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Título: Female and Law

Dispositivo: Mesas Simultáneas de Trabajos Libres

*Come, you spirits that tend on
mortal thoughts, unsex me here,
and fill me from the crown to the
toe top-hull of direst cruelty*
(*Macbeth*, W. Shakespeare, Act 1,
scene 5)

Considering the appeal of Lady Macbeth, Freud (1916) makes an interesting comment and warns she was ready to sacrifice her femininity in favor of a murder intentions. We move from this point on to question what is at stake, for women, in becoming agents of criminal acts. Why do they have to sacrifice their femininity for murdering intentions?

Our practice with convicted women in penitentiaries reinforces the idea that there is certain peculiarity connecting women to crime. There is also a saying that links the passage from criminal act to love motivations that, in some cases, results in blind submission guided by passion. On *Television*, Lacan states that "in making concessions to a man the woman yields him her body, her soul and her goods".

One can observe something discordant in female crimes and this feeling is shared by those who work in prisons and the operators of Law. Could we think of any female particularity related to transgression? Or, more precisely, what elements are involved in the transgression carried on by a woman? If the confrontation with law becomes a tough position, meaning a masculine attitude, can one say that this would be a place unfrequented by women?

We move on from the hypothesis that there is a specific operation in transgression made by men and women, ratified by the incidence of crime in both cases: statistics tell us that the average proportion is 94% of men to 6% of women involved in criminal acts.

Quite early, Psychoanalysis has contributed to the issue of crime, considering the works by Freud and, as in his first writings, by Lacan. On his thesis, in 1932,

Lacan considers the case Aimée, who was arrested and taken to a mental hospital after attacking an actress. Later on, in 1933, he makes further comments based on the *Crime of Papin Sisters*. In May 1950, during the XIII Conference of French-speaking psychoanalysts, Lacan presented a report entitled "Introduction to the Theoretical Role of Psychoanalysis in Criminology," written in collaboration with Michel Cenac, an important French jurist.

The origin of Law

In 1913, Freud publishes *Totem and Taboo*, in which he assures that the primary crime, the murder of primitive father, origins Universal law. The order was ruled according to paternal law who had exclusivity in the exercise of enjoyment. When sons kill and devour their father, a new social order is established: they will fight for women, attack and kill each other. Then, they consider the need of law to rule the relations between them.

According to myth, the murder of a father who controlled women originated human society through the establishment of law that, by its turn, ensured that remaining male would not exercise the power inherent to the dead father. Thus, moral laws are introduced as well as standards that are, essentially, significant cultural arrangements.

Women do not take part at the murder nor at the totemic banquet. They are the object of this dispute and the reason why crime was committed. Furthermore, they do not participate at the construction of the new rules that, from this moment on, become universal: "do not kill the father" and "do not desire the mother." Myth also presents a renouncing brotherhood that excludes women. Let's keep in mind that "when Freud assures that the demands of super Ego are much more lax in women, he means, quite logically, that they are less inclined to sacrifice themselves for civilization". That is also the reason they remain more connected to primary pulsions (SOLER, 1998).

In his reading of freudian myth, Lacan formulates the universality of castration, emphasizing that there is, at least, one that was not subject to it: the tyrannical father who possessed all women. Simultaneously, the father is the exception and *at least one* to guarantees this universality.

Lacan formalizes the beyond present in Oedipus with the logic of non-whole (ibid.), and for that reason, law gets linked to human psyche through the entry of the paternal metaphor, it is, the Name of the Father, the "Non" of the Father. The prohibited is, to Lacan, what origins the role of the father, while the Name of the Father, by itself, is the significant that sustains, simultaneously, the structure of desire and law, because, at the moment they are introduced, law focus on what is related to the order of impossibility as well as it triggers the desiring movement. So, law and desire are considered the two sides of a same operation (GUYOMARD, 2007).

Antígona and the non written law

We know that there are different sorts of conflict between law and subject. *Antigone* is a tragedy that clearly illustrates the difficulty of a definitive interpretation of law, since from, a pulsional point of view, it works exactly as violence against subject (ibid.).

We must establish a distinction between the kind of law that rules the *polis*, which is the one created by the son who murdered their father. On the other hand, the non written law refers to what nobody dares to ban, because they do not even dare to think about it. It is son's law that governs moral and civilisation and the one that confronts paternal law, that is, the one of enjoyment: "If the law of the father who was killed is the law of the arbitrariness and violence, desire and strength of arbitrariness and violence are in the son and every human being" (ibid.).

As a speaker, subject is embroiled in a libidinal game whose prevalent law is pulsional satisfaction. The laws that govern civilization prevent enjoyment aiming just some little possible satisfaction on the expense of a quite high price. The conflict generated by written law lies on the fact that, when legislating on social relations, the constant force of instinct and its deadly vector in search of satisfaction are not taken into account: "Antigone knows the law: she knows it very well, then she finds the point of failure she can break it" (Didier-Weill, 1999). Moral laws are not at the same level structural one is. Transgression allows access to the little possible enjoyment. Law has the positive character of structuring desire: since desire is repressed, moral law brings the face of prohibition for something impossible. Civilization is built on

moral laws and rules imposed by man that are, at last, the reason he suffers so much.

Existing: what is it intended to?

We learned that, according to Psychoanalysis, female gender indicates the existence of something that is out of sex, beyond sexual division, the "mysterious dark continent", as designated by Freud. There is a privileged status in the issue of feminine problem: The woman is not all subject to phallic law. "Beside the woman, there is something other than object a that comes in as supplement to what there is no sexual relationship. Enjoyment is given by the lack of sex "(LACAN, 1973/1982). It is therefore an Other enjoyment.

Alain Didier-Weill (1999) gives us an alternative to think the articulation between feminine and law when he shows us the position of men and women before a dionisiac sound. The music by Dionysus is inaudible to men, who remain stuck to the law of the city. Women, however, find, in the call of this sound, something they are prohibited, according to the law of the city. Thus, the approach of Dionysus will, literally, affect every single local woman.

We would like to highlight a unique contribution from this very same author that help us understand much better the relationship between woman and law: the replacement of pre-Hellenic matrilineal tradition to Hellenic patrilinear repression has produced an enigmatic female. He reinforces that, due to this fact, urban women, receiving the new law and the legal status of being mother, wife or fiancé, do not find answers to the questions concerning their identities, while urban men feel themselves perfectly defined by the words law refers to him: "You are father", "You are son".

Didier-Weill provides a cleavage between male, who does not respond to music and the female, who is touched by it, with the cleavage between those whose identity is defined and sustained by its social and phallic function and those identified with the "black continen" that is not-all governed by social and phallic order. This musical call was directed to the real part written law could not identify. Thus, we could ask if, by not obeying phallic law, women would not follow law of men and, as a consequence, would they not become so susceptible to crime?

Tragedy is a very good example of how far a passionate woman can go. With Euripedes we can see the transformation Medea operates from love to extreme anger towards Jaso: "The most times, woman is fearful, / coward and weak to fight with guns, / But, however, if she sees her marital rights harmed/ she becomes, then, / the most bloodthirsty of all creatures!"

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