inglese. Nel '91 un'infermiera giovanissima, Beverly Allitt⁹, omicida seriale, fu processata per aver ucciso quattro bambini in tenera età nel reparto pediatrico di un ospedale del Lincolnshire e per aver causato la morte di altri nove. Durante il processo venne messo in luce che sin da adolescente aveva sofferto della Sindrome di Munchausen¹⁰; si infliggeva ferite e fingeva malori per attirare l'attenzione. Non sono mai stati appurati i motivi di questo comportamento; in fondo la sua infanzia era stata normale. La sindrome dell'autolesionismo, si disse al processo, probabilmente aveva dato luogo alla sindrome di Munchausen per procura, che si manifesta quando il soggetto non lede se stesso ma esercita violenza su minori. Benché in termini scientifici la SMP non sia una patologia mentale, la Allitt venne comunque bollata come psicopatica sia dai giornali sia durante il processo. L'accusa e il giudice associarono il termine psicopatica alle parole "subdola" e "manipolativa", suggerendo arbitrariamente un'equivalenza fra follia e intrinseca malvagità. Il quadro clinico dell'imputata non venne mai approfondito; risultò più facile stigmatizzarla con l'epiteto "angelo della morte", forse anche per deresponsabilizzare chi l'aveva frettolosamente assunta per svolgere una funzione sociale.

Laura Baccaro

Ringrazio la Prof. Campanini, sono costretta a interromperla perché bisogna ridefinire i tempi. La difficoltà definitoria tra gli aspetti sia psicologici, psichiatrici di concetti di devianza, il tutto inserito in una modalità di giudizio diverse, che cambiano a seconda del sistema giudiziario, mantengono alcuni aspetti comuni che sono legati ad alcuni stereotipi di femminilità di base. Dove diventa anche difficile districarsi e fare la distinzione tra il culturale, il morale, il moralismo, il concetto di femminilità/maschilità, ma anche fare dei riferimenti a una epistemologia della criminologia, sia come metodo condivisibile.

Adesso passerei la parola a Martina Dal Cason, che è un po' l'artefice di questo incontro. È una mia "vecchia" studentessa, che un bel giorno mi chiama e mi dice "*io ho fatto questa cosa, che ne dice? Ne parliamo?*"; Martina si è laureata tesi magistrale a Trieste, con una traduzione del libro di Lizzie Seal.

Martina ti ringrazio e ti chiedo come mai questa scelta difficile di tradurre questo libro, all'interno di un concetto criminologico. Noi ci siamo conosciute perché insegnavo criminologia, quindi come mai questa scelta, le difficoltà che hai incontrato? Te lo chiedo perché sono collegati con noi molti studenti del corso di laurea di mediazione linguistica.

Martina Dal Cason

Grazie dell'invito e buona festa delle donne, volevo ringraziare la Prof. Campanini per le parole gentili che mi ha dedicato e soprattutto non credevo che dal mio piccolo, il mio lavoro di tesi potesse toccare più persone.

Vorrei prendermi un momento per ringraziare la Dott.Seal.

⁹Lavorava nel *Grantham and Kevenstem Hospital* nel Lincolnshire, contea dell'Inghilterra

¹⁰Si tratta di una malattia mentale, e di una forma di abuso, in cui un genitore o un'altra persona (*caregiver*) che si prende cura del bambino (non solo può succedere anche negli anziani), come un genitore affidatario o un genitore adottivo, simula o provoca una malattia del bambino.

Ho scelto di tradurre questo testo perché mi sono interfacciata con la criminologia e sociologia durante il triennio universitario a Padova al CIELS, dove ho conosciuto la Prof. Baccaro che insegnava sociologia della devianza, ed è lì che mi sono imbattuta, ho cominciato a nutrire interesse per le tematiche femministe. Ho fatto il corso a indirizzo criminologico e dopo essermi laureata nel 2017 ho continuato a leggere articoli di cronaca nera, e altri approfondimenti riguardo le mutilazioni genitali femminili, l'aborto le questioni di femminilità appropriata o tematiche LGBTQ.

Ho letto, soprattutto, narrativa femminista ed è per questo che ho trovato il libro *Women, Murder and Femininity* della Dott.ssa Seal. In quanto ho scoperto che un libro che io avevo appena finito di leggere, ossia *L'altra Grace* di Margaret Atwood, è stato il lavoro su cui la Dott.ssa Seal ha basato la sua tesi triennale; e quindi visto che io ogni volta che termino un libro o serie tv vado sempre a informarmi sulla veridicità dei fatti, ho scoperto questo nesso, che la Dott.ssa ha anche sfruttato per il presente lavoro (*Women, Murder and Femininity*). *L'altra Grace* di Margaret Atwood va a toccare la questione della dicotomia di musa creatrice, che è una delle cinque rappresentazioni di genere descritte nel libro, infatti è la storia di un'immigrata irlandese in Canada, giovane di 16 anni, che si è trovata coinvolta in un duplice omicidio. Però ancora oggi non è chiaro se lei fosse la sola autrice oppure fosse la persona che ha ispirato il suo complice, che era un uomo, poco più grande di lei. Questo dibattito ha creato discussione anche in ambito psicoanalitico, di fine XIX secolo, riguardo concetti di doppia personalità e di femminilità appropriata, perché il mondo canadese era veramente inorridito di come una ragazza così giovane, di bell'aspetto e educata, potesse essere in grado di commettere un delitto del genere. Ed è per questo che ho deciso di tradurre *Women, Murder and Femininity* della Seal. Non mi ha pesato tradurre perché è stato veramente affascinante.

Ci sono state delle problematiche per il linguaggio giuridico. La difficoltà principale è stata mantenere l'oggettività, perché in tutti i casi che ha descritto la Dott.ssa Seal si sono lette delle cose veramente tremende dal punto di vista di razzismo, omofobia, pregiudizi, e nella traduzione ovviamente non potevo far trasparire le mie posizioni riguardo a questi concetti; quindi mantenere l'oggettività è stata una presa davvero ardua, ma alla fine ce l'ho fatta.

Laura Baccaro

Grazie Martina per l'interesse e per la passione in questi argomenti e per aver a mio avviso posto attenzione su un punto fondamentale nella traduzione, che è la difficoltà del restare come "fuori dalla cultura" che la lingua trasmette e "restare fuori" rispetto la propria passione. Anche perché non tutto si può tradurre, non tutto si può tradurre bene e questo sia uno dei punti che proprio per il vostro lavoro sia fondamentale, però d'altra parte se non c'è la passione, vero Martina?

Martina Dal Cason

Assolutamente, la traduzione si è una passione; soprattutto se si coniuga con delle tematiche che mi stanno veramente a cuore.

Silvia Campanini

Nel saggio della Seal ci sono alcune parole che non si sono potute tradurre in maniera equivalente in italiano, perché l'italiano non lo permetteva. Devo citare un esempio, l'aggettivo "*mannish*", che è il dispregiativo di "mascolino" e non ha un corrispondente in italiano. Oltretutto la parola *mannish* può essere attribuita solo a una donna.

Laura Baccaro

Qua vediamo proprio la difficoltà della lingua e il sessismo nella lingua.

Silvia Campanini

Si dice che l'inglese sia la lingua più neutra possibile, la meno sessista perché non conosce generi, ma nel lessico ha delle possibilità che superano quelle dell'italiano quanto a sessismo.

Laura Baccaro

Questo è importantissimo per cogliere le differenze in una lingua viva, la lingua sessista e anche la lingua giuridica/giudiziaria nelle aule dei tribunali. Quindi ritorniamo a quelle narrazioni di cui si parlava prima. Proprio per andare a riprendere tutti questi aspetti linguistici e di riflessione culturale sociologica io passo la parola al prof. Gallo.

Daniele Gallo

Vorrei aprire questo intervento con una riflessione suggeritami dall'attualità: la settimana scorsa Beatrice Venezi sul palco di Sanremo, in occasione del Festival, ha precisato che la sua professione è quella di direttore d'orchestra e non direttrice d'orchestra: un sostantivo, direttore, che non deve essere declinato al femminile, come infermiere/a, segretario/a, attore/attrice e tanti altri. E altrettanto fatica a entrare nel lessico quotidiano la declinazione femminile di ruoli di prestigio, come avvocatessa, ingegnera, architetta, notaia e altri, con il pretesto che queste definizioni non sono assonanti, eufoniche. Come se professioni e ruoli importanti non possano essere declinati al femminile, al contrario di quelli meno autorevoli e come se la stessa professionista provasse maggiore soddisfazione a essere chiamata e definita con un sostantivazione maschile.

Questo fenomeno ci dimostra ampiamente come il confronto femminile/maschile viva soprattutto una dimensione di civiltà culturale in cui lo stesso linguaggio è certamente protagonista. La lingua cambia con la cultura e le trasformazioni della mentalità. Non ci sono mestieri o professioni che si possono declinare al femminile e altri che invece dovrebbero rimanere al maschile.

L'incertezza della direttrice d'orchestra è la cartina di tornasole di quanto sia effettivamente ancora lontana la percezione sociale della necessaria armonica identificazione di un tutto composto dal femminile/maschile. Perché? Propongo un possibilità sulla quale riflettere insieme. Si continua a discutere sulla necessità di raggiungere la parità uomo-donna, garantita soprattutto

da un uguale riconoscimento economico a parità di prestazione e da un'identica occupazione dei ruoli sociali ed economici di comando. Ma non è mai riflettuto sulla vera parità, quella che è originata dalla consapevolezza collettiva di una parità di valore dei due generi. Questa è il vero obiettivo, tutti gli altri sono buoni obiettivi ma non cambieranno mai cuori e coscienze.

La parità economica è facilmente raggiungibile e non si deve ascrivere a un cambiamento culturale, anche se è dimostrata essere stata disattesa nella pratica (es. legge 903/1977 non correttamente applicata). E anche l'occupazione di ruoli-guida è altrettanto quasi raggiunta: sono ormai moltissime le professioniste in ogni settore, anche se nella politica e in altri settori abbiamo ancora molta strada da compiere.

Ma la vera sfida è un'altra perché è molto più complesso raggiungere la consapevolezza della parità di valore: il femminile è potenzialmente uguale al maschile, la femminilità vale la maschilità: il più o meno, il meglio o il peggio se lo giocheranno le individualità al di là del genere che rappresentano.

Noi vogliamo che la donna sia pari all'uomo: in questa affermazione è nascosta soltanto la lotta dirittuale: il lessico fa sempre riferimento alla parità, alle pari opportunità etc. Ma non può bastare, questa sintesi è fortemente limitativa. No: noi dobbiamo pretendere che la donna sia considerata di pari valore all'uomo o, ancora meglio, l'uomo deve essere considerato di pari valore alla donna. E questa la vera rivoluzione culturale, il vero obiettivo. Il femminile e il maschile insieme, in un'unica percezione di valore. Per questo il linguaggio è ancora così fortemente compromesso in un avvilente sessismo. La lotta femminile deve virare.

E questo obiettivo deve essere raggiunto anche attraverso una sostanziale virata del linguaggio, della parola. Perché è soprattutto questo che tradisce il linguaggio sessista, una dissimmetria valutativa pregiudiziale sul diverso valore uomo-donna.

Non si è forse sufficientemente consapevoli di quanto la parola "crei" la realtà, la condizioni e ne sia condizionata: la parola espressa e comunicata possiede una sua forza, determina conseguenze e responsabilità. La parola nella sua accezione "pragmatica", da *pragma*, fatto, azione. La parola è materializzazione, vera e propria azione, è una struttura dinamica che cambia in continuazione.

Un grande linguista inglese, John L. Austin, sostiene nel suo illuminante *saggio How to Do Things with Words (Come fare cose con le parole)* che le parole "fanno" le cose, le parole utilizzate nella loro dimensione performativa, quando determinano effetti reali, per esempio nei casi in cui prendo impegni (lascio i miei beni a Tizio).

La Parola, il *logos*, la lingua: si collega al verbo *lego*, che indica il racconto, il raccontare ma anche il raccogliere, il mettere insieme, il disporre e scegliere con cura. Secondo Aristotele il *logos* è proprio dell'essere umano, perché solo l'essere umano parla e capisce.

Travolti e disorientati dalla dimensione di servizio delle parole, spesso ci limitiamo a pensare che la lingua sia solo un repertorio convenzionale di segni, dimenticando che è anche *énérgéia*, attività: codice di scambio, certo, ma anche processo che impercettibilmente e progressivamente struttura la nostra posizione nel mondo e il posto che vi occupiamo. La lingua non è il riflesso diretto dei fatti reali, ma esprime la nostra visione dei fatti, il nostro modo di intendere il mondo, la nostra prospettiva nel fare l'inventario del mondo.

Le connessioni tra lingua, cultura/esperienza e genere si riflettono non solo sulla struttura della lingua e dei vari livelli d'analisi (in particolare sul lessico), ma anche sul modo in cui pensiamo, i

comportamenti sociali, le valutazioni e le attese che la lingua contribuisce a costruire e tramandare.

Per questo è così importante il modo con cui ci esprimiamo: perché ci racconta di noi e delle nostre idee, dei nostri valori, delle nostre priorità. Il fine che si propone l'ambito di studi linguistico che indica raccomandazioni per un uso non sessista della lingua italiana è dare visibilità linguistica alle donne e pari valore linguistico a termini riferiti al sesso femminile. Questi suggerimenti sono frutto di ricerca e analisi scientifica: l'operazione a cui si mira è di stabilire un vero rapporto tra valori simbolici nella lingua e valori concreti nella vita.

L'uso di un termine anziché un altro comporta una modificazione nel pensiero e nell'atteggiamento di chi lo pronuncia e quindi di chi lo ascolta. E' altrettanto chiaro che il valore semantico è strettamente legato al contesto linguistico ed extralinguistico in un continuo rapporto dinamico. L'obiettivo è un cambiamento sostanziale dell'atteggiamento nei confronti del valore della donna che traspaia anche attraverso la scelta linguistica.

Noi siamo pigri nei cambiamenti linguistici, pur accettando calchi e prestiti soprattutto dalla lingua inglese, ma sono comunque usciti di scena termini come *spazzino, serva, giudeo, negro*. Molti di questi cambiamenti non si possono definire spontanei ma sono il frutto di precise azioni socio-politiche e dimostrano l'importanza che la parola/segno ha rispetto alla realtà sociale e il fatto che siano stati assimilati significa che il problema è diventato di senso comune e ci si vergogna di essere percepiti come razzisti e classisti o, nel caso della disabilità, poco attenti o sensibili.

Quando ci si vergognerà di essere classificati sessisti i cambiamenti qui auspicati diventeranno realtà e normalità.

La concatenazione tra presa di coscienza linguistica e coscienza socio-politica e culturale è quindi molto stretta: non si può fare un'analisi della lingua senza partire da una consapevolezza del femminile; la coscienza si arricchisce dell'analisi della lingua e rende fattibile il cambiamento linguistico.

Come rilevato, deve essere ricercata la parità non solo di diritti ma anche della percezione valoriale tra i due generi. Per parità non si deve intendere, quindi, adeguamento alla norma-uomo, ma reale possibilità di pieno sviluppo e realizzazione per tutti gli esseri umani nelle loro diversità (femminilità).

Molti sono convinti di questo ma si continua a dire che la donna deve essere pari all'uomo e non che l'uomo deve essere pari alla donna e nemmeno che la donna e l'uomo (o l'uomo e la donna) devono essere pari: strano concetto di parità questo, in cui il parametro è sempre l'uomo.

Ecco che si può evitare di riprodurre nella lingua il pensiero sessista e formare nuove abitudini linguistiche.

L'obiettivo non è quello di azzerare la differenza tra donna e uomo ma, al contrario, si deve mirare a rivalutare la forma femminile, evitando qualsiasi tipo di priorità e di gerarchia linguistica.

Se si vuole quindi avere e dare un'immagine delle donne come individui con un potenziale non stereotipicamente delimitato si dovrà scegliere parole e immagini, ascoltarne le risonanze e coglierne le associazioni, soprattutto riprendendo il consiglio di Orwell: scegliere le parole per il loro significato e non il significato per le parole.

Silvia Campanini

A questo proposito vorrei dire che basterebbe rendere edotti gli studenti che quando si dice *homo di Cro-Magnon*, che è come dire *sapiens*, il latino *homo* indica maschio e femmina indifferentemente. Senza bisogno di dover cambiare la lingua, si potrebbe divulgare. Anche in inglese ci sono molti composti con *man*: ad esempio *manslaughter*, che significa omicidio. Ma non si tratta certo di un termine sessista. In germanico, infatti, *man* significava uomo, donna, bambino. Fino al Mille la parola *man* non recava distinzione di genere. Piuttosto che cancellare la storia della lingua, sarebbe auspicabile diffondere una cultura linguistica. Trovo che non sia utile introdurre parole artificiose che non attecchiscono. Come non ha attecchito l'esperanto; sarebbe invece necessario rendere edotti i parlanti della storia delle parole: molti inglesi credono ad esempio che la parola *woman* sia un'astrusa derivazione della parola *man*; non è certo così. La parola *woman* deriva dall'*Old English wif+männ*, dove *männ* sta per "essere umano" e *wif* essere di genere femminile (da essa deriva l'attuale parola *wife*). La storia non si può cambiare, non si può cancellare con un colpo di spugna, neanche la storia della lingua: bisogna apprenderla e bisogna essere consapevoli.

Conclusioni

Noi dovremo anche, questo è un mio pensiero, proprio superare il binarismo maschile/femminile perché è ora che non escludiamo anche le persone intransito, o comunque le persone intersessuali, *agender*, eccetera. E questa è una logica che dobbiamo assumere per una tutela dei diritti delle persone, questo è un passaggio culturale che ancora ci attende, perché altrimenti continueremo sempre a parlare di diritti esclusi, minori.

Quindi la giornata di oggi voleva essere uno scambio di riflessioni che andasse oltre i generi, perché altrimenti ci chiudiamo nello stereotipo creato nuovo e bellissimo, però abbiamo ricostruito un ideale o di femminilità o di maschilità. Mentre appunto qualcuno prima diceva che noi poi riviviamo nell'essere, nella quotidianità, nell'incontro, nella relazione, nel linguaggio, ci ricreiamo la nostra umanità. Ed è un po' questo un pensiero che dovremo fare, una logica di tutela dei diritti di umani, di tutte le persone tutti gli uomini e le donne eccetera, che vogliono vivere in una relazione equilibrata, corretta, rispettosa, di valore con gli altri.

Girls and Violence: The Case for a Feminist Theory of Female Violence

*Kerry Carrington*¹¹ *

Abstract

Rises recorded for girls' violence in countries like Australia, Canada, United Kingdom and United States have been hotly contested. One view is these rising rates of violence are an artefact of new forms of policy, policing, criminalisation and social control over young women. Another view is that young women may indeed have become more violent as they have increasingly participated in youth subcultural activities involving gangs and drugs, and cyber-cultural activities that incite and reward girls' violence. Any comprehensive explanation will need to address how a complex interplay of cultural, social, behavioural, and policy responses contribute to these rises. This article argues that there is no singular cause, explanation or theory that accounts for the rises in adolescent female violence, and that many of the simple explanations circulating in popular culture are driven by an anti-feminist ideology. By concentrating on females as victims of violence and very rarely as perpetrators, feminist criminology has for the most part ducked the thorny issue of female violence, leaving a discursive space for anti-feminist sentiment to reign. The article concludes by arguing the case for developing a feminist theory of female violence.

Global rises in female violence

While males still dominate crime statistics as offenders and prisoners, a body of international and national trend data points to a consistent narrowing of the gender gap for officially reported crime and violence in countries like the United States (US), Canada, the United Kingdom (UK) and Australia. In the US, for instance, crime trend data from 2000 to 2009 show nearly an 18% increase in arrests of females under the age of 18 for assaults compared to just a 0.2% increase for similarly aged males (US Department of Justice 2010). During this time frame there were significantly higher increases in arrests of young females for drug abuse violations and driving under the influence compared to males. Arrests of females under the age of 18 for disorderly conduct increased by 8% while the arrests of males in this age group decreased by 8% over the same time frame.¹² The US Department of Justice Study Group on girls and violence compared the rising rates of girls' crime with victimisation and self-report data and also found reported violence for girls was rising faster than for boys, although the extent varied according to which measure was used.

In England and Wales, a major study of juvenile female offending between 2000 and 2005 found that "the number of young female offenders has risen by approximately 18% over the past five

¹¹ Queensland University of Technology, Australia, articolo pubblicato in Vol. [2 No. 2 \(2013\): International Journal for Crime, Justice and Social Democracy](#) - Open Access Journal, ISSN 2202-8005, <https://www.crimejusticejournal.com/article/view/693>; <https://orcid.org/0000-0001-6297-2786>,

¹² An earlier study commissioned by the US Department of Justice in 1996 concluded unequivocally on its front cover that 'female violent crime arrest rates have increased' (Poe-Yamagata and Butts 1996). The study also noted, 'violent Crime Index offences between 1989 and 1993 increased by 55% for females compared to 33% for males' (Poe-Yamagata and Butts 1996:8). For the offence of aggravated assault, the increase was double for girls compared to boys over the same time frame (Poe-Yamagata and Butts 1996: 2).

financial years”, and that the number of violent offences for juvenile females more than doubled over the same period (Arnull and Eagle 2009: 40, 47).¹³ In the three year period between 2003 and 2006 rates of violence recorded for girls in England increased 78% (Youth Justice Board 2004a, 2007 in Sharpe 2012: 33).

In Australia, while boys still outnumber girls under Australian juvenile justice supervision,¹⁴ the gender gap is narrowing. Taking Australia’s largest jurisdiction as an example, across a 52 year period of trend data (1960-2012), the ratio of young women to young men appearing before the NSW Children’s Courts for criminal matters (finalised court appearances) narrowed from around one in fourteen (1:14) in 1960 to around one in four (1:4) in 2012 (see Figure 1). While changes in data definitions and counting rules over such a long time pose data quality issues, nevertheless the trend is so consistent it cannot be simply attributed to statistical artefact.

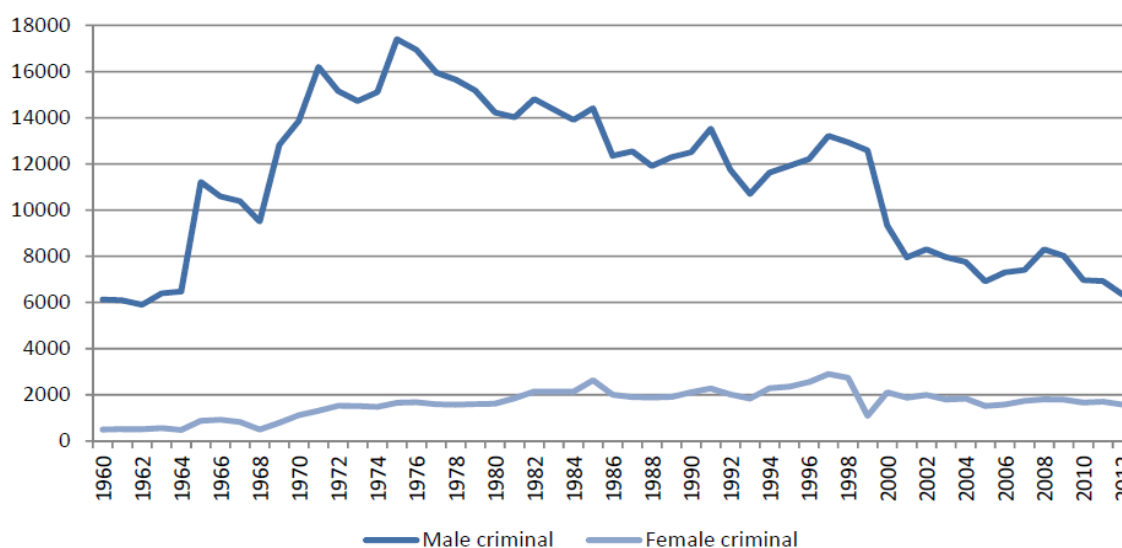


Figure 1: Finalised Court Appearances Criminal Offences, by Sex, NSW Children’s Courts 1960- 2012

Source: NSW Children’s Court Data (1960-2012)¹⁵

¹³ The data upon which this report was generated has been criticised for inflating girls’ violent offences. Gilly Sharpe argues that shifts in the way the National Crime Reporting Standard operated from 2002 led to the recording of more petty offences, artificially inflating minor infringements and assaults committed by girls (Sharpe 2012: 33). She concludes that the steep rises in girls’ delinquency recorded in the UK’s *Criminal Statistics* was the outcome of shifting modes of criminalisation and not the deterioration of girl’s behaviour (Sharpe 2012: 34).

¹⁴ ‘In 2010–11, young men were around twice as likely as young women to be proceeded against by police, more than three times as likely to be proven guilty in the Children’s Court, four times as likely to experience community-based supervision and five times as likely to be in detention’ (AIHW 2012).

¹⁵ The author has been collecting this administrative by-product data for 25 years either from the government department or the NSW Bureau of Crime Statistics and Research. Over such a lengthy period changes in counting rules for matters heard before the New South Wales Children’s Courts have impacted on the quality of time series and the direct comparability of certain time frames. Some of the changes in counting rules have followed changes to the data custodian of the juvenile justice collection. From 1960 to 1983 the data was maintained and published by the New South Wales Department of Youth and Community Services (or its predecessors); from 1984 to 1990 by the New South Wales Bureau of Crime Statistics and Research; and since 1991 by the New South Wales Department of Juvenile Justice.

The counting rule for data from 1960 to 1982 was based on final court appearances, not individuals, or proven offenders. Data for 1983 was reported according to a different counting rule, idiosyncratic to the time series, and has been excluded from the trend analysis for this reason. From 1984 to 1987 unpublished data for finalised court appearances was extracted from the Children’s Court collection. Data from 1988 to 1990 is based on a slightly different set of counting rules, namely proven offenders for criminal matters and proven matters for welfare offences. This data is not directly comparable to the rest of the time series and has been excluded from the analysis of trends in

Note: Data quality issues affect the trend data due to changes in counting rules that invariably occur over such a long time frame.

Crime data for girls' violence have also been rising over the last two decades. Acts intended to cause injury (violent offences) accounted for around 36.5% of all the matters for which young females appeared before the children's courts in NSW in 2012, compared to just 13.8% in 1989 (NSW Bureau of Crime Statistics and Research 1989-2012: see Figure 2). Earlier data is not comparable due to changes in the definition and recording of violent offences. By comparison, over the same time frame, the proportion of violent related offences for which juvenile males appeared before the NSW Children's Courts rose less dramatically, from 10.7% in 1989 to 22.2% in 2012 (NSW Bureau of Crime Statistics and Research 1989-2012: see Figure 2).

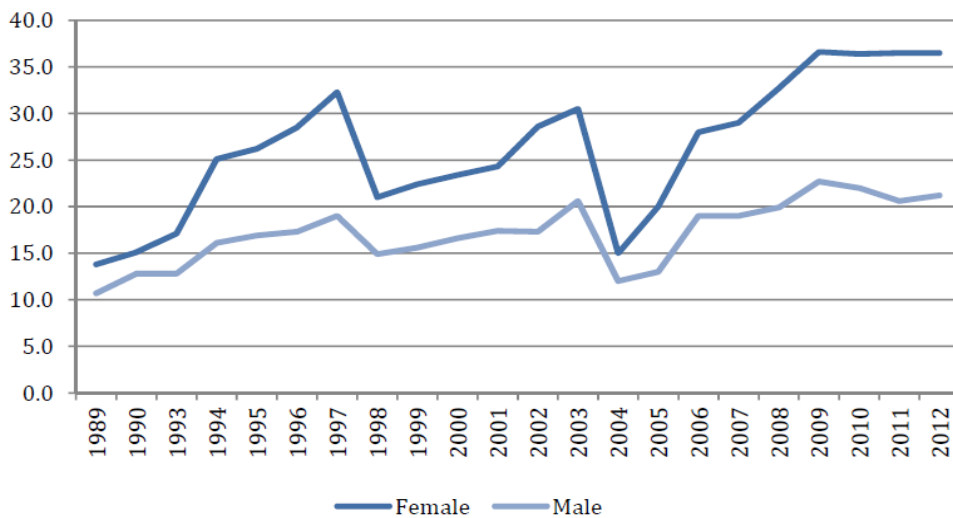


Figure 2: Proportion (%) of violent offences by sex, 1989-2012, NSW Children's Court

Source: NSW Bureau of Crime Statistics and Research (1989-2012)

Note: Violent offences are defined as acts intended to cause injury, finalised court appearances most serious offence

Another 10-year study (1999-2010) for the same jurisdiction, undertaken by the NSW Bureau of Crime Statistics and Research, came to the same conclusion that violence was rising faster for girls than boys. This study, which uses administrative byproduct data based on reports to the police, found that the number of juvenile female offenders increased by 36%, compared to an 8% increase in male juvenile offenders over the same ten year time-frame (Holmes 2010: 6).

Among the top ten offences for girls, shop-lifting was the highest, accounting for 21% of those offences which attracted police attention. The second highest ranking offence recorded by police was non-domestic violent assaults, accounting for 10.9% of juvenile female offenders compared to 7.1% of male juvenile offenders (Holmes 2010: 6).¹⁶

crime rates, although included in Figure 1. Unpublished data from 1991 to 2004 for finalised court appearances by criminal matters is comparable to data collected from 1960 to 1982 and between 1984 and 1987. The author gratefully acknowledges the assistance of the New South Wales Department of Juvenile Justice for providing unpublished data disaggregated by sex from 1990-1991 to 2003-2004. More recent data has been sourced from NSW Children's Court Statistics, published by the NSW Bureau of Crime Statistics and Research.

¹⁶ In terms of changes in specific offences over this period, the study concluded: 'Female participation in specific offences changed over this time, with significantly more females being proceeded against for breaching judicial

There is no doubt that officially recorded rates of violence for girls based on reports to the police have been increasing in countries like US, UK, Canada and Australia for some time. This trend appears to be triangulated by victimisation data that shows young women are assaulted predominantly by their friends or peers during early adolescence (House of Representatives Inquiry into Youth Violence 2010: 20-21, Table 2.2) and by qualitative studies of girls violence (Jones 2008; Miller 2004; Sharpe 2012: 89).¹⁷

However, there is little agreement as to why these rates are rising (Alder and Worrall 2004; Carrington 2006; Carrington and Pereira 2009; Chesney-Lind 1999; Reitsma-Street 2000). The debate is evident in two contrasting papers published in *Criminology*, one of the world's leading journals in this discipline. While official reports of crime indicate that the gender gap has narrowed over the last two decades, Steffensmeier and his colleagues (2005) argue that this is due largely to several net widening policy shifts that led to increases in the arrest of girls for behaviour that, in the past, was either not policed or overlooked. By comparison, their analysis shows that a similar trend is not evident in longitudinal self-report data. In contrast, Lauristen and colleagues (2009) argue that the narrowing of the gender gap is real. Their longitudinal analysis covering the period from 1973 to 2005 compares patterns in National Crime Victimization Survey data, based on self-reports, with those in the Uniform Crime Reports (UCR) that are based on police arrest data. They conclude that "*female-to-male offending rate ratios for aggravated assault, robbery, and simple assault have increased over time and that the narrowing of the gender gaps is very similar to patterns in UCR arrest data*" (Lauristen, Heimer and Lynch 2009: 361). While acknowledging that the narrowing of the gender gap – especially during the 1990s – was due largely to decreases in male offending rates rather than large increases in female offending rates, they concluded that the issue is real and warrants "*serious attention in future research*" (Lauristen, Heimer and Lynch 2009: 361).

A key issue in this debate is whether statistical increases in female offences are generated by less serious offences being brought into the system or changes in policy and policing that disproportionately impact upon girls (Acoca 2004; Alder and Worrall 2004; Arnull and Eagle 2009; Brown, Chesney-Lind and Stein 2007; Carrington 2006; Muncer et al. 2001; Sharpe 2012).

Sceptics point out that the large percentage rises are partly the product of small numbers and partly an effect of decreasing numbers of boys coming to the attention of the police and courts.

In sum, explanations for the rising rates of female violence remain contentious (Alder and Worrall 2004; Carrington and Pereira 2009; Sharpe 2012). Are these patterns the product of new forms of social control, changing methods of recording information, changes in styles of policing and policy, increases in girls' violence, or changes in attitudes to female offending? The following

orders, committing assault, liquor offences and offensive behaviour as well as maliciously damaging property ...The number of juvenile female offenders increased by more than a third whereas for juvenile males the increase was less than a tenth. Trends in offending by juvenile females mirrored those of all females, with the exception of shoplifting...' (Holmes, 2010: 10).

¹⁷ There is evidence to suggest that the victims of girls' violence are mostly other girls. According to the Australian Crime Victim Survey, young people bear the greatest risk of being the victim of an assault. While young males aged between 15 and 24 have the highest risk of victimisation, young females aged 15-19 are more likely to know their attacker and to have been assaulted by a friend or family member, compared to male victims who at a greater risk of being attacked by a stranger (House of Representatives Inquiry into Youth Violence 2010: 20-21, Table 2.2). For young women aged 20-24, the offender was more likely to be a partner or an ex-partner rather than a friend or family member. This gender difference provides a clue into not only the patterns of victimisation but also the patterns of offending, with young women being assaulted predominantly by their friends or peers during early adolescence and, as they grow older, by their partners or ex-partners.

wrestles with these questions while attempting to critically assess the explanations typically offered to account for rises in girls' violence. The main focus is on explaining rises in female violence, as this has attracted the most critical public and scholarly attention.

Shifting modes of social control

The argument which appears to have most currency among feminist and criminological scholars is that girls are not becoming more violent; rather, shifting modes of social control are having a net-widening effect on offences defined as violent (Alder and Worrall 2004; Chesney-Lind and Sheldon 2004; Luke 2008; Sharpe 2012; Steffensmeier et al. 2005). Similarly, Alder and Worrall argue that definitions of girls' violence are culturally constructed, and statistical increases in female juvenile violence may be partly accounted for by girls' increased visibility in public spaces, a widening of behaviour deemed unacceptable and distorted analyses of statistical data (Alder and Worrall 2004: 10). This theory discursively repositions female violence in a context of less serious, social and relational aggression that occurs mostly in the context of girls peer networks (Alder and Worrall 2004; Chesney-Lind and Irwin 2008). The statistical rises in girl's violence are then attributed mostly to shifts in methods of policing. Referred to as "up crimming", this mode of social control entails the criminalisation of less serious forms of girls "disorder", such as girls who occupy public space, who express their sexuality, who are boisterous or rebellious (Alder and Worrall 2004: 11). According to this explanation, girls' violence is generally thought to be less serious on the scale of aggression compared to boys but, importantly, there are lower thresholds for intervening when girls engage in aggressive conduct compared to boys (Alder and Worrall 2004; Beikoff 1999; Chesney-Lind 1999). Hence girls' violence creates a greater interventionist social reaction or, rather, over-reaction.

In a recent book on *Offending Girls*, Gilly Sharpe suggests that the obsession with the new "violent female offender" has become the substitute for historical policy concerns with wayward girls and sexual delinquency (Sharpe 2012: 23). She argues that a raft of new more punitive policing and policy responses to youth crime in England has had a disproportionately criminalising impact on girls' behaviour, inflating the population of "violent" female offenders (Sharpe 2012: 24). There is little doubt that the sexualisation of girls' deviance was central to historical constructions of and responses to female adolescent delinquency in the last half of the twentieth century (Carrington 1993, 2006; Chesney-Lind 1974; Gelsthorpe 1999; Gelsthorpe and Worrall 2009). However, since the removal of status offences which sexualised female delinquency, a tapestry of other factors has emerged which could be enhancing the prospects of female violence, such as the growth of girls' participation in drug economies,¹⁸ the slight rise in their

¹⁸ In the 1990s, scholars argued that young women were increasingly engaged in drug-related violence as a result of their increased involvement in the illicit drug economy (Maher 1997).

participation in body contact sports such as martial arts and football,¹⁹ and their increasing involvement in street based youth subcultures more generally.²⁰

The post war era during the cultural revolution of the 1960s and 1970s witnessed an explosion in youth sub-cultures (Hall and Jefferson 1975). During this period, youth culture became a metaphor for modernity, a symbol for trouble, a signifier for social change, chaos and disruption, and the loss of certainty (Hebdige 1979; Stratton 1992). Moral panics associated with post-war youth cultures diverted much adverse attention toward these youthful leisure activities (Cohen 1980; Poynting et al. 2004). This increased visibility brought increasing numbers of young people (mostly boys) into conflict with the law, usually for petty delinquencies that arose in the context of their participation in street-based youth subcultures (Hall and Jefferson 1975; Stratton 1992). Not surprisingly, this was the time when official rates of delinquency were peaking for boys in Australia and other parts of the globe.

During the 1960s and 1970s, girls were largely excluded from the central activities of most working class youth subcultures such as drug use, motor bike riding, football hooliganism, surfing, street-fighting, skateboarding or roller blading (Carrington 1993; McRobbie and Garber 1991). A growing body of social research, however, suggests that since the 1980s and into the twenty-first century, the qualitative participation of young women in gangs and youth subcultures has changed (Burman, Batchelor and Brown 2001; Campbell 1984; Maher 1997; Miller 2004; Mullins and Miller 2008). This body of international research based on empirical studies in Scotland, England, Australia and America illustrates that young women are now more likely to actively participate in the focal concerns of street-based youth sub-cultures vulnerable to criminalisation, youth gangs involved in selling and consuming drugs, grifting, thieving and petty crime, distinguishing them from their female adolescent counterparts of earlier decades who mostly hung out in the privacy of the bedroom with their girlfriends (McRobbie and Garber 1991). From the 1980s onwards, girls have increasingly been participating in the types of crime and violence that occurs in gangs and between gang members, and of being criminalised for that participation. This goes some way to explaining the rises in girls' crime and violence, particularly during the last two decades of the twentieth century.

There is also no doubt that the growth in girls' violence is to some extent an artefact of shifting modes of governance and policing – especially the shift from sexualising to criminalising girls' delinquencies over the last three decades (Carrington and Pereira 2009; Sharpe 2012). New forms of scrutiny, ways of recording and reporting crime data, and changes in attitudes to girls' offending account for some of the increases of violence recorded for young women. How much is unknown. However, the impact of shifting modes of governance occurred primarily with the removal of status of welfare offences in the 1980s and 1990s (Carrington 2006), not over the last

¹⁹ According to the ABS data, overall, 70% of boys and 56% of girls participate in sport but there are significant gender differences in the patterns of participation. Between 2003 and 2009, girls participation rate in martial arts had grown slightly from 3.6 % to 3.7% compared to 6.2% to 7.5% for boys; and, for Australian Rules football, from 0.7% to 0.9% for girls compared to 13.6% to 16% for boys (ABS 2011). Interestingly between 2003 and 2009, the participation of girls in skateboarding and rollerblading increased from 16.9% to 42.4% compared to 28.5% to 58.9% for boys (ABS 2011 Cat 41560.0). There were some differences in counting rules that account for some of the change.

²⁰ Some researchers have argued that, as girls moved their subcultures from the privacy of their bedroom to the public world of the street, they too would come to the attention of police in the same way as boys for their increased participation in delinquent youth subcultures (McRobbie and Garber 1991). More recent research on girls' participation in gangs and youth subcultures confirms that girls in these gangs do indeed participate actively in violence between members mostly. (Mullins and Miller 2008)

twenty years' the period during which rises in officially recorded girls' violence have been most pronounced (see Figure 2). Over this period, two socio-cultural shifts have occurred that in theory could be impacting on rising rates of girls' violence. The first relates to shifting social expectations and cultural constructions which celebrate the violent femme and normalise "ladette" culture. The second relates to the impact of new forms of social online net-working that normalise, reward and incite girls' fights. Again, how much is unknown and no causal links are asserted in this article but, theoretically, the links between these shifts and the upward trends in female violence warrant scrutiny.

Masculinised femininity: Ladette culture and the celebration of the violent femme

Heightened anxiety about the behaviour of young women has shifted over the last few decades from sexual promiscuity to the "violent, aggressive bad girl" (Brown and Tappan 2008: 48; Sharpe 2012: 4). Ladette behaviour is typically associated with working class masculinity such as acting tough, excessive smoking, swearing, fighting, drinking, being disruptive at school, being rude to teachers, and being open about sex (Jackson 2006). Ladette behaviour also tends to be represented in the popular media as 'girls moving into the world of violence that once belonged to boys' (Batchelor 2009; Brown Chesney-Lind and Stein 2007; Jones 2008; Muncer et al. 2001). Girls' apparent switch from feminine behaviour to a masculinised anti-social, confrontational style is often linked to new, aggressive cultural images of women portrayed in films and on television (Muncer et al. 2001; 35),²⁷ such as in movies like *Mean Girls* and the reality TV show *Ladettes*. The new violent femme is also glorified in action films like *Lara Croft Tomb Raider*, its sequel and a vast array of associated video games. Images of these new violent femmes are highly eroticised, being simultaneously seductive and sadistic.

These representations of masculinised femininity depict girls' violence as a new and growing social problem often attributed to the legacy of feminism. For instance, Germaine Greer, described as "the first ladette", was berated for the "destruction of feminine modesty and decency" and condemned for producing "an entire generation of loose-knickered lady louts" (Letts 2009). Big Brother, too, claims ladettes are a legacy of feminism (ThisisBigBrother.com n.d.). I return to the issue of blaming feminism for instances of female violence later.

Sceptics argue that, on the contrary, the new violent femme or ladette is not much more than a cultural and media construction (Brown, Chesney-Lind and Stein 2007; Brown and Tappan 2008; Muncer et al. 2001). It is not simply whether girls are really becoming more violent but also how girls' violence and aggression is culturally represented, mediated and performed; and how these constructions might then shape contemporary adolescent feminine identity and practice (Brown and Tappan 2008: 51). Brown and Tappan suggest that these shows redefine femininity, promoting a "mean girl" image to adolescents to portray aggression as a desirable female character trait (Brown and Tappan 2008: 49). They argue that girls' appropriation of behaviour such as fighting, which has traditionally been reserved for boys, does not mean girls are becoming like boys. Rather, Brown and Tappan argue that girls' appropriation of aggression and violent behaviour permits girls to re-create feminine identities that simultaneously challenge and reproduce their subordinate position in relation to boys (Brown and Tappan 2008: 55-56).

²⁷ See Castello 2010; Fewster 2010; Hickley 2009; Noone and McDougall 2010.

There have been a few attempts to understand how violence features in the consciousness of young women and how it is utilised in their everyday lives (Burman, Batchelor and Brown 2001). A number of these studies have challenged normative gender assumptions of girls' aggression as relational, manipulative and covert, arguing that girls can also be physically aggressive and fight in violent ways (Artz 2004; Batchelor 2009; Boyer 2008; Jones 2008; Ness 2004). For example, Jones' study of violence among black inner-city girls and women, illustrated how violence is part of the code of the street that offers strategies for survival that cross perceived gender lines. In contrast to young men's violence which tends to be linked to displays of masculinity, girls' use of violence was not linked to any defining characteristics of being a woman but, rather, was a means to an end (Jones 2008: 78).

Yet girls' violence has traditionally been ignored or trivialised as "just girls being bitchy" while boys' participation in indirect or relational aggression has remained largely unexamined (Bjorkqvist, Lagerspetz and Kaukiainen 1992; Spears et al. 2008; Tomada and Schneider 1997).

This gendered polarisation of girls' relational aggression and boys' physical violence overlooks the participation of girls in fights for survival, power, pleasure, respect and status (Boyer 2008; Brown and Tappan 2008; Jones 2008), as well as the way girls are increasingly using the internet to broadcast their physical fights with other girls, an issue to which I now turn.

Girl's violence, cyberspace and on-line social net-working

Young people growing up in the twenty-first century are the first generation to intermingle online communication with face-to-face social exchange to create a new kind of social interaction.²² The implications of the intermingling of these parallel worlds are yet to be fully appreciated or understood. There is increasing evidence, however, that social on-line networking has created new possibilities as well as new risks for young women. Just as there has been a failure to grasp theoretically the profound impacts and harms of cyberspace on real worldly experiences of sexual victimisation (Powell and Henry 2013), equally there has been an oversight of the impact of on-line social networking on girls' real worldly experiences of violence. This section attempts to wrestle with this issue. It does not attempt to draw a simplistic causal correlation between on-line social networking and rises in girls' violence – but nor does it dismiss the prospect.

One of the by-products of the massive uptake of social networking is that this technology has enabled the extension of bullying into cyberspace, beyond the school ground to penetrate the home and places of sanctuary (Patchin and Hinduja 2006: 155; Rigby and Griffith 2009; Youth Affairs Council of Victoria 2009). A Canadian study found around 60% of the victims of cyber bullying were girls and that female cyber bullying is often directed at other girls (Li 2005). An

²² According to a recent on-line survey of 1,037 13-17 year-olds in America, nine out of ten use social networking; three out of four have a social network profile; one in five has a twitter account (Common Sense Media 2012: 9); and eight out of ten have a mobile phone (Common Sense Media 2012: 20). While the majority reported that social networking was mostly a positive experience, girls especially responded that they felt anxious about photos of themselves being posted onto the internet and nearly one third said they wished they lived in a world without Facebook. Interestingly, neither this survey nor the Youth Internet Safety Survey, which has been conducted twice in the US, asked about girls' use of the internet to promote or inflict harm to other girls. Like the studies of youth violence more generally, which assume that mainly boys engage in physical fighting, girls use of the internet to broadcast fights, fan conflict, promote, incite and reward girl-on-girl violence has been scoped out of these teen internet surveys.

American study by Kowalski et al. (2008) found that girls were twice as likely as boys to be both the victims and the perpetrators of cyber bullying (Mason 2008: 327). This may be attributed to the fact that girls' up-take of on-line social networking is significantly higher than boys and girls are more likely to post personal information on-line than boys (Chang et al. 2008).

The posting of personal information can be misused to issue insults to reputation that inflame conflict between girls (Daly 2008; Jones 2008; Mullins and Miller, 2008). One way to interpret this is to argue that girls' on-line bullying is just another form of typically gendered relational aggression such as bitchiness, manipulation and exclusion (Bowie 2007; Brown, Chesney-Lind and Stein 2007; Simmons 2002; Williams and Guerra 2007). In the context of cyber violence, this may translate into sending threatening messages via text and email, online bullying via chat rooms, and manipulating and excluding others (Crick and Grotpeter 1995; Li 2005; Smith et al. 2008). All too easily these studies of girls and cyber bullying tend to slip into a gender binary that largely assumes girls are bitchy and manipulative, while it is mainly boys who are physical and aggressive. The use of the internet to inflame and reward girls' physical fighting in a parallel world is completely overshadowed by a focus on their participation in covert forms of cyber bullying such as threatening text messages, name calling and exclusion (Rivers and Noret 2009; Trach et al. 2010). Consequently, there is a scarcity of research on how social networking can fan conflict in the parallel real worlds of young women, and how girls might engage in internet, Facebook and YouTube sites to promote, incite and normalise girls' violence.

Table 1: Google search results: Fight sites by sex

<i>Search words</i>	<i>Girls (in millions)</i>		<i>Search words</i>	<i>Boys (in millions)</i>	
	<i>22 Sep 2009</i>	<i>20 Mar 2013</i>		<i>22 Sep 2009</i>	<i>20 Mar 2013</i>
Girls fighting tips	41.6	48.8	Boys fighting tips	0	31.7
Girls fighting at school	37.4	142.0	Boys fighting at school	8.9	90.3
Girls fighting YouTube.com	24.1	102.0	Boys fighting YouTube.com	3.0	36.9
Girls fight video	73.3	567.0	Boys fight video	31.5	267.0
Girl fighting girl	70.7	153.0	Boy fighting over girl	38.3	785.0

Source: Google search results accessed 22 September 2009 and 20 March 2103

While many girls use the internet in positive ways and to form friendships or promote solidarity, thousands of girls around the world use the internet to broadcast their physical fights with other girls. The data in Table 1 show consistently higher Google search results for girls' fights compared to boys' fights except for boys fighting over girls. The same Google search repeated in 2009 and 2003 illustrates that these sites are growing exponentially. The descriptive results of this exercise, while not making any claims to scientificity – as no-one has really worked out how to systematically study the social use of the internet yet – are revealing.

As some YouTube fights are staged fights rather than actual violent attacks involving victims, these figures are not accurate representations of real life incidents of girls' violence.

Nevertheless, the fact that girls' fights, whether staged or real, vastly exceed boys fights on all search terms suggests at the very least a higher spectator value for girls' fights. While seriously under-researched, the one study that addresses the issue suggests that the bragging rights for circulating fights through mobile phones to friends and peers, or uploading to YouTube, is the chief motivation for this type of violence (Spears et al. 2008). Some of these internet sites directly

incite violence by asking viewers to rate "chick fight" videos, to pass onto friends and to post their own. This fuels girl-on-girl violence by providing a normative on-line environment that encourages and rewards girls' violence. Girls who participate in these fights and upload to YouTube are active instigators of violence in the context of everyday life (Batchelor 2009; Burman, Batchelor and Brown 2001). Hence it would be difficult to deny some interrelationship between girls' uptake of social on-line networking with rising rates of girls' violence in their parallel real worlds, although how much is yet to fully appreciated, studied or confirmed.

There is no definitive answer to the extent to which the recorded rises in violence for girls are attributable to the socio-cultural rise of the violent femme, or the normalising influence of online social networking technologies that reward girls' violence. While speculative, the new permissibility of cyberspace – a space largely unregulated by parents, social control agencies and other authorities; where everyday informal social controls of place-based communities are suspended – does indeed operate as a new normalising domain which, at the very least, cultivates girls' aggression on- and off-line and rewards girl-on-girl fights that take place in their parallel real worlds. This has coincided with consistent and sharp rises recorded for girls' violence in precisely those affluent countries across the northern and southern hemispheres with high up-takes in social net-working among girls and increasing popularisation of violent femmes in consumer culture. While not attributing the rises in girls' violence to these two relatively recent socio-cultural phenomena, it would be premature to dismiss them as mere coincidence either. These are issues that require significant new research. That research needs to be framed by a feminist theory of female violence.

The case for a feminist theory of female violence

Feminism was, and still is, wrongly held responsible for the recorded rises in female crime and violence in popular culture. In this context, reports of rising rates of female crime and violence have tended to be met with widespread scepticism from feminist scholars (Alder and Worrall 2004; Chesney-Lind and Irwin 2008), understandably defensive given myths that simplistically blame equal opportunity, girl power, or the rise of women's liberation or feminism as the primary cause. The origins of this myth-making began in the 1970s with the controversial "sisters in crime" thesis that argued that, as women became more equal to men, so would the frequency and character of women's crime, violence, and aggression (Adler 1975; Simon 1975).

During the 1980s the argument was refined to suggest that young women were increasingly displaying overt aggression, partly because women's liberation had allowed them greater economic and sexual freedom and dismantled some of the limitations and informal social controls on traditional sex roles (Campbell 1981). We have seen above how more recently the ladette thesis implicitly – if not explicitly – constructs feminism as responsible for the masculinisation of femininity and rises in girls behaving badly. The major flaw in the argument that feminism leads to increased female crime and violence is that studies of female offending persistently reveal that few embrace women's liberation (Campbell 1981; Chesney Lind and Sheldon 2004). As Carol Smart once famously remarked, "*It is unlikely that advocates of the women's movement are to be found among delinquent girls and criminal women*" (Smart 1976:

74). Females who behave violently may be familiar with "F" words but feminism is not generally one of them.

Female violence challenges deeply ingrained assumptions held by feminists, lawyers, criminologists, media commentators, parents and policy makers. Criminological theory has a long history of essentialising violence as a capacity associated primarily with boys, overlooking the capacity for the female sex to participate in and inflict violence. So it is hardly surprising that feminist criminologists too have overlooked female violent offenders – assuming women are mostly victims and not perpetrators of violence (Morrissey 2002: 125-126; Wesley 2006).

Female violence also challenges long-held feminist understandings of femininity as the nonviolent sex, compared to the overwhelming masculinity of violence. Hence, feminist scholars have been reluctant to "own the problem of women's use of violence" (Renzetti 1999: 51), preferring to reposition female violence in a context of less serious, social and relational aggression that occurs mostly in the context of girls negotiating peer networks as previously mentioned (Alder and Worrall 2004; Chesney-Lind and Irwin 2008; Chesney-Lind and Pasko 2012), or as women using violence in self defence against violent partners. There are some exceptions such as Morrissey's (2002) analysis of the violent crimes of Catherine Bernie and Valmae Beck²³ and Hester's (2012) analysis of female perpetrators of domestic violence against male partners. However, there is something troubling about rationalising most instances of female violence as the product of social control, vulnerability or victimisation of some kind.²⁴

There is a limit to the denial of women's capacity to inflict violence and participate in conduct which many feminists would rather assign to men. According to Allen (1998), depictions of the violent woman as the victim rather than the perpetrator – or some blurring of both – stem from a refusal to allow the female sex to appear morally or personally culpable. Legal, academic and public discourses may attempt to reconcile this tension by constructing the violent woman as "mad", "bad", "evil", or "victimised" (Allen 1998; Morrissey 2002; Peter 2006). Feminism has a tendency, therefore, to reinforce the victim construct by repositioning the violent woman's actions within a context of diminished responsibility (Allen 1998). The denial of the existence of "real" female violent offenders is the product of out-dated gender essentialism and feminist idealism about the passivity of femininity (Allen 1998). Consequently, female offenders who are wilful participants in acts of violence tend to be absent from feminist analysis; instead, they are described as media beat-ups, social constructs, girls acting like boys, or victims of net-widening policies that "upcrim" girls' aggressive behaviour.

²³ Morrissey (2002) argues that the violent women of interest to feminist socio-legal theorists tend to fall into one of two categories: either victims (such as women who kill partners but are victims of battered wife syndrome); or women who act out violent feminist revenge fantasies against men, such as 'lesbian vampire killer' Tracey Wigginton (Morrissey 2002). Hence violent women who are sadists, rapists and murderers or otherwise wilful participants in violence, especially against other younger women, tend to be absent from feminist discourse and analysis, such as in the cases of Catherine Birnie and Valmae Beck, two Australian women convicted of rape and murder of young women who they had abducted with their male partners. Morrissey argues that these cases test the limit of feminist theory (Morrissey 2002).

²⁴ In a similar vein, Peter's study of women who sexually abuse their daughters argues that maternal sexual abuse has been located outside understandings of femininity and motherhood (Peter 2006). This leads to simplistic portrayals of the crime which distort the seriousness and contexts of the female sexual abuse, leaving victims invisible and lacking in credibility, recognition and support from public and professional agencies (Peter 2006: 284). While some violent women (and men for that matter) may have experienced violent victimisation and social or economic disadvantages, women can simultaneously be victims and victimisers (Allen 1998; Peter 2006).

While the contexts in which violence occurs may have gendered dimensions – abandoning essentialist theories that construct violence according to a gendered binary – means that, when women commit violence, they cannot be said to be acting just like men. In other words, in nonessentialist frameworks, there is nothing inherently feminine or masculine about violence.

Theories that blame feminism, like the ladette thesis which draws on a theory about masculinisation of femininity, or the sisters in crime thesis that assumes women are behaving more like men, are thus de-robed of their explanatory power.

I use this non-essentialist theoretical framework to examine the case of Private Lynndie England to tease out the possibilities for developing a feminist theory of female violence. Private First Class Lynndie England was one of three women – along with Sabrina Harman and Megan Ambuhl – charged with mistreating and assaulting prisoners detained in Abu Ghraib prison.

Private England was convicted and sentenced to three years prison and dishonourably discharged from the US Army. Charles Graner, her lover and superior at the time, was also charged, convicted and sentenced to ten years jail. Private Lynndie England will long be remembered as the young boyish-looking female soldier, sexually humiliating Iraqi inmates of Abu Ghraib prison. One of the dehumanising photographs depicts Private England in an embrace with Graner, staring at a perverse triangle of naked men piled on top of each other. In another photo, with a cigarette dangling from one side of her mouth, like a gangster, she looks on approvingly and points her finger at a prisoner's penis as he is forced to masturbate. In another photo Private England engages in sexual humiliation by dragging a naked man around by the neck with a dog leash. He resists by pulling back on the leash but is clearly overpowered by her dominance. What is it about these images, the context in which they were taken as trophies, and the social reaction to them that emptied their political meaning and racialised context, and instead pointed the finger at feminism?

The metanarrative was framed by the repeated circulation of the photos. Tucker and Triantafyllos argue that the individualising gaze of the media on these few rogue prison guards had the effect of allowing Americans to distance themselves from the racialisation, dehumanisation and violence of the war on terror (Tucker and Triantafyllos 2008: 83). As Rogers puts it, Lynndie England, the lover of the torturer, was constructed "*as the hated symbol whose enigmatic quality and lack of feminine identification evokes the confusion in us all over precisely what it might mean to be a desirable subject in these times of anti-terror*" (Rogers 2011: 77). Lynndie England's defence attorneys attributed the responsibility for her participation in the demeaning rituals of violence involving powerless prisoners to the influence of her then boyfriend and superior Graner, another prison guard (Kaufman-Osborn 2005: 616).

She was represented as an instrument entirely of his will, lacking any agency of her own. In one sense, Lynndie England represents the stereotypical victim of a brutal and masculine military hierarchy; yet, somewhat ironically, feminism was singled out by conservative commentators as the root cause of the unsavoury affair. Phyllis Schafley, conservative activist and author of *Feminist Fantasies*, assigned the blame to those who she called "*Clintonista feminazis*" for feminising the American military.

In an extraordinary attack on feminism, Schafley wrote:

The pictures are stark illustrations of the gender experimentation that has been going on in the U.S. military. ...That goal means masculinizing women and feminizing men ...The pictures show that some women have become mighty men, but feminists can't erase eternal differences ... The

result is a breakdown of military discipline and a dramatic coarsening of women and of men's treatment of women ... I suspect that the picture of the woman soldier with a noose around the Iraqi man's neck will soon show up on the bulletin boards of women's studies centers and feminist college professors. That picture is the radical feminists' ultimate fantasy of how they dream of treating men. Less radical feminists will quietly cheer the picture as showing career-opportunity proof that women can be just as tough as men. (Phyllis Schafer 2004)

But Phyllis Shafley's anti feminist rhetoric is far from convincing. This is a far right caricature of feminist voices, a strategy of denial, decoy and deflection. However, few – if any – feminists came to the defence of Private England, leaving a discursive space for anti-feminist ideology to construct feminism to blame. Harp and Struckman's (2010) discourse analysis of the 49 news media articles that initially framed the story illustrates how the media metanarratives singled out England as the embarrassment of a nation. The sub-politics of this narrative was that women did not belong in the US military and especially not in the front line. Women in the military transgress the dichotomous representations of white American women as housewives or mothers, or otherwise employed in labour related to their domesticity and their gender. Harp and Struckman argue that 'England's gender became a more prominent aspect of the story than the actual abuse and torture because it was an image that could not be reconciled' (Harp and Struckman 2010: 12). There was more than gender politics involved, however. The recent release of The Constitution Project's Task Force on Detainee Treatment (The Constitution Project 2013), now widely referred to as the Torture Memos investigation, support Private England's defence that she was following the orders of superiors. The entry of women into the military served as a convenient decoy in the face of international embarrassment for the Bush administration. Feminism was wrongly blamed and England's responsibility for the atrocities of torture was exaggerated out of all proportion, leaving obscured the role of the CIA and other trained counter intelligence interrogators in the commission of systematic torture of terror suspects. A non-partisan investigation by The Constitution Project recently concluded 'that it is indisputable that the United States engaged in the practice of torture' (The Constitution Project 2013: 9). The prison guards at Abu Ghraib were working in a geo-political context where the softening up of high value terror suspects using sexual humiliation before interrogation was an accepted normative practice in the war on terror. Other female soldiers were involved in the torture of terror suspects but Private England was singled out. Why? Was it the images captured of a boyish-looking young woman from a disadvantaged rural background celebrating acts of sexual humiliation, violence and torture that rendered her susceptible to so much censure? Like the girls who capture their fights and load onto YouTube in a performative act of celebration, the images of England as a violent femme coincide with the cultural constructions that attribute female violence largely to the legacy of feminism. While this does not erase England's agency or that of the other prison guards involved in the torture of terror suspects, it does dislodge any reasonable interpretation that she was simply an instrument of her then lover's will to inflict torture, a convenient narrative that took root in popular culture.

A feminist theory of female violence would acknowledge the context of the power relations and gender politics in which these events unfolded. But a feminist theory would also acknowledge that Private Lynndie England – a boyish girl – was the enigmatic agent of state torture (Rogers 2011: 87), although not completely without will or responsibility as England also appeared to be a

willing participant. A feminist analysis of the subsequent witch hunt and lynching of Lynndie England would acknowledge her agency and participation in these acts of violence, but argue that the normalisation of the atrocities of war was the real politic behind elevating her responsibility for torturing the prisoners at Abu Ghraib. Her gender was used as a weapon of war in the sexual humiliation of Arab male prisoners. This is reprehensible but feminism can hardly be held accountable. Referring explicitly to the involvement of female soldiers in the Abu Ghraib torture of prisoners, Claire Renzetti commented, 'In studying state crime, therefore, feminist criminologists must study women as perpetrators as well as victims' (Renzetti 2013:95).

Conclusion

One of the key achievements of feminist criminology has been to direct critical attention to the fact that men's violence far outweighs that for which women and girls are responsible. What is still largely missing from feminist criminology, however, is a sophisticated theory of female violence that considers the context, the politics, the power relations, the gender dynamics, and the intersectionality of specific instances of female violence. The main shortcoming of not having a sophisticated feminist theory of female violence is that it leaves uncontested antifeminist explanations that circulate widely in popular culture when instances involving female violence become public issues – as the case of Lynndie England illustrates – or when rises in female violent crime rates become registered in public consciousness and popularised as 'girls behaving like boys'.

Fuelled by anti-feminist backlash politics, feminism was, and still is in many instances, wrongly scapegoated for occurrences and increases in female violence. A central challenge for future feminist research, then, is how to more convincingly explain the historical shifts in gendered patterns of violence, rather than simply deny, rationalise, or erase them. Claire Renzetti, internationally leading scholar and editor of *Violence Against Women*, sketched the outline of a feminist theory of violence (Renzetti 1999: 51). According to this outline, feminist theories of violence need to be contextualised rather than abstract and essentialist. They need to address the specificity of contexts in which women use violence, how it varies and what it means. This will require a whole new series of qualitative research projects taking women's experiences of violence as offenders as a starting point. The analyses have to be intersectional and not privilege gender alone. Renzetti also argues that a feminist theory of female violence needs to be generated through collaborative research between academics, practitioners and violent women, must finally own the problem of women's violence (Renzetti 1999: 51). For feminism to be relevant in the public, cultural, political and criminological debates about heightened – albeit often exaggerated – social concerns relating to growing female violence, an effective and influential strategy must overcome the silence.

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“The Mad”, “The Bad”, “The Victim”: Gendered Constructions of Women Who Kill within the Criminal Justice System

Siobhan Weare²⁵

Abstract

Women commit significantly fewer murders than men and are perceived to be less violent. This belief about women's non-violence reflects the discourses surrounding gender, all of which assume that women possess certain inherent essential characteristics such as passivity and gentleness. When women commit murder the fundamental social structures based on appropriate feminine gendered behaviour are contradicted and subsequently challenged. This article will explore the gendered constructions of women who kill within the criminal justice system. These women are labelled as either mad, bad or a victim, by both the criminal justice system and society, depending on the construction of their crime, their gender and their sexuality. Symbiotic to labelling women who kill in this way is the denial of their agency. That is to say that labelling these women denies the recognition of their ability to make a semi-autonomous decision to act in a particular way. It is submitted that denying the agency of these women raises a number of issues, including, but not limited to, maintaining the current gendered status quo within the criminal law and criminal justice system, and justice both being done, and being seen to be done, for these women and their victims.

Keywords: gender; women; murder; agency; battered woman syndrome; infanticide; victim; mad; bad

1. Introduction

This article will discuss the symbiotic concepts of labelling and agency in the context of the socio-legal constructions of women who kill. Women commit significantly fewer murders than men. Indeed, the most recent official crime statistics detail that of the 121 people convicted of murder in England and Wales in 2011/12, 108 of those individuals were men, 13 were women [1]. Therefore, when women commit violent crime, more specifically murder, some of the fundamental social structures based on appropriate gendered behaviour are contradicted and challenged.²⁶ Due to the challenge that women who kill pose to gender discourse within a patriarchal society, through their violations of both societal and gender norms, an explanation is often sought for their behaviour. Such explanations are, not-surprisingly, reflections of the images of women as portrayed in current gender discourse surrounding appropriate feminine behaviour. As a result, both society and the law label women who commit murder as mad, bad or victims.²⁷

²⁵ Siobhan Weare, in <https://www.mdpi.com/2075-471X/2/3/337/htm>

The Law School, Bowland North, Lancaster University, Bailrigg, Lancaster, LA1 4YN, UK, *Laws* 2013, 2(3), 337-361; <https://doi.org/10.3390/laws2030337>

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²⁶ When women turn violent it is often upon themselves e.g., self-harming. For more on this see, for example [2]

²⁷ The three labels; mad, bad and victim, have been used in this article because they are the labels most frequently and consistently used within the existing literature on the socio-legal responses to women who kill. For more on these labels see for example, [3–6].

Symbiotic²⁸ to this labelling of women who kill is the denial of their agency by society, the law and the criminal justice system.

Agency is a complex, multi-faceted, interdisciplinary concept, with a multitude of definitions, ranging from the subtly different to the divergent. Therefore, for the purposes of this article a specific definition of agency will be used, that is; the recognition of the ability of an individual to make a semi-autonomous decision to act in a particular way. This reflects Messerschmidt's definition, that '[a]gency refers to the behaviours in which a person chooses to engage in order to shape his or her experiences within social structures in light of his or her understanding of the social structures that surround and constrain his or her options' [7]. This article will explore the manifestation of the three labels attached to women who kill, before examining how each of these labels deny the agency of women who kill. Finally, it will critically question the consequences that labeling and agency denial have when exploring justice for both women who kill and their victims within the criminal justice system.

2. Battered Women Who Kill—the Mad Woman and the Victim

Battered Woman Syndrome (BWS) was developed by the American psychologist Lenore Walker in order to dispel myths and misconceptions about domestic violence and to help establish the reasonableness of homicide by battered women ([8], p. 733). The syndrome consists of two elements. The first element is known as "the cycle theory". This suggests that characteristically male violence against their partners has three phases:

The first involves a period of heightening tension caused by the man's argumentativeness, during which the woman attempts various unsuccessful pacifying strategies. This "tension-building" phase ends when the man erupts into a rage at some small trigger and acutely batters the woman. This is followed by the "loving-contrite" or "honeymoon" phase, in which the guilt-ridden batterer pleads for forgiveness, is affectionate and swears off violence. But he breaks his promise and the cycle is repeated. ([8], p. 733)

The second element of BWS involves 'learned helplessness'. Repeated, unpredictable and seemingly unavoidable abuse by their partner results in battered women becoming increasingly passive and developing a number of characteristics including low self-esteem, anxiety and depression as well as blaming themselves for the violence they suffer. This sense of helplessness traps battered women 'into a situation from which [they are] psychologically and hence physically unable to escape' [9].

Before the introduction of The Coroners and Justice Act 2009, case law demonstrated that the inclusion of BWS evidence in cases of women who killed their abusive partner was recognised in relation to the defences of provocation [10] or diminished responsibility [11]. However, with the introduction of the 2009 Act, BWS is now primarily a matter for the amended defence of diminished responsibility, with women no longer being able to adduce evidence of BWS under the new defence of loss of control. Therefore women who plead loss of control will now only be able to present themselves as battered, rather than suffering from BWS. As a result of this shift in

²⁸ The term symbiotic is used here to mean a relationship of mutual dependence between the labelling of women who kill and the denial of their agency in this way. That is to say, that these particular agency denials are dependent on the labelling of these women and vice versa.

the law, women who plead loss of control will be labelled as victims, whereas women who utilise evidence of BWS to support a plea of diminished responsibility will be labelled as mad.²⁹

2.1. Loss of Control—Battered Women Who Kill as Victims

The new partial defence to murder of loss of control is found in sections 54–56 of the Coroners and Justice Act 2009. The effect of the defence of loss of control in practice in cases of battered women who kill their husbands is still unknown as there is yet to be a reported case involving a battered woman pleading the new defence of loss of control. However, as noted above, it is submitted that in theory women will not be able to use evidence of BWS to support the new defence of loss of control. Indeed, Alan Norrie has suggested that the amendments to the law, particularly the defence ground concerning the defendant having a justifiable sense of being seriously wronged, may encourage a change in how battered women are portrayed within the legal system, should their defence utilise loss of control. He notes that;

Under the old law, defendants were encouraged to provide evidence of a characteristic that could be taken into account with regard to the reasonableness of their conduct. This led to the pursuit of a medico-legal category, battered woman syndrome, which could legitimate the existence of the characteristic for legal practice ... Under the new law, defendants and their lawyers will be encouraged to portray themselves as ordinary people grievously harmed and acting out of a legitimate sense of anger at what has been done to them. This may be a benefit of the new approach. ([12], p. 286)

Therefore, although women will no longer be able to use evidence of BWS when utilising loss of control, they will still be able to use evidence that they were indeed battered women. As such, it is argued that battered women who plead loss of control will be labelled as victims.

The construction of women largely being victims of crime 'began to emerge in the 1970s with the rise of radical feminism and demands to make violence a public not private matter' [13]. The theory of women as victims of crime was developed by many academics, focusing on women as victims of violence, particularly within their own home, but also more generally. As summarised by Carrington;

Significant and influential works include Dobash and Dobash's (1979) study of family violence; Russell's (1975) exposé of rape, including rape in marriage, and Brownmiller's (1975) provocative analysis of rape to name only a few. These were followed by Stanko's (1990) work on everyday violence and Walklate's (1991, 2007) major and ongoing contribution to the field of victimology. [13]

As is clear, traditionally much of the academic research surrounding women and violence has focused on women as victims of domestic violence, rather than as perpetrators of the violence themselves. This is arguably partly because women as perpetrators of violence is considered to be a relatively rare phenomenon ([3], p. 169).³⁰ Historically, much of what was written on female criminals focused on pathological and irrational discourses to explain their involvement within the

²⁹ The consequences of labelling women in this way will be discussed later in the article.

³⁰ It is important to note here that whilst an important body of research exists on female perpetrators of violence, it is still a relatively small area of research when compared to that which has been conducted on male perpetrators of violence. Moreover, it is also notable that within current research on women who kill, only a limited amount has focused on the agency of female killers, which will be discussed later in the article.

criminal justice system. However, with the development of the theory of Battered Woman Syndrome (BWS) and the introduction of the new partial defence to murder of loss of control the idea of women as both victims and perpetrators was reconciled. That is to say that women became perpetrators because they were victims.

Although, as noted above, battered women who kill their abusive partners cannot use evidence of BWS to support a defence of loss of control, the fact that these women can still present themselves as battered means that they are labelled as victims. The image of helplessness associated with a battered woman has promoted "a collective understanding of the battered woman as a person whose identity is predominantly that of a victim" ([14], p. 113). Indeed, the labelling of these women as victims sits well with gender discourse, particularly the idea that women are 'subject to control at the hands of their partners and a patriarchal society' [4]. Therefore it is submitted that in order for a woman to present herself as battered, even if not suffering from BWS, requires her to conform to gender discourse surrounding appropriate femininity. Indeed, it is clear that a woman's gendered behaviour is still on trial both when she commits a crime generally, and more specifically, when she murders her husband ([12], p. 277). Therefore, a battered woman must present herself as someone who is a '[a] faithful wife, a devoted mother, someone who tries to keep her family together at all costs and who reacts meekly and pathologically to violence' ([8], p. 735). Women who conform to such appropriate gendered behaviour are viewed as 'true' victims of domestic violence within legal and social discourse. Women who do not conform are not really battered and are therefore 'undeserving viragos' ([15], p. 195). This therefore suggests that not only do battered women have to conform to appropriate feminine behaviour generally, but they must also conform to the appropriate behaviour expected of a battered woman.

The 'appropriate' behaviour expected of a battered woman is often linked to the concept of learned helplessness, the '[m]ost prominent component' ([16], p. 113) of BWS. Indeed, as was noted by Kathleen Ferraro, this concept of learned helplessness established '[a] perception that assertiveness, strength and an outgoing personality were inconsistent with being a battered woman' ([16], p. 115). Based on this analogy viragos are not really battered because they 'fight back' ([15], p. 195), thus reflecting the label of victim used to describe battered women. The suggestion that women must conform both to appropriate standards of femininity as well as the behaviour expected of a battered woman is supported by a study carried out in the United States by Brenda Russell and Linda Melillo [17]. The study involved six hundred and eighteen undergraduate students from two St Louis Universities who were presented with actual case summaries '[t]hat included standard forms of expert testimony modelled after BWS evidence' ([17], p. 223). The results provided persuasive evidence that women who fit the typology of a passive, non-responsive battered woman who kills were deemed to be more credible and therefore were most likely to receive not-guilty verdicts for the charge of homicide. Conversely, women who were atypical and actively responded to their partner's violence were viewed as less credible and consequently received more guilty verdicts.³⁷ Labelling battered women who kill as victims presumes that they are so oppressed that they are powerless and as a result they will be

³⁷ Although this study was carried out in the United States and is more applicable to workings of the American Legal System the study is relevant to the discussion in this article and the results provide further evidence to support the arguments being made.

non-violent. However, when battered women do become violent, resulting in the death of their abusive partner, the label of 'victim' offers an explanation for their actions.

2.2. Diminished Responsibility—Battered Women Who Kill as Mad

The Coroners and Justice Act 2009 also amended the defence of diminished responsibility. The wording of the current definition of diminished responsibility differs considerably from that which was found in the Homicide Act 1957. In short 'abnormality of the mind' has been replaced with 'abnormality of mental functioning', there is a requirement that the abnormality 'arose from a recognised medical condition', the abnormality must have substantially impaired the abilities of the defendant as listed in Section 1(1A) and the abnormality must have been a significant causal factor in the defendant's actions.³² Despite these changes, the Ministry of Justice in its Impact Assessment of the 2009 Act stated;

we do not expect any significant shifts in the numbers or types of cases which benefit from the partial defence of diminished responsibility... We do not therefore think that there will be an impact on the courts or prison population as a result of the changes. ([19], p. 301)

Despite the government's assertions that the 2009 Act will have little impact, it is suggested that there is potential for impact in cases where BWS is adduced to support the plea of diminished responsibility.

The main impact of the change in the law of diminished responsibility on battered women who kill their abusive partners is the requirement that the abnormality of mental functioning must arise from '[a] recognised medical condition' [20]. The Ministry of Justice have made it clear that this phrase will cover both psychological and physical conditions and therefore is not just 'limited to recognised mental disorders' ([19], p. 294). Consequently this concept covers more than was previously covered in the unamended Homicide Act 1957. Although there is yet to be a reported case of BWS being used to support the amended defence of diminished responsibility, it is submitted that evidence of BWS can now be more easily entered to satisfy this particular requirement within the amended defence. As long as the Court is satisfied that the woman suffering from BWS and the killing of her abusive partner are sufficiently connected, the defence should succeed. Discussing the requirement of a connection, the Attorney General noted;

The government consider it is necessary to spell out what connection between abnormality of mental functioning and the killing is required for the partial defence to succeed... It need not be the sole cause or even the most important factor in causing the behaviour but it must be more than merely a trivial factor. ([19], p. 298)

The use of BWS evidence to support a plea of diminished responsibility simultaneously reflects and reinforces the gender stereotypes surrounding women. Indeed, a study on cases of diminished responsibility highlighted that;

Reports written for male defendants in which this plea was possible indicate the readiness with which they were created as 'monsters' or 'madmen', yet simultaneously capable of intending their behaviour, since men are to be understood in terms of what they do.[21]

This could be contrasted with the treatment received by female defendants. Female law-breakers were '[m]ore readily constructed as "normal women"' [21] and therefore they were more likely to

³² For a discussion on the reasoning behind these changes see [18,19]

experience diminished responsibility than their male counterparts. The explanation put forward for this discrepancy in the treatment of men and women when pleading diminished responsibility was based on gender stereotypes, that is to say that '[t]hings happen to women; they do not make rational decisions or choices' [21]. The overwhelming conclusion of the study, as noted by Sandra Walklate, was that;

when psychiatry and the law interact, the resultant effect is that men are, for the most part, attributed with a sense of agency and responsibility for their actions, whereas women defendants are denied this. [21]

As such, it is submitted women who use BWS evidence to support a plea of diminished responsibility have their agency denied through labelling them as mad.

This labelling of battered women who kill as mad when using evidence of BWS to support a plea of diminished responsibility is also reflected in the theory of BWS itself. The use of the term 'syndrome' within the name BWS, is according to Schopp, itself indicative of '[a] psychological disorder, an abnormality in human behaviour ([3], p. 76)'. Consequently, the utilisation of BWS evidence when pleading diminished responsibility pathologises the actions of battered women who kill and reinforces the construction of women as irrational beings. Furthermore, adopting syndrome language contributes '[t]o an image of battered women as psychologically defective or pathological' ([16], p. 112). This adoption of syndrome language in the context of battered women who kill their abusive partners sits nicely with the construction of femininity where women are represented in terms of their bodies. That is that '[t]he "normal" female body and mind are perceived as being predisposed to malfunction' [22].

Many commentators have correctly noted that the inclusion of evidence of BWS in a plea of diminished responsibility can result in women being sentenced more leniently. Rather than being imprisoned, 'a finding of diminished responsibility may result in a woman's long-term medical or psychiatric treatment' ([15], p. 192). Consequently, although BWS may offer benefit to some women offenders by offering an explanation for their actions "[B]WS obviously works within the stereotype of women as 'crazy'" [23]. It is possible of course, that many female defendants will not care how they are stereotyped, as long as the result is a more lenient sentence. However others will care and '[w]ill undoubtedly perceive it to be deeply insulting to be told that, unless they accept a label of psychological abnormality, they run the risk of escaping the prison of domestic violence only to spend a long time in a less metaphorical prison' ([8], p. 737). Therefore, although introducing evidence of BWS to support a plea of diminished responsibility may result in sentencing benefits for women who kill, it also ensures that gender stereotypes surrounding women's mental health remain firmly entrenched. Moreover, as noted by Morrissey, evidence of BWS is;

rather less useful in supporting the most appropriate defence for battered women who kill, the justification defence of self-defence. Evidence of battering and abuse is clearly useful in determining whether an individual battered woman was in fear of her life that the killing of her partner was necessary; but evidence as to her psychological state and her subscription to a debilitating syndrome actually undermines such a defence.([3], p. 77)

Consequently utilising evidence of BWS to support a plea of diminished responsibility provides an explanation for both society and the criminal justice system when a woman murders her abusive partner, namely that she did so because she was mad. Using this explanation of madness fails to acknowledge that battered women who kill were acting in justifiable self-defence. Indeed,

labelling a battered woman who kills her abusive partner as mad and denying her agency is in contrast to the feminist jurisprudence model which '[e]xplains the battered woman who kills as ... a rational individual who defended herself under reasonable life-threatening circumstances' ([14], p. 116).

From the above it is clear the evidence of BWS was historically used in relation to both the defences of diminished responsibility and provocation. With the recent amendments to the law it appears that the form of BWS commonly used will still be utilised to support the defence of diminished responsibility, with the new defence of loss of control requiring women to present themselves as battered, rather than using evidence of BWS. As a result women who plead loss of control and present evidence that they were battered are labelled as victims, whereas women who use evidence of BWS to support a plea of diminished responsibility are labelled as mad. It is clear that the use of both the labels, victim and mad, '[a]lways actively shift the emphasis from the reasonableness of the defendant's actions to her personality in a way which confirms existing gender stereotypes [and] silences battered women' ([8], p. 734). Indeed, the ongoing use of the labels mad and victim reinforces existing gender discourse surrounding femininity.

3. Infanticide—the Mad Woman

Throughout history, 'the "medicalisation" of women's behaviour has ... been a common response to female violence. Thus women are thought to become violent because they are mentally deranged or have uncontrollable "raging hormones"' ([24], p. 425). Lombroso and Ferrero were amongst the first proponents of pathologising female offenders' behaviour. Their work on the female criminal concluded that as a result of their biological make-up, women were less highly developed than men and therefore they were less likely to commit crime. They stated that women were '[m]ore primitive, the consequence of which was that they have less scope for degeneration' ([25], p. 301). The female criminal was therefore labelled as 'abnormal' and 'pathological'. Despite Lombroso and Ferrero's work being universally criticised [26], both society and the law continue to locate women's criminality within the 'psy' discourses, with '[e]ven the most up-to-date studies ... finding that women criminals are ... psychologically maladjusted' ([27], p. 36). This is particularly the case for female killers, especially for women who kill their children. The pathologisation of these women is demonstrated by the offence/defence of infanticide for women who kill their young children.

The Infanticide Act 1938 repealed and re-enacted, with modifications, the provisions of the Infanticide Act 1922. The introduction of the Infanticide Act was the result of '[a] policy decision to promote leniency for women who kill their own children' [28]. Section one of the Act states:

Where a woman by any wilful act or omission causes the death of her child, being a child under the age of twelve months, but at the time of the act or omission the balance of her mind was disturbed by reason of her not having fully recovered from the effect of giving birth to the child or by reason of the effect of lactation consequent upon the birth of the child, then, notwithstanding that the circumstances were such that but for this Act the offence would have amounted to murder, she shall be guilty of felony, to wit of infanticide, and may for such offence be dealt with and punished as if she had been guilty of the offence of manslaughter of the child.[29]

Before a more detailed discussion of infanticide takes place, it is essential to note several particulars about the Infanticide Act, as outlined above. Firstly, women can plead infanticide as their defence, as well as being convicted of the offence of infanticide. To maintain cohesion and clarity within this article, the word 'offence' will be used when discussing infanticide. Secondly, the offence of infanticide is only available to the biological mother of the child who has been killed. Thirdly, the age limit of the victim is set at 12 months, and finally 'it is the only offence known in English law for which a pre-condition is the possession of an abnormal mental state' ([5], p. 664). The offence of infanticide provides a clear example of the assumed '[u]nderlying pathological nature of mothers who kill their children' ([30], p. 206). This is reflected in the legal basis for the plea of infanticide; puerperal psychosis. Puerperal psychosis is;

[A] relatively rare and severe mental disorder which affects one or two out of every 1,000 women within the first few weeks of childbirth. The symptoms span a number of categories of psychosis, but range from mania to delusions to acute depression.([30], pp. 206–07)

Despite puerperal psychosis in theory being required to convict a woman of infanticide, it '[i]s very rarely the cause of a mother killing her child. Estimates are that this occurs in around five cases a year' ([30], p. 207). As a result, in practice the requirement of puerperal psychosis is interpreted far more liberally, often to include any sort of mental illness. However, research also suggests that '[a]bout half of the women who ... are convicted of infanticide are not suffering from any identifiable mental disorder at all' [31]. Statistics such as these demonstrate that women are being convicted of infanticide and having their actions pathologised despite not satisfying the required criteria.

Women who are convicted of infanticide but are not suffering from a mental disorder are therefore routinely being labelled as mad without having any evidence to support such an assertion. Such labelling '[i]nvolves considerable social stigma, a high degree of intra-psychiatric treatment and the reinforcement rather than the challenging of traditional gender stereotypes' ([24], p. 425). It is submitted that the reasoning behind convicting women who are not suffering from any identifiable mental disorder of infanticide is that it offers an explanation for their actions. In the case of infanticide; she killed her child because she was mad.

Viewing filicidal women as mentally ill, regardless of whether there is evidence to support such an assertion, '[f]its very well with certain ideas about women, femininity and motherhood' ([32], p. 33). According to Frigon;

At the beginning of the twentieth century ... Motherhood was ... constructed as "natural" and a consequence of heterosex. As "compulsory motherhood" was introduced, it meant more than the imposition of pregnancy and birth but also "entry into the nexus of meanings and behaviours which are deemed to constitute proper mothering".([32], p. 31)

The qualities and behaviours which constitute proper mothering are a reflection of those which constitute appropriate feminine behaviour; 'the ideology of motherhood ... increasingly identifies women solely in terms of children' [33]. Indeed, 'women are assumed to be inherently passive, gentle, and tolerant; mothers are assumed to be nurturing, caring and altruistic' [31]. The actions of filicidal women are so starkly in contrast with the construction of appropriate motherhood and mothering behaviour that an explanation must be sought for their behaviour. This explanation can be found in the form of the Infanticide Act that operates, as noted above, within the 'psy' discourses. The Act presumes that a woman '[m]ust have been "mad" to kill her own child' [31]. To put it another way;

So untenable, unthinkable and inappropriate the crime, so much is it at odds with normal motherhood or the feminine predilection for surrogate motherhood that such women can only be immutably unnatural.^[34]

From the above analysis it is clear that women can be convicted of infanticide even if they are not suffering from 'puerperal psychosis'. Wilczynski highlighted this point;

virtually any type of perceived psychiatric, emotional, personal or mental problem whatsoever can be interpreted (if the psychiatrists, lawyers and/or judges so choose) as the severe mental illness (puerperal psychosis) theoretically required for the Infanticide Act. ([32], p. 34)

In addition, those women convicted, either rightly or wrongly, of infanticide are more likely to be dealt with 'by more informal and "treatment"-oriented methods' ([24], p. 423). It is suggested that it is appropriate for those women suffering from a genuine and identifiable mental illness to be charged with the offence of infanticide and therefore be treated appropriately as a result. However, it is arguably troubling to think that women who are not suffering from any identifiable mental illness whatsoever are being convicted of infanticide in order to offer an explanation for their 'unthinkable' actions.

Convicting a woman of infanticide when she is not suffering from the requisite mental illness often results in her being given a non-custodial sentence at the expense of her being labelled as mad. From this it seems fair to suggest that the Criminal Justice System would rather label a filicidal mother as mad, regardless of whether she actually is, in order to provide an explanation for her behaviour, than acknowledge her responsibility for her actions. The existence of such a practice within the Criminal Justice System further entrenches gender stereotypes surrounding women. That is to say that it enforces the idea that women are mad generally, but especially when they commit murder.

4. The Bad Woman

It must be noted at the outset that 'bad' is a word which is used throughout the literature and therefore is one which will also be used in this article. However, it is acknowledged that the use of the word bad to label women who kill is problematic, as society would view most criminals as being bad people. Therefore, when using the term bad in the context of women who kill what is actually being alleged is that these women are perceived as being wicked, an 'extra element' of bad that goes beyond their actual crime. This extra element of bad is as a result of the violation by these women of too many societal and gendered norms which cannot be explained through the use of the labels mad or victim. So, for example, a woman who kills her child but is not diagnosed with a recognised mental disorder which would allow her to be labelled as mad, is labelled as bad. The extra element of bad, leading to her being perceived as wicked, is her violation of the gendered and societal norm of 'good' motherhood for women.³³

It has been shown that if the required conditions are met, or even if the facts of the case or the behaviour of the woman in question can be moulded to fit the required conditions, then women will be labelled as mad or as victims. However, if the actions of the female killer and her background cannot be moulded in such a way as to fit either label, then another explanation for her actions must be found. This explanation takes the form of labelling her as bad. The distinction

³³ The notion of motherhood and bad mothers will be discussed in more detail later in the article.

between good and bad women is not a new one. In their work on the female born criminal, '[L]ombroso and Ferrero defined distinctive sub-species of women as "good" and "bad"' ([35], p. 115). Indeed, the dichotomy between good and bad women is not only found within academic work but it is '[a] constant theme in art literature, films and other media' ([35], p. 99). It therefore becomes clear that there is a trend to label female killers as bad when their actions cannot be explained utilising the other labels discussed above.

"'Bad' women are cold, selfish and are 'non-women' or masculine or even monsters" ([32], p. 34). This can be contrasted with so-called good women who, according to Pollack, '[a]re conventional socially and morally and if they do transgress it is in ladylike and peculiarly feminine ways' ([35], p. 148). The immediate difference between so-called good and bad women is the way in which their lifestyle and behaviour either does or does not accord with appropriate feminine behaviour as dictated by gender discourse. A similar principle applies to women who kill. Although these women can, for obvious reasons, never be labelled as good, if their behaviour and lifestyle cannot be explained by labelling them as mad or as a victim, and they have the requisite extra element of badness, then the only other explanation on offer for their actions is quite simply that they are 'inherently bad'. Bad women are often sub-categorised into particular types of bad women. These categories include, but are not limited to women who kill who display sexually deviant behaviour and women who kill who are considered to be bad mothers.

4.1. Sexually Deviant Women

As noted above, women who kill and also display what is regarded as sexually deviant behaviour are often labelled as bad. Labelling women as bad for this reason demonstrates an attempt by both society and the law to regulate female sexuality. During the nineteenth century the ideal woman was '[d]ocile, chaste, modest, pious, religious, maternal and above all obedient to patriarchal authority' [6]. Indeed;

A recurrent feature of feminine respectability is sexual propriety ... Historically, women have been judged more harshly than men if they do not meet expectations of appropriate sexual behaviour in terms of chasteness and monogamy, and these norms have played a more important role in the regulation of femininity than masculinity.([36], p. 64)

A similar ideal is still expected of women today; women must still conform to what is considered to be appropriate sexual behaviour; that is to say that they must not have too many sexual partners, and that they must have the 'right kind' of sex. Moreover, there is still the view that women's 'greatest sexual fulfilment [should come] ... from having babies' ([27], p. 278). Linked to this is the idea that women's relationships should be heterosexual, with women engaging in lesbian relationships considered to be especially deviant, as female homosexuality is considered to be '[s]everely at odds with the contemporary normative ideal of marriage and motherhood for women' ([36], p. 106). Consequently it is clear that women can be labelled as sexually deviant if they are sexually promiscuous, too sexually adventurous or are not involved in heterosexual relationships.

Many feminist criminologists have argued that patriarchy requires that women who are considered to be sexually deviant must be controlled. Heidensohn has noted that the law,

particularly the criminal law, is the main control mechanism in this context. She has suggested that the law controls female sexuality in four ways;

1. The courts operate a “double standard” with respect to sexual behaviour, controlling and punishing girls, but not boys for premature and promiscuous sexual activities.
2. The courts—and probation officers and social workers—“sexualise” normal female delinquency and thus over-dramatise the offence and the risk.
3. “Wayward” girls can come into care and thence into stigmatising institutions without ever having committed an actual offence.
4. Deviant women ... that is, women who do not conform to accepted standards of monogamous, heterosexual stability with children, are over-represented amongst women in prison because the courts are excessively punitive to them ([25], p. 817).

Drawing upon Heidensohn’s theory, it is submitted that women whose sexuality requires regulation by the criminal law are considered to be bad women. The behaviour of these sexually deviant, bad women is the mirror opposite of that of good women, whose sexuality does not need to be controlled by the law. Consequently, female killers who demonstrate sexual deviancy when committing their crimes, or indeed demonstrate it within their lifestyle generally, are most certainly bad and must therefore be controlled through punishment. Not only have they offended against appropriate feminine behaviour by being murderers, they have also offended against appropriate female sexuality through demonstrating sexually deviant behaviour. Therefore, the only label considered to be suitable for such women is bad.

The cases of the female serial killers Myra Hindley and Rosemary West are examples of female killers who also demonstrated sexual deviancy and were consequently labelled as bad women. Although these women were convicted in 1966 and 1995 respectively, the infamy of their cases means that they are both still regularly mentioned in the media, as well as frequenting academic research. Therefore an analysis of their cases is particularly relevant to this article.³⁴ Moreover, the cases of both women are representative of the pervasive and enduring narratives that surround women who kill who are labelled as bad. During Myra Hindley’s trial the prosecution sexualised all of her relationships even if they were not sexual in nature. ‘For example, the prosecution sexualised her friendship with her young neighbour Pat Hodges, describing it as giving her “a kick”, “certain enjoyment” and “morbid satisfaction”’ ([39], p. 356). Before, during and after her trial, the media made much of the fact that Myra engaged in sadistic sexual behaviour with her partner in crime, Ian Brady, that she allowed him to take pornographic photographs of her [40] and that once she was in prison she began a lesbian love affair with one of the female prison wardens [41].

Similarly, in the case of Rosemary West, the judge used his summing up to condemn her deviant sexuality. During the summing up Rosemary was labelled a prostitute and was described as being either bisexual or a lesbian. The judge also noted that she; ‘[p]ossessed a collection of ‘dildos, rubber underwear, pornographic videos, a rice flail, and a whip and a suitcase which contained a quantity of leather straps and buckles’ ([39], p. 359). This collection of sex toys was depicted as solely belonging to Rosemary, despite the fact that it could have just as easily belonged to both her and her husband, Fred West. In fact it is submitted that it should not have mattered who they belonged to, as their existence had limited legal relevance, despite the judge suggesting

³⁴ Some recent examples of media coverage relating to Myra Hindley and Rosemary West include [37] and [38]. Their cases are also mentioned in various academic research including: [3] and [36]

otherwise. Media reports and academic writing on Rosemary and her crimes also highlighted her sexual deviance, particularly her sexual relationships with other women [42] and the sexual abuse she inflicted on her own children [43]. Undeniably, 'Rosemary West's persecution was primarily based on her sexual crimes and her violent, debauched sexuality, thereby contravening the strictest social taboos of "normal" heterosexuality' ([44], p. 22).

4.2. Bad Mothers

Another subcategory of bad women is that of bad mothers. Women who kill their children are routinely considered to be bad mothers if the specifics of their case cannot be moulded in such a way to allow them to utilise the plea of infanticide. These women are bad because not only have they committed murder, they have murdered their own child, thereby demolishing the construction of motherhood for women. An example of this is the case of Susan Poole³⁵, who allowed her son to starve to death. Despite suffering from depression, she was found culpable for her actions. Susan Poole was charged alongside her partner, Frederick Scott, with the murder by starvation of her 10-month-old son, Dean. Susan pled guilty to manslaughter on the grounds of diminished responsibility. At trial, four psychiatrists and one doctor gave evidence that Susan was suffering from a personality disorder and severe depressive illness at the time of the offence ([30], p. 212). It must be noted that at the time of the trial, Susan had made a substantial recovery from her mental disorder. Consequently, the judge found Susan responsible for her actions; 'when all is said and done, you killed your one son' ([30], p. 214).

The judge also portrayed her as a bad mother; 'when one thinks of the extraordinary maternal sacrifice and care shown by lower animals, one has to wonder at her apparent selfishness' ([30], p. 213). Despite a probation order with the requirement of mental treatment being recommended, the judge instead sentenced Susan to seven years imprisonment ([45], p. 382). She successfully appealed against her sentence and it was reduced to five years. When considering her appeal, the Court of Appeal concluded '[t]hat a sentence of seven years was excessive in all the circumstances of this case. There was the appellant's unstable background, her age, her previous good character and her plea of guilty' ([45], p. 388). They also noted that Susan's depression accelerated rapidly and '[t]hat it played a very substantial part' ([45], p. 388) in Dean's death. However, the Court clearly still felt that Susan needed punishing for her actions. They agreed with the trial judge's verdict on her responsibility, as well as refusing to issue the recommended probation order with mental treatment instead of the continuation of Susan's prison sentence. Therefore, it is reasonable to infer that the Court of Appeal also felt that Susan was a bad mother and deserved imprisonment.³⁶ Indeed, as was noted by Morris and Wilczynski; 'it is difficult to avoid the conclusion that it was the negative portrayal of her as a woman and as a mother which was the determining factor in her treatment within the criminal justice system' ([30], p. 214).

The reasoning behind the labelling of filicidal women as bad when they either fail in pleading, or cannot utilise the plea of, infanticide is a consequence of society's construction of motherhood.

³⁵ The case of Susan Poole was chosen for analysis due to the 'bad mother' narrative which is apparent throughout the judge's comments. This narrative is pervasive despite evidence at trial suggesting Susan was suffering from a mental disorder and could have potentially been labelled as mad.

³⁶ It must be noted that if the judge had instead issued the recommended probation order with mental treatment, she would have been constructed as a 'mad' woman who needed treatment, rather than punishment.

The status of women, both socially and legally is determined by motherhood. Women are not only expected to be mothers, but they are also expected to be good mothers;

The single defining characteristic of iconic good motherhood is self-abnegation. Her children's needs come first; their health and happiness are her primary concern. They occupy all her thoughts, her day is constructed around them, and anything and everything she does is for their sakes. Her own needs, ambitions, and desires are relevant only in relation to theirs. If a good mother takes care of herself, it is only to the extent that she doesn't hurt her children.[46]

When mothers do not meet the standards of behaviour prescribed above without a reasonable and rational explanation, they are labelled as bad mothers. This dichotomy between "[g]ood" and "bad" mothers serves as a means of patrolling, controlling and reinforcing the boundaries of behaviour considered "appropriate" for ALL women and mothers' ([30], p. 217). 'Society considers women who fail to meet the ideal of motherhood deviant or criminal' ([47], p. 98). Consequently the law often treats mothers who commit crimes against their children, without the explanation of suffering from a recognised mental disorder, harshly for violating the traditional gendered role.

Bad women are considered to be '[e]specially difficult to construct in relation to acceptable performances of femininity' ([36], p. 8). This is in contrast to women who can be '[p]erceived as victims or their actions explained through mental illness' ([36], p. 8). This is because women represented as being mad or victims are '[m]ore recognisably feminine' ([36], p. 8) and consequently '[t]hey do not cross the boundaries of gender' ([36], p. 8) in the same way that bad women do. Consequently, female killers who are constructed as bad, either because they are sexually deviant, or because they are bad mothers, are harshly punished ([32], p. 34). These bad women are viewed as being doubly deviant; not only have they broken the law but they have also violated appropriate gender behaviour. They are punished more severely than women whose behaviour can be more readily constructed within feminine discourse;

it is clear that it is only certain types of women—those who are perceived as conforming to gender stereotypes—who benefit from these more informal means of social control. Women who resist more informal mechanisms of social control can also be punished by being moved "up-tariff" and subjected to more formal means of social control such as a prison sentence.([24], p. 431)

This harsh treatment is particularly true for women who murder either their own or other women's children. As noted by Dorothy Roberts;

Professor Daly found that familial women who committed crimes that made them "bad" mothers, such as sexual abuse of children or prostitution, did not receive the courts' mercy. 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.([47], p. 107)

5. Labelling and Agency Denials

As noted at the beginning of the article, the labelling of female killers is symbiotic to their agency denial. That is to say, labelling women denies the recognition of their ability to make a semi-autonomous decision to act in a particular way, and vice versa. More specifically, labelling women who kill as mad, bad or victims, denies the recognition of their ability to have made the semi-autonomous decision to kill their victims. All three of the labels used for women who kill deny the agency of these women in slightly different ways.

Labelling women who kill as victims denies their agency because the concepts of agency and victimisation are understood in opposition to one another. As explained by Mahoney; In our society, agency and victimisation are each known by the absence of the other: you are an agent if you are not a victim, and you are a victim if you are in no way an agent. In this concept, agency does not mean acting for oneself under conditions of oppression; it means being without oppression, either having ended oppression or never having experienced it at all.[48]

The consequences of utilising victimology theory when labelling women who kill are noted by Belinda Morrissey, who remarks that;

In emphasising victimhood, intentionality or agency is neglected. Representations of the murderess as victim, then, function to deny her responsibility, culpability, agency and often her rationality as well, in their bid to explain her behaviour ... While undeniably often successful in securing reduced sentences, the disadvantages of such a strategy outweigh the benefits in terms of improving general societal attitudes to, and challenging negative myths and stereotypes of, women.([3], p. 25)

This denial of women's agency can be seen in the discourse surrounding battered women who kill.

Battered women are just that; battered. Therefore they '[a]re not seen to act, on the contrary they are the battered, the products of the batterer' ([3], p. 96). The utilisation of the phrase battered women who kill removes the agency of such women because these women killed their partners only as a direct response to being battered by them. 'The woman herself is neatly elided by the clash of the terms "battered" and "kill"' ([3], p. 96). Labelling battered women who kill as victims and foregoing their agency, not only makes it easier to control them, but perhaps more importantly, it ensures the maintenance of the appropriate gender behaviour status quo. Indeed, as noted by Morrissey;

The campaign to allow BWS evidence into court may well have begun with the best of intentions, then, but the theory now seems to fast be becoming a straitjacket which tries to confine the realities of battered women and domestic violence within rigid parameters which do little to challenge society's or the law's understanding of spousal abuse, women's violence, female agency and femininity itself.([3], p. 78)

Women killers who plead infanticide or use BWS evidence to support a plea of diminished responsibility and are labelled as mad have their crime acknowledged '[w]hile removing the agency and responsibility for its commission' ([3], p. 34). Indeed within the law more generally, the utilisation of pathological discourses often does not recognise the ability of an individual to make decisions for themselves. For example, under the Mental Capacity Act 2005 '[a] person lacks capacity in relation to a matter if ... he is unable to make a decision for himself in relation to the matter because of an impairment of, or a disturbance in the functioning of, the mind or brain' [49]. The use of 'psy' discourses presents women who kill '[a]s not intending the deed, as not knowing or understanding that they are committing it, as experiencing nothing in relation to it' [50]. Using the mad label for these women relies on the discourse of irrationality that is readily associated with femininity. Indeed as noted by McColgan; '[f]emininity has traditionally been associated with irrationality, impulsiveness and weakness' [51].

It is submitted that by focusing on the influence of women's mental state or their biological functions, the mad label denies these women's agency over their actions, rendering them harmless. When women are labelled as mad, their responsibility and agency is automatically

rejected. The denial of agency for filicidal women labelled as mad is reflected in sentencing. '[O]f the 49 women convicted of infanticide between 1989 and 2000, only two were jailed; the rest were given probation, supervision or hospital orders' [52]. As explained by Wilczynski, this lenient sentencing reflects the belief that filicidal killings by women who plead infanticide are '[a]bherrant "tragedies" for which they are not responsible ... they need "help to come to terms with" what they have done' ([24], p. 424).

Labelling women who kill as bad denies their agency in a subtly different way to constructing them as victims or as mad does. The agency of bad women is denied;

[b]y insisting upon the evil nature of the murderess, thus causing her to lose humanity. She is transformed into a monster from outside society threatening the mainstream, rather than one of its members, produced and enabled by her social and cultural milieu. The agency denial which takes place in this technique is specifically that of human agency. The murderess is considered to have acted, but not as a human woman.([3], p. 25)

As explained by Morrissey, a murderous woman labelled as bad is '[n]ot just monsterised but transformed into the living embodiment of mythic evil through her relation to figures traditionally interpreted in this way' ([3], p. 25). Therefore her agency as a human and as a woman is denied, with any agency that she is afforded being '[t]hat of a character from a familiar stock story' ([3], p. 25). Therefore, bad women who kill do not have human agency.

The agency denial of Myra Hindley is perhaps most illustrative of this point, with her portrayal as the icon of evil and more specifically '[t]he feminine face of evil' ([44], p. 14). As a result she was considered to be '[b]eyond femininity and humanity [and was consequently placed] into a realm of mythical monstrosity' ([36], p. 42). Indeed, writing on Hindley continually utilises the monster imagery to describe her, with headlines such as; 'Myra Hindley, the Moors Monster, dies' [53], 'The Monster Body of Myra Hindley' [54] and descriptions of her as being '[M]edusa-like' [54]. It is clear then that that the vivid dichotomies of the good and bad, human and inhuman woman and the continued reference to lack of adherence to '[i]deological norms of female behaviour' [55] combine to refuse bad women agency.

It is clear that each of the labels; mad, bad and victim, deny the agency of women who kill in slightly different ways. However, it is submitted that despite these slight differences in how these women's agency is denied, there is only perhaps one acceptable explanation for why these agency denials occur. One contentious explanation put forward for these continued denials of female agency is that;

female criminals are relatively unusual when compared to the numbers of male criminals, and concepts of a "reasonable woman" have, therefore, been deemed unnecessary. This means that women's responsibility and agency is not automatically presented, as is the case with men.([3], p. 169)

This explanation is difficult to digest, not least because it suggests that as women are not 'major-players' in the criminal justice system their experience is somehow of less importance.

Another perhaps more realistic explanation was given by Morrissey. She explained that;

Denials of female agency ... are crucial to decreasing the threat women killers pose to the dominant male-dominated institutions of heteropatriarchy. If a woman can be found to have been so victimised that she did not know what she was doing when she killed, or if she is portrayed as a mythic, inhuman personification of wickedness, then the radical implications of her acts are

muffled, her challenge to oppression nullified, at least as far as the dominant purveyors of cultural meaning are concerned. She is returned to her place of passivity and silence.([3], p. 170)

This makes it clear that it is easier to give explanations for the actions of murderous women than to recognise their ability to have made a semi-autonomous decision to act in the way that they did. Indeed, it is certainly arguable that giving women agency over their murderous actions would disturb and challenge established gender norms. However, it is submitted that continuing to deny the agency of female murderers arguably presents far more serious issues than merely challenging gender stereotypes.

6. Problems with Denying the Agency of Women Who Kill

The discussion on the different labels applied to women who kill demonstrates how women who have committed essentially the same crimes can be viewed differently depending on the construction of their crime, their gender and their sexuality. It has become obvious that there is a correlation between the label given to female killers, their treatment within the criminal justice system and more broadly the social responses to their actions. Despite the differences in the treatment of these women depending on how they are labelled, it is clear that all three of the labels deny the agency of, and are consequently uniformly damaging to, the women they are attached to. As noted by Frances Heidensohn;

What is so striking about all of these images of deviant women is how profoundly damaging they are, once attached to any particular woman or group of women. Amongst them all, there is no conception of the "normal" exuberant delinquency characteristic of males. Any women would be damaged by being portrayed as a witch or a whore; and while a "sick" female deviant may be less punitively treated, she will attract other stigma.([35], p. 95)

Indeed, it cannot be denied that using these labels to depict female killers, whether using them correctly or not, perpetuates and entrenches feminine gender stereotypes within both society and the law. The use of these labels may allow individual women, in particular circumstances, to win their battle but they do little to allow women to win the war against having to conform to appropriate feminine behaviour or asserting their individual agency.

6.1. Issues of Justice for Women Who Kill

Another issue that arises from the use of the above labels and denials of agency is that of justice. That is whether justice is actually being done, or indeed whether it can be seen to have been done [56], when female killers are labelled in this way and have their agency denied. When women commit violent crimes more questions are asked of, and simultaneously more explanations are made for, the violent actions of these women. This is because women are processed by the criminal justice system '[i]n accordance with the crimes which they committed and the extent to which the commission of the act and its nature deviate from appropriate female behaviour' ([25], p. 306). This is particularly the case with women who kill. When these women are tried for their crimes there is '[a] tendency for [their] trials to be turned into trials of their character and the extent to which they accorded with appropriate femininity' ([57], p.16). This

gendered dimension to the trial process reinforces gender stereotypes and denials of women's agency, in turn creating a form of gendered criminal justice. This form of gendered justice does not just focus on the murder committed by the woman in question, but also the degree to which her behaviour and often her lifestyle have deviated from appropriate feminine gender behaviour. This gendered justice was most recently evident in the sentencing of Magdalena Luczak and her partner for the murder of her son, Daniel Pelka. In her sentencing comments, although the judge acknowledged that both Magdalena and her partner breached their position of trust as parents to Daniel, she explicitly referenced Magdalena's failings as a mother. She emphasised; 'Your breach of trust Magdalena Luczak is wholly irreconcilable with the loving care that a mother should show towards her son' and '[y]ou, Magdalena Luczak, were fully complicit in these acts of incomprehensible cruelty towards your own son ...' [58]. Although both Magdalena and her partner were given the same prison sentence, the fact that particular focus was placed on Magdalena's deviance as a mother demonstrates how the concept of justice for women who kill takes a gendered form. Magdalena was not just being sentenced for murder, but arguably also for breaching her primary social identity of a mother.

Justice also differs for women who kill depending on the label attached to them and the way in which their agency is denied. This is most prevalent in cases of women who kill their children. As Huckerby explains; '[n]ot all criminal mothers are subject to the same treatment by the criminal justice system ... more punitive treatment is delivered to those women who do not meet the ideal norms of "motherhood"' ([59], p. 151). Filicidal women who successfully plead infanticide and have their actions pathologised are generally treated with a degree of leniency and sympathy. A mad mother has her agency denied as she is not considered to know or understand what she was doing when she killed her child. Therefore her ability to have made the semi-autonomous decision to act in the way that she did cannot be recognised because she was acting in a moment of madness. As a result, her actions '[a]re characterised as isolated and contained incidents that can be easily altered through medication and therapeutic treatment' ([59], p. 166). It is important to re-emphasise here that despite the Infanticide Act being specific as to the requirement of puerperal psychosis for a successful plea of infanticide, the '[c]oncept and scope of madness in infanticide cases is deliberately nebulous, so that judges, juries, and the media can selectively draw upon it to provide leniency for women whom they believe deserve sympathetic treatment' ([59], pp. 160–61).

In contrast, bad mothers are often treated much more punitively within the criminal justice system. The agency of bad mothers is denied through their placement within a realm of monstrosity which denies their humanity and thus their human agency. A bad mother is "'depraved" ... "ruthless, cold, callous, neglectful of [her] children or domestic responsibilities, violent ..."' ([59], p. 158). Her actions cannot be pathologised and therefore the act of killing her child which is "[c]onsidered so antithetical to the behavioural norms of motherhood [is used] to justify the "demotion" of status from "mother" to the prematernal state of "woman"' ([59], p. 151) and finally to that of monster, thus denying her agency.

The selectiveness with which the justice system can draw upon the concept of madness in cases of women who kill their children means that if a filicidal woman's case either cannot be constructed, or is not perceived in such a way that she has her agency denied through being labelled as a mad mother, it will be done through labelling her as a bad mother. It is clear then that the way in which filicidal women are labelled and how their agency is denied directly affects

their treatment within the criminal justice system. Consequently, a woman who kills her child would arguably fare better being diagnosed with a recognised psychological disorder, and having her actions pathologised (even if she does not meet the threshold of puerperal psychosis) in the hope of being treated more leniently within the justice system. If she does not succeed in her quest to be labelled as a mad mother, the alternative label of a bad mother awaits, with the potential for a harsher punishment and an altogether different agency denial.

It is not just for women who kill their children that justice differs depending on how they are labelled and the way in which their agency is denied. The consequence of labelling and agency denial often results in either arguably very lenient, or extremely harsh punishment for any women who kill, with no clear middle ground existing between these two extremes. The recent case of Nicola Edgington is perhaps most illustrative of this point. Nicola Edgington killed her mother in 2005 and was consequently diagnosed with paranoid schizophrenia, with a prominent mood disorder. As a result she successfully pleaded guilty to her mother's manslaughter by reason of diminished responsibility. She was detained indefinitely under the Mental Health Act 1983, a clear acknowledgment that Nicola was suffering from a mental disorder at the time she killed her mother. Despite her sentence of indefinite detention in a psychiatric facility, Nicola was released three years later as she was no longer considered a danger to the community. In October 2011, Nicola attacked Kerry Clark and killed Sally Hodkin and was subsequently found guilty of murder and attempted murder after the jury rejected her plea of diminished responsibility. On 4th March 2013 Nicola was sentenced to a minimum of 37 years in prison [60].

During her trial for murder and attempted murder in 2013, psychiatric evidence was presented declaring that Nicola was indeed suffering from an abnormality of mental functioning. However, the jury concluded that any such abnormality did not meet the requirements for diminished responsibility. Therefore the court concluded that her mental abnormality did not substantially impair her ability to form a rational judgment, or to exercise self-control. Sentencing Nicola, the judge acknowledged that she suffered from a 'mental disability', but accepted the jury's findings that there was not a convincing case '[t]o conclude that the abnormality reduced [her] culpability to any significant extent' [60]. This seemingly drastically reduced any weight that the judge attached to the mitigating factor of Nicola suffering from a mental disorder. Moreover, in his sentencing report the judge recognised several aggravating factors, including '[p]remeditation, and a determination to overcome failure in order to achieve [her] ends' and the fact that the attacks were 'unprovoked and random' [60]. He also explained that he could not 'ignore the fact that Nicola had killed before' [60]. In contrast to the case against Nicola in 2006, the judge in 2013 made it clear that Nicola was more culpable for her actions.

Comparing the two homicide cases brought against Nicola, several things become apparent. In the first case in 2006, Nicola was arguably labelled as a 'mad woman' by the court, as she was suffering from a mental abnormality which ultimately denied her culpability for killing her mother. Consequently the court felt that she needed treatment, rather than punishment. In contrast, in the 2013 case, Nicola was labelled as a 'bad woman' who was legally culpable for her murderous actions, and consequently needed punishment rather than treatment. This is despite her obvious on-going mental disorder, which in itself presumably required further treatment. What is clear then is that the responses in both cases are at the opposite ends of the spectrum. It seems then that the current law on murder and manslaughter, when being applied to cases of women who kill, sits best when working at extremes, rather than focusing on a more measured middle ground.

For Nicola, this had the consequence that her actions were pigeonholed in such a way that although her agency was denied in both instances, she was either labelled as 'mad' and arguably treated leniently, or as 'bad' and was treated punitively. The 'bad' label does not seem to be prepared to acknowledge or incorporate, to any significant degree, a defendant with some form of mental disorder. Similarly, the 'mad' label arguably fails to acknowledge any significant degree of culpability for the defendant's actions and limits any punishment. Pigeonholing Nicola into being labelled and treated as either 'mad' or 'bad', when she arguably falls into both categories to some degree, arguably demonstrates the need for a clearer middle ground for female defendants in cases such as these. This middle ground could go some way to being filled with an approach by the criminal justice system which acknowledges the agency of women who kill.

Battered women who kill their abusive partners face specific justice based issues when they are labelled as victims. Although labelling them in this way denies their agency over their murderous actions, it simultaneously emphasises the responsibility these women have in becoming victims in the first place. Indeed, as noted by Lorraine Radford;

The topsy turvy justice of patriarchal law puts women on trial for their own victimisation. Thus ... questions asked in courts of battered women who kill emphasise women's own responsibility for prolonged victimisation. Why don't battered women leave their abusers? Why are they abused so many times? ([15], p. 177)

Therefore, it is argued that although these women do not have agency over their own actions, they are deemed to have some responsibility for the actions of their abusive partners. Focusing on battered women's responsibility in this way refutes '[s]ociety's complicity in the killing and the situation which helped precipitate it' ([8], p. 735), as well as diverting attention away from the criminal justice system's responses to these women.

As well as being held responsible for their own victimisation, battered women who kill must also conform to prescribed forms of 'victim appropriate' behaviour in order to secure justice, as noted earlier in the article. As explained by Radford, this appropriate behaviour and the life-history scripts which are written for these women are done so by '[p]rofessionals and medical experts within and behind the scenes of the courtroom' ([15], p. 195). Women who are truly the victims of their abusive partners must arguably have their agency denied in their life script, before it is denied through being labelled as mad or a victim. Therefore, the deserving, and arguably non-agentical victims include, '[t]he upper middle class man's ideal bride ... "good mothers", "good wives", "good housekeepers", "good heterosexual servicers"...' ([15], p. 195). In contrast, women who may be perceived as asserting some agency within their life script by attempting to fight back against, or resist their partners' abusive behaviour are not really battered. These 'virago' women have their agency ultimately denied when they are labelled within the criminal justice system.

6.2. Issues of Justice for Their Victims

Denying the agency of women who kill also presents issues regarding justice both being done, and being seen to be have been done, for the victims of the crimes committed by these women. One such example, which highlights the point most dramatically, is that of filicidal mothers who are able to plead infanticide, despite not suffering from the required puerperal psychosis. These women have their agency denied and consequently often receive a non-custodial sentence,

usually a probation order, despite the fact that they have murdered their child. This does not sit well with societal expectations of justice, which usually requires those who commit murder to be imprisoned for a significant period of time. Indeed research has found that 'public support for the life sentence [increases] in relation to the seriousness of the crime' [61]. It is submitted that women who are erroneously able to utilise the defence of infanticide are quite literally 'getting away with murder' as a result of their agency being denied. Therefore their victims are not getting the justice that they and the rest of their family deserve. It should be noted here that it is not being suggested that these women should not be able to utilise another defence, such as diminished responsibility. It is simply being suggested that they should not be able to utilise the defence of infanticide if they are not suffering from puerperal psychosis, or as a minimum, suffering from a serious mental disorder, akin to that of puerperal psychosis, which allows for more lenient treatment within the criminal justice system.

Linked into this issue of victim justice is the fact that denying female criminal agency directly denies the existence of female violence. Despite the fact that female killers '[a]re relatively unusual when compared to the numbers of male criminals ...' ([3], p. 169) case studies such as those outlined throughout this article demonstrate that women are indeed capable of extreme violence. As it is therefore impossible to say that such cases do not exist, denying the agency of these women through labelling them allows an explanation to be invoked which goes some way to denying the propensity of women for violence. These labels and the consequent denials of agency which occur fails to give credence to the notion that women's violence "[i]sn't always personal, private, or impulsive, that sometimes it is ... a means ... of furthering an ambition ... a vehicle to her own empowerment" ([3], p. 153). This, as Patricia Pearson notes, has the effect of demeaning;

[t]he right our victims have to be valued. And it radically impedes our ability to recognise dimensions of power that have nothing to do with formal structures of patriarchy. Perhaps above all, the denial of women's aggression profoundly undermines our attempt as a culture to understand violence, to trace its causes and to quell them.([3], p. 176)

7. Concluding Remarks

This article has acknowledged the symbiotic relationship between labelling women who kill as either mad, bad, or a victim and the continuous denials of their agency. Labelling female killers as a victim denies their agency by portraying them 'as so profoundly victimised that it is difficult to regard them as ever having engaged in an intentional act in their lives' ([3], p. 25). Female killers who are labelled as mad have their agency denied by acknowledging the crime they have committed 'while removing the agency and responsibility for its commission' ([3], p. 34). Labelling female killers as bad eliminates their agency by suggesting that '[a]lthough the action took place, the actor was not a human woman but a personification of evil' ([3], p. 34). This denial of female agency presents a number justice based issues for the women themselves, their victims and the criminal justice system. It also ensures the continued reinforcement of gender norms within both legal and social discourse.

Focusing on the symbiotic relationship between labelling and agency denials in the context of women who kill allows a largely under-utilised approach to be taken when engaging with women

who commit violence. Typically the focus is on men who commit violence, however acknowledging the problems that labelling and agency denials have for these women, highlights and simultaneously admonishes the belief that women are not capable of extreme violence. Therefore, acknowledging women's agency solidifies the notion that women are indeed capable of violence through recognising their ability to make a semi-autonomous decision to commit violent acts, in the context of this article, to commit murder. Doing so is important not just for securing justice for their victims, but also for the women themselves whose treatment and position within the criminal justice system is arguably often overlooked and underplayed.

In order to take account of some of the concerns raised within this article surrounding issues of justice which are raised when labelling and agency denial occur, it is submitted that reform is required within both the criminal justice system and the criminal law. Initially the criminal justice system needs to end the judgment of women according to their adherence to, or deviance from, social and gender norms, instead focusing only on the crime that they have committed. In turn this would allow for less focus to be ascribed to the labels which are currently attached to women who kill and which deny their agency. It is submitted that the concept of agency within the criminal law and particularly the relationship between women and agency needs further exploration and analysis within the academic literature. This could be done through reviewing a range of case studies of women who have been convicted of murder, considering the labels which were attached to these women, the way in which their agency was denied and the consequences that this has had for both these women and their victims. Doing so will affirm the premise that acknowledging women's agency can, and indeed would, exist in harmony alongside the aims and principles of the criminal justice system and the criminal law.

Conflicts of Interest

The author declares no conflict of interest.

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Per gli autori

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- non sillabare;
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Le parole in lingua straniera (ad es. in latino) ed espressioni quali *en passant* vanno scritte in corsivo.

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Si raccomanda il rispetto di alcune convenzioni come le seguenti: p. e pp. (e non pag. o pagg.); s. e ss. (e non seg. e segg.); cap. e capp.; cit.; cfr.; ecc.; vol. e voll.; n. e nn.; [*N.d.A.*] e [*N.d.T.*].

I numeri di nota dovranno sempre precedere i segni di interpunzione (punti, virgole, punti e virgole, due punti ecc.), ma seguire le eventuali virgolette di chiusura. Esempio: "Nel mezzo del cammin di nostra vita"²³.

La frase deve sempre finire con il punto. Esempio: Verdi, nel 1977 (87) si chiedeva: "Perché l'alleanza non resse?".

a. Note a piè di pagina

Per le note a piè pagina usare corpo 10 Times New Roman, interlinea singola.

b. Elencazioni di punti

Rientrare di cm 0,5. Se sotto lo stesso punto sono riportati più periodi, rientrare la prima riga dei periodi successivi al primo di cm 1.

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es.: Pellizzi F., *I generi marginali nel Novecento letterario*, in «Bollettino '900», 22 maggio 1997, <http://www3.unibo.it/boll900/convegni/gmpellizzi.html> (15 agosto 2004).

d. Figure

Tutte le figure devono essere numerate, in modo progressivo iniziando da uno per ogni capitolo. Nel testo è necessario indicare la posizione esatta in cui inserire le foto e le tabelle (nel caso

creare un elenco a parte) e riportare la didascalia, comprendente eventuale indicazione dell'autore il soggetto, luogo, anno, la fonte.

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Mowen J.C., Mowen M.M. (1991), "Time and outcome evaluation", *Journal of marketing*, 55: 54-62.

Murray H.A. (1938), *Explorations in personality*, Oxford University Press, New York.

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