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RESEARCH ARTICLE

The Influence of Michel Foucault's Theory of Power on Proposing Abolitionist Feminist Criminal Strategies in the Fight against Sexual Violence against Women

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Abstract

The present study shows that abolitionist feminists, inspired by Foucault's bio-political and agonistic analysis of power and his view on the capacity of modern power (bio-power) in the construction of subjectivity and the necessity of resistance against all forms of subjectivity as forms of subjugation, have proposed some abolitionist feminist criminal strategies in the fight against sexual violence against women as resistance strategies to subjectivity. The purpose of the study is to consider the inspiration of abolitionist feminist criminal strategies from Foucault's theory of power and provide two concrete examples of these strategies by using the methodology of critical discourse analysis of bio-power. The current study analyzed two abolitionist feminist-Foucauldian criminal strategies: Chloe Taylor's negative abolitionist feminist criminal strategy (2019) and Holly Henderson's positive abolitionist feminist criminal strategy (2007). Explaining the process of construction of the sex-delinquent subject and the process of construction of feminine subjectivity and providing ways to fight against these two forms of subjectivity, as forms of subjugation that are constructed by bio-power, are the principal axes of analysis in these Foucauldian abolitionist criminal strategies. The result of the current study is that Taylor, with a Foucauldian approach, shows how bio-power produces sex-delinquent subjects in two ways: the normalization of sexuality and the normalization of sexual violence in prison. According to Taylor, the only way to end sexual violence is to subvert the sex-delinquent subject as a form of subjectivity, and the only way to do this is to abolish prison. Henderson, with a Foucauldian approach, shows how bio-power produces feminine subjectivity through the normalization of sexuality, and this feminine subjectivity is the reason for the continuation of sexual violence. Henderson argues that to prevent sexual violence, the feminine subjectivity must be deconstructed, or in other words, the female body should be re-conceptualized in the structure of violence by recognizing the capacity of resistance in the female body and her agency. Therefore, inspired by Foucault's view on the agonistic conception of power, she proposed a positive abolitionist criminal strategy by promoting physical feminism and self-defence. Taylor calls for the implementation of transformative justice as an alternative to criminal justice to combat sexual violence, and Henderson calls for the implementation of preventive justice, a type of physical feminism, to prevent sexual violence. The research findings confirm the feasibility and applicability of Taylor and Henderson's strategies in the context of societal models of criminal policy, which seek to combat or prevent crimes outside the state and the criminal justice system. In comparison between these two strategies, transformative justice has been more developed and applicable.

Keywords: Agonistic Model of Power; Resistance; Abolitionist Feminism; Prison; Sexual Violence; Subjugation; Feminine Subjectivity; Bio-Power; Transformative Justice; Rape; Anarchism, Criminal Policy

Introduction

1-Problem Statement

Feminist theorists have always used the thoughts of philosophers in developing their theories and concepts and have been inspired by them. Feminists have also studied the ideas and concepts of Michel Foucault. Michel Foucault's theory of power, his thoughts about the effects of power on the body and population, the construction of subjectivity by power, forms of subjectivity and subjugation, resistance to subjectivity, the bio-political functions of prison, and the construction of sexuality have been very influential on contemporary feminist studies; The reason may be that there are many convergences between the feminist interpretation of the effect of power on the body and Foucault's theory of power. Foucault's ideas about power have also influenced legal feminists (Taylor,2019;Henderson, 2007;Munro,2001; Cahill,2000; Hengehold, 1994; Bunting,1992; Plaza,1978). The main question of the current study is, what are the effects of Foucault's theory of power on abolitionist feminist criminal strategies in the fight against sexual violence against women? The short answer to this question is that regarding its concepts and structural elements, Foucault's theory of power has provided a suitable theoretical framework for abolitionist feminists in proposing abolitionist feminist criminal strategies (Taylor,2019; Henderson, 2007; Davis,2003; Davis, et al.,2021; Alexander,2011; Wacquant,2009; Levine& Meiners,2020; Guenther,2016; Nichols,2014; Gottschalk,2015; Gilmore et al.,2020). In explaining his theory of power, Foucault considers the function of modern power – Bio-Power - as producing subjectivity and subjugating humans, calls for resistance against all forms of subjectivity and subjugation, and defends liberation movements whose purpose is to deconstruct subjectivity (Foucault,1982a, p.781; Foucault,1980, pp.219-220). It can be said that the main reason for abolitionist feminism's tendency towards Foucault's views is that abolitionist feminist criminal strategies have been proposed as resistance strategies against some forms of subjectivity constructed by bio-power. Foucault's theory of power provides a theoretical platform for abolitionist feminists to justify their resistance against subjectivity (subjectification of humans), subjugation, and criticism of the hegemony of neoliberal bio-power.

By Foucault's abolitionist feminist criminal strategies, which have been proposed as resistance strategies, we mean negative abolitionist feminist criminal strategy (anti-carceral feminist criminal strategy) (Taylor, 2019) and positive abolitionist feminist criminal strategy (rape prevention strategy by promoting physical feminism) (Henderson, 2007). Finding the reasons for the inspiration of these feminists from Foucault's thoughts requires studying power, its characteristics, its central politics, arrangements, mechanisms and institutions of power from Foucault's point of view, analyzing Foucault's views on sexuality, the construction of subjectivity, the functions of prison and the crime of rape, analyzing the criminal strategies of Contemporary feminist in dealing with sexual violence (strategies of carceral feminism and abolitionist feminism) and identifying commonalities and intellectual convergences between Foucault's theory of power and strategies of abolitionist feminism.

In this study, while studying the viewpoints of several abolitionist feminists who have explicitly or implicitly adopted a Foucauldian approach in presenting their views, we will examine in detail the viewpoints of two key figures of legal feminism as two concrete examples: 1- The viewpoint of Chloe Taylor, the Canadian abolitionist feminist and anti-carceral, who is a staunch defender of prison abolition and a supporter of transformative justice in response to sexual crimes(Taylor, 2019), and 2- The perspective of Holly Henderson, the American theorist of feminist preventive strategy against sexual assault, who defends the feminist agency policy and supports the physical feminism(Henderson, 2007). Taylor used the concepts expressed in Foucault's theory of power, such as the effects of bio-power on bodies and populations, the capacity of bio-power to produce subjectivity and create subjugation, the construction of sexuality and its normalization, the agonistic concept of power, and the functions of prison, to subvert the sex-delinquent subject, to eradicate the sexual violence through the abolition of prison and to support the transformative justice in dealing with sexual violence against women. Henderson also used the concepts explained in Foucault's theory of power, such as the normalization of sexuality, the capacity of bio-power in the production of feminine subjectivity, the sexualization of the female body, and the agonistic nature of power in Foucault's perspective to re-conceptualize the female body and provide a preventive strategy against sexual assault through the promotion of physical feminism. At the end of the study, we will argue that abolitionist feminism's inspiration from Foucault's theory of power and Foucault's critique of modern power was not simply a proposal of dreamy strategies to address sexual violence but rather that these strategies are feasible. By proposing a feminist criminal strategy of abolishing prison, Taylor has called for the development of a societal criminal policy model called the anarchist-libertarian society model [Le modèle Société libertaire] to address sexual violence (Delmas-Marty,1992, pp. 242-253), and according to Taylor's evidence, the feasibility of this model to address sexual violence has been proven. In addition, the feminist criminal strategy that Henderson has proposed in the form of situational prevention of sexual violence through the promotion of physical feminism can be implemented within the framework of a societal criminal policy model called the self-governing society model [Le modèle Société autogestionnaire] (Ibid. 224-235). That is, both of these strategies are within the realm of the knowledge and the models of criminal policy and are applicable.

2-Methodology

The methodology used in the present study is the critical discourse analysis of power from Foucault's perspective, which is considered a qualitative and interpretive analysis. Many of the studies related to the influence of power, ideology, religion, culture, politics, ethics, and the like on the human mind, behavior, and body can be analyzed using the methodology of critical discourse analysis. In the critical discourse analysis of power from Foucault's perspective, the primary grounds of oppression, including capitalism, colonialism, and patriarchy, are considered (Parker,1992, p.40). The purpose of the critical discourse analysis of power from

Foucault's perspective is to reveal, disclose, or expose the hidden politics in the lower level of power relations. In other words, Foucault's critical discourse analysis of power focuses on the strategies of distortion, manipulation, legitimization, manufacture of consent, normalization, naturalization, and other methods through which the power indirectly dominates the minds and behavior of the people, and this dominance helps the power to survive (Van Dijk, 2003, pp.352-371). By presenting the theory of modern power, Foucault carried out a critical analysis of the discourse of modern power (Bio-Power); through this, he teaches the method of critical analysis of the discourse of power. He exposed and revealed the structure of the discourse of power (policies, mechanisms, techniques, and institutions of power) with his critical analysis. Foucault challenges the structure of the discourse of modern power (or neoliberal power or bio-power) and considers it the basis of subjugation and subjectivity. In the present study, we first study Foucault's critical analysis of the discourse of modern power (Bio-Power); then, we examine the inspiration of abolitionist feminists to fight against sexual violence against women from this type of critical analysis of power that Foucault has made. Because, by critically analyzing the discourse of modern power, Foucault has expressed the impact of modern power (Bio-Power) on the female body and the body of the sex-delinquent, the capacity of Bio-Power in producing subjectivity (feminine subjectivity and sex-delinquent subject), and has proposed strategies for resistance against these forms of subjectivity - as forms of subjugation and domination. In a sense, Foucault's critical discourse analysis of the Bio-Power focuses on exposing the normalized, naturalized, legitimized, and constructed assumptions that affect bodies and turn them into subjects, thus helping to maintain Bio-Power structures. Abolitionist feminists, based on their observations and documentation, have also reached the same conclusions as Foucault's critical analysis, that the policies, arrangements, mechanisms, techniques, and institutions of Bio-Power construct the subjectivity and subjugate the female body and the body of the sex-delinquent, and as a result, cause the expansion of prisons and the continuation of sexual violence. Abolitionist feminists have drawn inspiration from Foucault's critical analysis of power and have developed criminal strategies to resist the production of these forms of subjectivity while responding to sexual violence. Following this study, we will assess the applicability and efficacy of abolitionist feminist strategies for resisting the production of feminine subjectivity and the production of the sexual delinquent subject and for combating the subjugation of modern power, based on this critical analysis. In this study, we have specifically selected several texts to study Foucault's critical analysis of the discourse of power and the inspiration of abolitionist feminists from his analysis: 1- Michel Foucault's books, articles, and writings in the field of power, subjectivity, prison and sexuality, the most important of which are *Discipline and Punish: The Birth of the Prison* (Foucault, 1977), *The History of Sexuality*, Volumes I and II (Foucault, 1978; Foucault, 1985), and the article entitled "The subject and power" (Foucault, 1982a) 2 - The book *Foucault, Feminism, and Sex Crimes: An Anti-Carceral Analysis* (2019) by Chloe Taylor, in which she proposes the negative abolitionist feminist criminal strategy (abolition of prison) inspired by Foucault's critical analysis of the discourse

of power. 3- The article entitled "Feminism, Foucault, and Rape: A Theory and Politics of Rape Prevention"(2007) by Holly Henderson, in which she proposes a positive abolitionist feminist criminal strategy (promoting physical feminism) inspired by Foucault's critical analysis of the discourse of power.

3-Literature Review

Some feminists, inspired by Foucault's thoughts about the effects of bio-power on the body, subjectivity, sexuality, resistance, carcerality, and sexual assault, have put forward views converging with him. For example, Chloe Taylor, one of Foucault's prominent followers, has proposed an abolitionist feminist criminal strategy (prison abolition) by publishing the book *Foucault, Feminism, and Sex Crimes: An Anti-Carceral Analysis* (Taylor, 2019). Holly Henderson, in the article 'Feminism, Foucault and Rape: a Theory and Politics of Rape Prevention' (Henderson, 2007), inspired by Foucault's view on the crime of rape and his perspective on the agonistic concept of power, proposed a preventive feminist criminal strategy. Judith Butler, in her book *Gender Trouble: Feminism and the Subversion of Identity* (Butler, 2006), used Foucault's 'docile bodies' thesis and his perspective on the construct of sexuality to argue that disciplinary practices and regulatory procedures construct sexual identities and sexual identities are naturalized by bio-power. Angela King, in her essay 'The Prisoner of Gender: Foucault and the Disciplining of the Female Body' (King, 2004), criticized Foucault's 'docile bodies' thesis but acknowledged that the disciplining of women's bodies functions as an effective form of social control of women and that women's bodies are subjugated through disciplinary measures.

Vanessa Munro, in her essay 'Legal Feminism and Foucault – A Critique of the Expulsion of Law' (Munro, 2001), criticized Carol Smart's interpretation of Foucault's analysis of modern power and her inspirational idea of de-centering law and adopting non-legal feminist strategies (Carol Smart is another follower of Foucault's thoughts on bio-power). Ann Cahill, in her essay 'Foucault, Rape, and the Construction of the Feminine Body' (Cahill, 2000), opposed Foucault's proposal to desexualize the crime of rape. Monique Deveaux, in the article 'Feminism and Empowerment: A Critical Reading of Foucault' (Deveaux, 1994), criticized Foucault's conceptualization of the subject and the agonistic model of power concerning women's empowerment. Laura Hengehold in her essay 'An Immodest Proposal: Foucault, Hysterization, and the Second Rape' (Hengehold, 1994), opposed Foucault's proposal to desexualize the crime of rape. Annie Bunting, in the article 'Feminism, Foucault, And Law as Power/Knowledge' (Bunting, 1992), analyzed Foucault's theory of power, juridical-discursive and productive characteristics of power, and the Foucauldian views of some post-structuralist feminists. Lois McNay in *Foucault and Feminism: Power, Gender and the Self* (McNay, 1992), accused Foucault of neglecting the gendered characteristics of many disciplinary techniques. Sandra Bartky in the article 'Foucault, Femininity, and the Modernization of Patriarchal Power' (Bartky, 1988), studied the construction of feminine subjectivity using Foucault's 'docile bodies'

thesis. Diamond and Quinby, in *Feminism and Foucault: Reflections of Resistance* (Diamond & Quinby, 1988), have collected essays by contemporary feminists who have adopted a Foucauldian approach to women's issues. Monique Plaza, in her essay 'Our Damages and Their Compensation' (Plaza, 1978), disagreed with Foucault's idea of desexualizing the crime of rape.

4-Novelty

As we have seen in the literature review, among the studies carried out so far, only two studies by Chloe Taylor (2019) and Holly Henderson (2007) are related to abolitionist feminist criminal strategies with a Foucauldian approach to dealing with sexual violence. These two feminists are among the few legal scholars who have defended the applicability of Foucault's theory of power in proposing feminist criminal strategies in response to sexual violence against women. In most of the feminist studies, which carceral feminists often carried out, feminists have criticized Foucault's thoughts in different ways and ignored the capacity of Foucault's theory of power to provide resistance strategies against the subjectivity of women and sex delinquents, that is, the strategy of abolishing prison in sexual crimes and the strategy of preventing sexual assault through the promotion of physical feminism. The current legal study is novel in this respect that it tries to introduce and explain the criminal strategies proposed by two abolitionist feminists (Taylor and Henderson), firstly, to demonstrate the applicability of Foucault's theory of power in proposing new solutions and strategies in legal feminism, and secondly, to illustrate the applicability of the abolitionist criminal strategies that legal feminists have proposed in response to sexual violence against women, inspired by Foucault's theory of power, in practice. Thus, the present study attempts to bridge the theory-practice gap or move from theory to practice. There is a practical knowledge gap in previous studies. Previous studies have not shown in practice how legal scholars or criminal policymakers of countries can use the potential of Foucault's theory of power in the first step and these Foucauldian abolitionist feminist criminal strategies in the second step in the fight against sexual violence against women. We want to show that the Foucault abolitionist criminal strategies that Taylor and Henderson have put forward to fight sexual violence against women are applicable and feasible in the field of law, and in particular in the field of criminal policy.

Discussion

1-Explanation of Foucault's Theory of Power

Foucault argues that power is a force that circulates; it is exercised through networks and is not possessed by a specific entity (Foucault, 1980, p.98; Foucault, 1997a, p.29). Power creates constant subjugation, subjects our bodies, and dictates our behaviors (Foucault, 1980, p.97). It does this in the whole political 'anatomy' of society (Foucault, 1977, p.28). Foucault introduces power as a social presence that applies to all aspects of life and all directions. Foucault emphasizes power as a fluid source of oppression and resistance (Munro, 2001, p.549). Foucault emphasizes the omnipresence of power: "Power is everywhere at the same time" (Foucault,

1978, p.93). According to Foucault, power is a "multiplicity of force relations that are immanent in the sphere in which they operate" (Ibid. p.92). Power operates based on mechanisms that reproduce law, taboo, and censorship in all relationships of individuals, from the state to the family, from institutions of social dominance to the structures that construct the subject (Foucault, 1978, pp.84-85). Foucault sees power as a texture of relations (Ibid. p.94). He believes that power relations exist internally in all human relations and human relations should be interpreted based on power relations (Foucault, 1980, p.187). He says: "Power is not a thing but relations. Power is the relationship between two people so that one can direct and control the other's behavior or determine it voluntarily based on the objectives which are also one's own" (Foucault, 1989, p.410). Foucault clearly states: "The characteristic of power that we analyze is that it shows the relations between individuals (or between groups)" (Foucault, 1982a, p.786).

1-1-Characteristics of Power in Foucault's Perspective

1-1-1-Being Productive

By analyzing the historical changes of power and the contemporary methods of exercising power, Foucault tries to show the productive aspect of power (Bunting, 1992, p.830). Foucault argues that power has always assumed a "juridical-discursive" formation (Foucault, 1978, p.82). Foucault believes that power in juridical-discursive form has a negative concept: the power that suppresses, prohibits, and censors: "juridical-discursive power is exercised through the law of prohibition and the logic of censorship" (Ibid. p.84). Juridical-discursive power "acts uniformly and comprehensively and is exercised from a unified source, from top to bottom, on all levels" (Ibid.). In this sense, juridical-discursive power is nothing but "rejecting, excluding, refusing, blocking, concealing or masking" (Ibid. p.83). This form of power is anti-energy (Ibid., p.85). Foucault believes that this repressive concept of power is simplistic and insufficient for a complete understanding of power and ignores the productive capacity of power (Ibid.). According to Foucault, power has a dual nature: power is juridical-discursive (repressive) and productive simultaneously (Ibid. p.86). Foucault says: "Modern power relations have the productive capacity" (Foucault, 1978, p.94). That is, power produces knowledge, subjectivity, and sexuality rather than merely suppressing:

1-In Foucault's view, Power produces knowledge. Foucault says: "Power traverses and produces things; it induces pleasure, forms knowledge, and produces discourse" (Foucault, 1980, p.119). Power shapes knowledge discourses based on its goals and objectives (Foucault, 1977, p.27). Foucault says, "The exercise of power perpetually creates knowledge, and conversely, knowledge constantly induces the effects of power" (Foucault, 1980, p.52). He states, "Power and knowledge are not separate, and they are not synonymous with each other either. Rather, Power uses and shapes knowledge" (Ibid.).

2- In Foucault's view, power produces subjectivity; in other words, it is the cause of human subjectification (Fraser, 1989, p.18-19). According to Foucault, power with its productive capacity, makes "subjects who submit to their subjectivity" (Kelly, 1994, p.374). According to Foucault, the most essential product constructed by power is human subjects (Foucault, 1980, p.98). Foucault defines the subject as follows: "There are two meanings of the word subject: subject to someone else by control and dependence, and tied to his own identity by a conscience or self-knowledge. Both meanings suggest a form of power which subjugates and makes subject to" (Foucault 1982b, p.212). In this sense, the subject lacks authority and agency and is dominated by power (McWhorter, 1999, p.77). Confirming Foucault's opinion, Bunting argues that Modern power is exercised through "mechanisms of surveillance, reporting, and classification; these mechanisms construct subjectivity" (Bunting, 1992, p.831). Foucault says that there is no 'natural' body or inherent and pre-discursive human subject "but the fact is that the human subject is constructed by the social order, according to a whole technique of forces and bodies" (Foucault, 1977, p.217).

3- According to Foucault, power does not only suppress sexuality, but power, with its productive capacity, constructs and normalizes sexuality through discourses of knowledge. According to Foucault, the discourse of biology and physiology is the basis for 'the normality'(normalization) of sexuality (Foucault, 1978, p.154). Foucault believes that sexuality is not a natural data (biological phenomenon) that power wants to control or an obscure field that knowledge wants to reveal. Instead, sexuality is a historical construct. Sexuality is not a hidden truth but a network of stimulations, pleasures, knowledge, discourses, controls, and resistances connected to each other based on a series of great strategies of power and knowledge (Foucault, 1978, p.105-106). Foucault says, "Here we are faced with the production of sexuality by power" (Ibid.p.105).

Foucault argues that power in the 18th century constructed and normalized sexuality using specific power and knowledge strategies (Ibid.p.103). The purpose of these strategies is actually the construction and normalization of sexuality. One of the strategies is the 'Hysterization of The Female Body' (Ibid.p.104), and the effects of this are: 1-"The female body becomes saturated with sexuality" (Ibid.). Power considers the sexualized body of a woman to be normal. Sexualizing the female body leads to women being considered sexual objects for the satisfaction of men. Sexualization and sexual objectification make women the target of sexual assault (in private and public spheres). If a woman becomes a victim of sexual assault, she is more likely to be blamed than the sex offender, due to society's perception that she is a sexual object (Loughnan et al., 2013). When the woman's body is sexualized, and this sexualization is normalized, the woman internalizes it; as a result, the woman becomes self-objectified. This self-objectification causes body shame, fear of being a rape victim, anxiety, insecurity, and as a result, reducing his productivity (Fredrickson & Roberts, 1997). 2- "A woman's body as an object in which pathology is inherent becomes a source of study of medical science" (Foucault, 1978, p.104). By hysterizing the female body, the female body becomes an object

under the control of the medical discourse, and in this way, the female subject is made: a sexualized body that is inherently neurologically disordered, weak and vulnerable, housebound, in need of permanent treatment, and requires behavior regulation. 3- "The position of a woman in society is defined within the family and in the lives of her children and as a mother" 4- "the woman is shown with a negative face and as a nervous woman" (Ibid.). Foucault argues that by hysterizing the female body, the male and female gender is defined, separated, and normalized. Man is perfect, and woman is imperfect and lacking. Man is the whole, and woman is a part. Man is the 'one', and woman is 'another'. Man is the principle, and woman is a subsidiary (Ibid. p.153).

According to Foucault, another strategy that plays a role in the construction and normalization of sexuality is 'The Socialization of Procreative Behavior' (Ibid. pp.104-105). The purpose of this strategy is that any sexual desires that are non-reproductive (such as homosexuality) and any procedure to prevent fertility and childbirth (contraceptive drugs and abortion) are considered abnormal and prohibited (Ibid.). Based on this, marriage and childbearing are normalized as women's natural duties, and the female subject is constructed as a married woman with children. Another strategy mentioned by Foucault is the strategy of the 'Psychiatrization of Perverse Pleasure' (Ibid. p.105), which aims to control and repress deviant sexual desires. Of course, Foucault believes that the control and the repression of deviant sexual desires lead to the growth of such desires in terms of intensity and frequency (Ibid. pp.44-45). Nymphomania or excessive sexual behaviors of women, masturbation, and homosexuality are examples of deviant sexual desires (Smith, 2006, pp.162-163). Foucault believes that the bourgeoisie, by normalizing sexuality, proposed the idea of healthy sexuality (normal sexuality) and deviant sexuality (abnormal sexuality) through the strategy of the 'Psychiatrization of Perverse Pleasure' (Foucault, 1978, p.105) and considered sexuality as a part of people's identity (Ibid. pp.124-127). When sexuality is considered part of identity, bodies and populations can be controlled by sexuality (Ibid. pp.69,78,126). Observations show that sex offenders as sexual perverts or sex monsters are now exposed to the most severe forms of disciplinary power. In addition to serving long prison sentences, they are also subject to the most investigative forms of post-conviction supervision (Wacquant, 2009, p.236).

The aspects of Foucault's analysis of productive power are well placed in the feminist framework. Feminists have emphasized the role of knowledge and power strategies in constructing of feminine subjectivity and in social control (Riessman, 1992, p.132). Feminists acknowledge that Foucault referred to the process of constructing feminine subjectivity and sexualizing the female body under the title of 'Hysterization of The Female Body'. Therefore, like Foucault, they have objected to this sexualization or hyper-sexualization of the female body as a vital tool of oppression against women (Taylor, 2019, p.57; Plaza, 1978, pp.93-103). There are many convergences between the feminist interpretation of the relationship between power and the body and Foucault's theory. Foucault's understanding of how feminine subjectivity is constructed reminds Simone de Beauvoir's famous sentence that "one is not born, but rather becomes a woman" (De Beauvoir, 1988, p.295).

1-1-2-Being Agonistic

Foucault's opinion about modern power later developed into an agonistic conception of power. What Foucault means by this conception is that "where there is power, there is resistance"

(Foucault, 1978, p.95). In the agonistic conception of power, multiple and interwoven power relations are inherently contested. According to Foucault, power in the agonistic sense is a network of power relations between subjects with some freedom in performing action or resistance (Foucault, 1980, p.98) because subjects are both the effect and the vehicle of power. Subjects are both targets of power and elements of its articulation (Ibid.). In this model of power, Foucault gives the subject a minimum of authority and agency to resist power relations. Foucault emphasizes in the article 'Subject and Power' that "power relations are established when power is applied to free subjects and since subjects (individuals or groups) are free they have many possibilities to behave and react" (Foucault, 1982a, pp.790, 794). Wherever power is applied, resistance is also present and parallel to the network of power relations; a plurality of forms of resistance can also be seen. According to Foucault, "In every power relation there is, at least *in potentia*, a strategy of struggle" (Ibid. p.794). In this agonistic model of power, Foucault emphasizes the coexistence of power and resistance. The possibility of resistance is always assumed in any power relation. This resistance is never in a position outside of power (Foucault, 1978, p.95): "These points of resistance are present everywhere in the power network. Hence, there is no single locus of great refusal, no soul of revolt, and no source of all rebellions. Instead, there is a plurality of resistance, each a special case" (Ibid. pp.95-96). Foucault says:

What I mean by power relations is that we are in a strategic situation towards each other. We are in this struggle, and the continuation of this situation can influence the behavior or non-behavior of the other. So, we are not trapped. We are always in this kind of situation. It means that we always have possibilities of changing the situation. We cannot jump outside the situation, and there is no point where you are free from all power relations. But you can always change the situation (Foucault, 1997b, p.386).

According to Foucault, there are generally three types of resistance or struggle strategies against power (or power relations): "Struggle against forms of domination (which can be ethnic, religious, and social domination), struggle against forms of exploitation, and struggles against subjection (against forms of subjectivity and submission)"; The third struggle means "struggles against that which ties the individual to himself and submits him to others in this way" (Foucault, 1982a, p.781). Foucault claims that many examples of these three types of social struggle can be found throughout history, which were either separate or mixed, but "today, the struggle against forms of subjection(subjugation) is prioritized and centered, although the other two struggles have not disappeared" (Ibid.). By proposing this view of power and resistance in his books *Power/Knowledge, History of Sexuality* (Vol. 1), and his essay 'Subject and Power', Foucault calls for resistance against policies, discourses, techniques, mechanisms, and practices that subjugate human beings (Hekman, 1990, pp.182-186). Foucault believes that humans should resist the forms of subjectification that oppress them (Deveaux, 1994, p.239); it means that the only way to overcome subjugation is to subvert and deconstruct subjectivity (McWhorter, 1999, p.77). Therefore, it is important that people "take a stand against forms of

subjugation with the help of struggle strategies" (Fink-Eitel, 1989, pp.1-7). The goal of many contemporary social movements has also been to challenge forms of subjectivity and subjugation, such as the prison abolition movement or the abolitionist feminism movement, which believes that organizing to end "sexual violence must include working against the prison industrial system" (Davis et al., 2022, p.4) or the revived pro-choice movement (pro-abortion freedom). By suggesting that: "Maybe the target nowadays is not to discover what we are, but to refuse what we are" (Foucault, 1982a, p.785), Foucault advises that we should take a critical stance towards the identities constructed and reinforced by strategies of power and knowledge and stand up to them.

1-2-The Central Politics of Modern Power – Bio-Power - From Foucault's Point of View

With the rise of modern power, the power to kill (the right of the sovereign to kill his subjects) was changed to the power over life or bio-power. According to Foucault, the power to kill, which was the right of the sovereign, became the bio-power, which was "The right of the social body to ensure, maintain or develop its life" (Foucault, 1978, p.136). The purpose of bio-power is "to administer, optimize, multiply life, subjecting it to precise controls and comprehensive regulations" (Ibid. p.137). Bio-power is a type of power that "presupposes a closely meshed grid of material coercions rather than the physical existence of a sovereign" (Foucault, 1997a, p.36). As Foucault says, the juridical-repressive power of the sovereign was actually "the right to take life or let live (to execute subjects)" (Foucault 1978:136), while bio-power is "the power to foster life or to disallow it to the point of death (to imprison subjects)" (Ibid. p.138).

Foucault believes that bio-power has two central politics or policies: 1- "Anatomo-Politics of the Human Body", which is based on the discipline of the body; That is, it is based on "disciplining the body, the optimization of its capabilities, the extortion of its forces, the parallel increase of its usefulness and its docility, its integration into systems of efficient and economic control" (Ibid. p.139). This politics emerged in the 17th century, and Foucault called it the "docile bodies" thesis. (Ibid.) and 2- the "Bio-Politics of the Population", which is based on the regulation of population and in which the government's attention is to the biological processes of life such as the reproductive capacities of the bodies, health, birth, and death rate of humans and is based on regulatory interventions and controls on people's lives. This politics emerged in the second half of the 18th century (Ibid.). In other words, modern power or bio-power applies itself in two ways: as a power over the body - power over the human body as a machine, and, secondly, as a power that regulates the body as a species (Ibid.). These two politics were connected in the 19th century through some arrangements and built the great technology of modern power (Ibid. p.140). One of the primary arrangements that connected these two axes is sexuality (Ibid.), and the other is race (Foucault, 1997a, pp.254-257). Therefore, the two main pillars of modern power – bio-power - are 1- disciplinary mechanisms of the body and 2- regulatory mechanisms of the population. Foucault adds that "bio-power has undoubtedly been an essential element for the development of capitalism because this power made possible the

controlled insertion of bodies into the machinery of production and the adjustment of the phenomena of population to economic processes" (Foucault, 1978, pp. 140-141).

1-2-1-Anatomo-Politics of the Human Body or the "Docile Bodies" Thesis

In the 17th century, the bio-power emerged in the form of disciplinary mechanisms and institutions by applying body anatomy politics: that is, the application of discipline at various penal, military, educational, medical, and work levels, etc. According to Foucault, the aim of body anatomy politics is to ensure "disciplining the body, optimizing the body's capabilities, using its forces, increasing its usefulness and obedience, integrating it into efficient and economic control systems" (Foucault, 1978, p. 139). Modern power or bio-power required "minimum expenditure for the maximum return", and its primary organizing principle was the principle of discipline (Foucault, 1980, p. 105). The aim of body anatomy politics is not to repress individuals, but rather to reorganize or retool them based on the principle of discipline (Foucault, 1977, p. 138). Through disciplining, bio-power sought to produce what Foucault calls "docile bodies" (Ibid.). The main focus of the first central politics of bio-power was "the body and its forces, their utility and their docility, their distribution and their submission" (Foucault, 1977, p. 25). However, the real purpose of bio-power in making docile bodies was to control the souls of humans and to turn people in to subjects (Foucault, 1977, pp. 29-30).

One of the disciplinary mechanisms of modern power or bio-power in applying body anatomy politics, which constructs subjectivity (turns people in to subjects), is disciplinary normalization. In 1978, at the Collège de France, Foucault defined normalization as follows:

Normalization consists, first of all, of positing a model, an optimal model (norm) that is constructed in terms of a particular result. The operation of disciplinary normalization consists of trying to get people, movements, and actions to conform to this model, the normal being precisely that which can conform to this norm and the abnormal incapable of conforming to the norm (Foucault, 2007, p. 58).

According to Foucault, normalization is one of the disciplinary techniques of bio-power, whose function is to adapt subjects to predetermined norms. Normalization can be defined as the requirement to conform to behavioral norms. Foucault calls it "the process of training and correction" [*processus de dressage et de correction*] (Foucault, 1977, p. 180). The purpose of normalization is to produce normal and abnormal subjects. Therefore, normalization can be considered a technique of subjectification (turning people in to subjects), "a process by which we obtain the constitution of a subject, more precisely of a subjectivity" (Foucault, 1984, p. 41; Foucault, 1994, p. 706). Foucault says, "The discourse of disciplines, is about a rule: not a juridical rule derived from sovereignty, but a discourse about a natural rule, or in other words, a norm. Disciplines will define not a code of law but a code of normalization" (Foucault, 1997a, p. 38). According to Foucault, these norms determine what is normal (Foucault, 2007, p. 57). In Foucault's view, subjects are constructed through power techniques that presuppose the norms and introduce them as "an ideal or optimal model" (Ibid.). According to him, disciplinary techniques (including normalization) are the new rules of modern society (Foucault, 1977,

p.184). Normalization emerged during the 18th century and was widely used in military barracks, hospitals, sanatoriums, schools, factories, prisons, etc., thus becoming a vital aspect of social structure in modern societies (Foucault, 2003, p.49).

According to Foucault, normalization has two simultaneous and contradictory functions. One is to homogenize behavior, and the other is to differentiate individuals to control them better and subject them to the norm. Foucault says:

In a sense, the power of normalization imposes homogeneity; it also individualizes by making it possible to measure gaps, determine levels, fix specialties, and render the differences applicable by fitting them one to another. It is easy to understand how the power of the norm functions within a system of formal equality since, within homogeneity that is the rule, the norm introduces, as a helpful imperative and, as a result of measurement, all the shading of individual differences (Foucault, 1977, p.184).

Foucault claims that modern power "individualizes" populations by producing an ideal behavioral norm(normalization); That is, it gives each population a unique and distinct identity (populations with normal identities and populations with dangerous or abnormal identities). Foucault says, "Power with normalization techniques provides the possibility of creating gaps and special characteristics and differentiation and in this way individualizes populations" (Ibid. p.193). Foucault considers one of the abnormal and dangerous figures to be the sexual monster or sexual deviant, who entered the medical and criminological discourse in the second half of the 18th century through the normalization of sexuality (Foucault, 2003, p.60). According to Foucault, at the end of the 18th century, correctional institutions focused on the issue of sexuality and considered sexual deviations to be the main problem of incorrigible people (Ibid. p.61).

Feminism, inspired by Foucault's view on the disciplinary normalization of bio-power, believes that bio-power normalizes the patriarchal norms of femininity. In other words, through disciplinary normalization, bio-power produces and stabilizes feminine subjectivity according to patriarchal standards (Henderson, 2007, p.238). Feminists such as Susan Bordo and Sandra Bartky have used Foucault's 'docile bodies' thesis to analyze the process of women's subjectification (how feminine subjectivity is constructed) (Bartky, 1988; Bordo, 1989). Following Foucault's point of view, Judith Butler argues that gender identities (as well as female identity) are constructed by disciplinary and regulatory procedures of bio-power (Butler, 2006).

1-2-2-Bio-Politics of the Population

The second politics of modern power or bio-power is what Foucault calls the "bio-politics of the population". Through this politics, bio-power controls the population by regulatory state interventions (Foucault, 1978, p.139). Bio-politics of the population means politicizing the life of the population (Su Rasmussen, 2011). The purpose of this politics is to collect the demographic characteristics of the population (propagation, births, mortality, life expectancy and longevity, the level of health) and set regulations based on them to fight the population increase and, at the same time, preserve the survival of humans (Foucault, 1978, p.139). Foucault says, "This technology of power does not exclude the former (disciplinary

normalization), but it does dovetail into it, integrate it, modify it to some extent, and above all, use it by sort of infiltrating it, embedding itself in existing disciplinary techniques" (Foucault, 1997a, p.242). Foucault believes that with the emergence of bio-power, the role of law changes fundamentally and is defined within a set of normalization mechanisms whose primary purpose is not punishment but correction and regulation of life. As a result, the law increasingly becomes a normalization mechanism supported by bio-power, which focuses on life instead of death (Foucault, 1978, p.144). Therefore, a 'normalizing society' replaces the legal authority of the sovereign (Ibid.). In this society, 'life rights' have more priority than political rights - life rights mean the right to the body, the right to health, and the right to basic needs (Deveaux, 1994, p.229).

Bio-politics of the population is based on control and management of the population through state-medical intervention. Some Foucauldian feminists have pointed to this new politics to justify those discourses that focus directly on controlling women's bodies and controlling their reproductive choices (Ibid. p.228). The emergence of bio-politics of the population and discourses that facilitate increasing state control over women's reproduction originates from the same strategy that Foucault calls the 'Socialization of Procreation' (Foucault, 1978, pp.104-105). For example, Jennifer Terry uses Foucault's account of the bio-politics of the population to justify the pervasiveness of the discourses of fetal rights, 'Natal Panopticonism', State control of women during pregnancy, the regulation of surrogacy as a lifestyle monitoring of pregnant women and control of their reproduction (Terry, 1989, p.20). The promotion of these discourses and the regulation of population originate from the increasing concern of the government about the reduction of the population rate. Jennifer Terry believes that the purpose of the discourse on fetal rights and prenatal care is to control women's reproduction. According to Terry, the new technologies of reproduction and prenatal screening allow government and medical authorities to consider the fetus as a separate entity from the mother; this exposes the woman to a wide range of civil and criminal responsibilities during pregnancy (Ibid. p.23). Inspired by Foucault, Jennifer Terry sees the emergence of biopower as the reason for these developments and interprets them in the general framework of the government's increasing interest in population regulation (Ibid.)

1-3-Foucault's View on Prison: An Institution Serving the Objectives of Bio-Power

According to Foucault, prison is not useless. As Foucault emphasizes, prison is "dangerous when it is not useless" (Foucault, 1977, p.232). In Foucault's view, the prison has certain functions (Ibid. pp. 271-272, 277) that serve bio-power objectives. For this reason, prison existence has become a necessity for bio-power. Foucault enumerates the functions of the prison that serve the objectives of bio-power as follows:

1-The prison constructs the delinquent subject (Foucault, 1977, p.266). The construction of the delinquent subject by the prison shows the productive capacity of the bio-power. Foucault shows in the book *Discipline and Punish* that the prison turns the prisoner into a delinquent

subject (Ibid. p.251). Because of its structure, the prison makes prisoners abnormal, unnatural, useless, de-moralized, and dangerous (Ibid. p.266). By imposing violent constraints on prisoners and exploiting them with penal forced labor, which is nothing but slavery, the prison turns them into delinquent subjects. The prison is supposed to apply the law, but its actual function is the abuse of power. The power of making arbitrary decisions by the prison officials creates a sense of injustice in the prisoners, and this sense turns the prisoners into rebellious and untamable people. Corruption and bribery, inefficiency, and abuse of power by the prison staff make the prisoners angry with everyone and everything. The prisoner no longer sees himself as guilty but accuses the criminal justice system of injustice and corruption (Ibid.). Prison makes convicts incompatible with life outside of prison, damages their souls, and socializes them in a violent and criminal environment (prison). The Prisoner-delinquent will take the routine and habits of the prison with him to the outside world and commit more crimes. In agreement with Foucault (Foucault, 1997a, p.256; Foucault, 1977, p.266), Sandbeck argues that the prison, as one of the bio-power institutions has two dimensions. It is a disciplinary institution and a primary site for social production [producing delinquent subject] (Sandbeck, 2012, pp.1-2).

2- Prison causes recidivism (Foucault, 1977, p.267). Foucault believes that the prison is a place of crime training. New and young prisoners learn ways to escape the law and commit new crimes from experienced inmates. Senior prisoners instill in young prisoners the mentality that society is their enemy and they should cut off their ties with society (Ibid. p.167). In addition, Foucault believes that after release, prisoners are subjected to such severe post-conviction disciplinary measures and probation and parole conditions that they are forced to return to prison to escape poverty and hunger resulting from social isolation and inability to reintegrate into society (Ibid. p.267). Foucault's argument is supported by studies conducted on recidivism among sex offenders. According to a survey, the longer the prison sentence, the higher the possibility of recidivism among sex offenders. In addition, "the greater number of treatment conditions that are applied as parole conditions also has a positive relationship with the repetition of sexual crimes" (Meloy, 2006, pp.55, 67-68). Another study shows that if sex offenders are not incarcerated, they are less likely to re-offend (Langan et al., 2003). Once incarcerated, offenders are restricted in the community—they are effectively barred from employment, housing, and social security services (homeless shelters, welfare facilities, and free food stamps), and are at risk of being re-incarcerated for violating parole conditions. This causes former prisoners to have no other option but to return to prison (Alexander, 2011).

3- Prison turns the delinquent into an enemy of society with a monstrous face (Foucault, 2015, p.150). According to Foucault, from the end of the 18th century, lawbreakers in all its forms were considered enemies of society, and they were not only regarded as enemies of the government (Ibid.p.149). The delinquent was considered a permanent societal threat (Foucault, 1977, p.286). Through the use of ex-convicts as informers, police spies, and disruptors of labor strikes, or by issuing light prison sentences for thieves and heavy prison sentences for striking

workers, the power created hostility and mistrust between the working class and delinquents (Ibid. pp.285-286). The creation of hostility caused the poor and working class to no longer sympathize with the delinquents and to protest and riot against the prison sentences of the delinquents. This hostility created a gap between delinquents and non-delinquents in the working class. As a result, the prison destroyed the connection between breaking the law and the political unrest of the working class (Foucault, 2015, p.150).

4- The prison is a place for production of knowledge and scientific discourses. Foucault believes that "the prison is a place for the constitution of a body of knowledge"(Foucault,1977, p.250). Convicts become objects of knowledge in prisons (Ibid. p.251). Foucault refers to the knowledge produced in prisons as the "Zoology of Social Sub-Species "and the "Ethnology of The Civilizations of Malefactors" (Ibid. p.253). Foucault believes that by studying the personality typology of prisoners, positive knowledge was produced about delinquents and their types, and these studies became the basis for the development of criminological knowledge (Ibid. p.254). In support of this statement, Chloe Taylor states that prison, as a panoptic institution, is an ideal place to produce knowledge about problematic people (Delinquents) (Taylor, 2019, p.121).

5- The prison has been naturalized in the conscious mind of society: Foucault believes that the prison seems self-evident and natural to us today (Foucault,1977, pp.232-233). Foucault says: "Prison 'naturalizes' the legal power to punish, as it 'legalizes' the technical power to discipline" (Ibid. p.303). According to Foucault, the self-evidence of prison in people's minds is due to two reasons: 1- Prison is the simplest form of deprivation of liberty. In a society where freedom is a commodity that belongs to everyone equally, and everyone has a universal, common, and constant feeling for it, prison seems like a Penalty *par excellence*. It is an egalitarian punishment because deprivation of liberty can be applied equally to all people (Ibid. p.232). 2- The second reason is the specific function of the prison. Prison is an apparatus for transforming individuals. The people quickly accept the prison because by imprisoning, re-educating, and subjugating people, the prison uses the same and intensified disciplinary mechanism that is applied in the body of society. The prison applies the exact mechanism as in barracks, schools, or workplaces (Ibid. p.233). Due to the carceral structure of society, deprivation of body freedom and constant monitoring of the body is considered a self-evident and accepted matter (Ibid. p.304). Prison seems natural to us, because prison is merely an intensification of the disciplinary procedures that we have become accustomed to in all the other institutions in which we have been formed and trained. The carceral logic is deeply embedded in the conscious mind of society, and its disciplinary function is established.

6- Prison is a racialized punishment. Foucault argues that bio-power, like the power of sovereignty, still retains the right to kill and the function of murder but has found a new way to apply it: Racism. According to Foucault, this is where racism intervenes. Racism enters into bio-power politics, creates a "caesura within the biological continuum of the human race",

introduces a break into the domain of life that is under power's control, and separates the one who must live from the one who must die (Foucault, 1997a, pp.254-255). Bio-power creates distinctions and hierarchies between races and introduces some races as good and some as inferior (the color-skinned, the degenerate, and the abnormal) (Ibid.). Regarding bio-power, the more inferior races are destroyed, the purer the good races will be, and they will have healthier lives. Bio-power performs eugenics and racial purification by killing inferior races (Ibid.). In addition, bio-power normalizes the right to kill the enemies of society through racism. Bio-power politics is that you must kill your enemies if you want to live (Ibid. p.256). Bio-power applies the right to kill by dividing human species into subspecies that are introduced as biological threats to society. In this structure, killing does not mean execution, but killing indirectly, that is, killing through "Exposing someone to death, increasing the risk of death for some people, or political death, expulsion, rejection, imprisonment and so on" (Ibid. p.256). Therefore, "the ancient right of the government to take lives (by execution) is replaced by the right to allow life or not to allow life to the point of death(imprisonment)" (Ibid.p.138). Imprisoning or banishing inferior races is one of the ways of exposing devalued people to death or not allowing them to live to the point of death.

In the book *Discipline and Punish*, in a chapter entitled 'Illegal Acts and Delinquencies', Foucault supports the abolition of prison by presenting the criticisms mentioned in the previous paragraphs, although he never explicitly described himself as an abolitionist (Foucault, 1977, p.268). Foucault does not consider the results of prison reform adequate because prisons have not been able to fulfill the reformers' demands during the last 150 years. By supporting the abolition of prison, Foucault defends redistributive justice, a preventive criminal strategy (Positive abolitionism). In his opinion, the real cause of most crimes is poverty, and nine-tenths of crimes are committed by the lower class (Ibid. pp.275-276). According to Foucault, if we want to fight crime effectively, we should try to create an egalitarian society. Elizabeth Bernstein, one of the prominent prison abolitionist feminists, agrees with Foucault and proposes redistributive justice as an alternative to prison. The topic of Bernstein's studies is mostly in the field of opposing the criminalization and penalization of women's sex work. He is a staunch opponent of passing laws against sex work. As Bernstein suggests, if we address the economic inequalities that lead to sex work instead of criminalizing it, we can better respond to the harms of sex work. (Bernstein, 2007; 2010; 2012).

1-4-Foucault's View on the Crime of Rape: Investment of Bio-Power in Sexuality

Foucault argued that the crime of rape should be desexualized. Foucault said in a 1977 panel discussion published as 'Confinement, Psychiatry, Prison' that he proposed, in response to the French Parliamentary Penal Law Reform Commission, which asked him for his opinion on reforming the law on sexual crimes, that under any circumstances, sexuality or sexual desires should not be criminalized. In the case of rape, only the committed violence should be punished; in other words, rape should be considered an act of aggression and not a sexual crime.

According to Foucault, there is no difference between punching the face and rape, and both are simply considered a violent assault (Foucault, 1988a, p.200). Foucault demanded that laws passed by parliament on rape be repealed (Foucault, 1988b, p.271). In addition, Foucault argued in a radio program in 1978 that non-coercive sex between adults and minors should be completely decriminalized because he was against any age restrictions on sexual relations (Foucault, 1988a, p.204). Foucault's tendency to decriminalize sexual crimes arose from his studies on sexuality and anti-carceral (anti-prison) activism and his critical writings about prisons. Foucault wanted to reduce the type of sexual crimes from crimes to misdemeanors (Délits) so that their punishment would be the payment of compensation and not imprisonment. Foucault's goal was to put rape "outside the criminal law". According to Foucault, rape can be easily covered by civil lawsuits or the compensation system (Foucault, 1988a, p.201). He thus asked his audience: "Is it not possible that the rapist pay one hundred thousand francs in compensation [instead of imprisonment]?" (Ibid. p.209).

According to Foucault, the fact that women consider sexual violence more important than mere physical violence is due to the focus of bio-power on sexuality because bio-power has sexualized the female body through the construction of sexuality and its normalization. The woman considers being sexual as normal, natural, and a part of her identity, so she considers rape a sexual crime. In response to the dominant and destructive attention that modern power has had on sexuality, Foucault proposed de-sexualization strategies (Foucault, 1978, p.157). Foucault's goal of desexualizing the crime of rape is to 'liberate' sexuality from the disciplinary and regulatory mechanisms of bio-power, which is manifested in law (Henderson, 2007, pp.247-248). According to Foucault, bio-power controls bodies and populations by focusing on sexuality (Foucault 1978:140). Foucault argued that the reason for concentrating on sexuality was the shift from the power of sovereignty in killing subjects to power over life (bio-power) because the purpose of power over life is to preserve lives, increase the population, and improve the quality of life (Ibid. pp.135-140). The requirement to maintain the power over life is to control sexuality and set strict regulations about it (Ibid. p.139). According to Foucault, sexuality was an invention of the bourgeois class to maintain dominance and bio-power (Ibid. pp.120-127). The bourgeoisie constructed sexuality, and then, through the normalization of sexuality, it sexualized the female body and created male and female gender identities as the norm of heterosexuality. (Foucault, 1980, p.211).

Foucault argued that bio-power, through focusing on sexuality and its normalization, makes women sexual, violable, vulnerable, and victims and makes men deviant, rapists, and predators; in other words, it constructs subjects (Foucault, 1978, pp.104 -105). Foucault considers sexuality as an indisputable factor in constructing subjectivity and subjugating women and men (Foucault, 1980, p.219) because sexuality is regarded as a part of people's identity so that it can turn people into subjects. By making these subjects, bio-power captures people in their identity trap. Bio-power makes a man a rapist or a pedophile and makes him prone to repeat the crime and labels the raped woman as a victim so that women consider vulnerability as a natural female

characteristic and accept it. Foucault believes that women's liberation movements, rather than focusing on "the specificity of their sexuality and the rights about it, should depart from the discourse conducted within the apparatuses of sexuality; that is, they should seek to desexualize culture, discourse, and language" (Ibid. p.220). Foucault seeks to combat these forms of subjectivity and subjugation by proposing to desexualize the crime of rape.

2-Contemporary Feminist Criminal Strategies

Here, we briefly introduce the two main contemporary feminist criminal strategies and explain the different points of view of these two strategies in the fight against sexual violence against women.

2-1-Carceral Feminist Criminal Strategies

Punitive-carceral feminist criminal strategies or criminal strategies of carceral feminism - rely on the criminalization of sexual violence, the adoption of police measures, criminal prosecution, and the imposition of prison sentences on sex offenders. 'Carceral' feminism is described as an approach that agrees with 'law and order' policies (Strict security-police policies of the United States of America) and sees social justice in criminal justice (Bernstein,2010, p.59). Carceral feminists propose the idea of "feminism as crime control" (Ibid. p.57). Carceral feminism refers to "feminist social movement strategies in favor of criminalization of sexual violence" (Kim,2018, p.221). Carceral feminists introduce "reliance on punitive justice applied by the government as the only solution to combat sexual violence" (Mack & McCann, 2018, p.331). The term carceral feminism was first coined by the American sociologist feminist Elizabeth Bernstein. She is an abolitionist feminist, and in 2007, by publishing an article, she attributed this term to feminists against human trafficking in America, who were looking for the criminalization of sex work or prostitution by the government (Bernstein, 2007, p.51). According to Bernstein, the most effective solution and strategy for carceral feminists to end sexual violence is to increase police measures, pass strict laws, increase prosecution, and issue more prison sentences (Bernstein, 2019, pp.21-22, 41-42). Carceral feminists believe that strict penalties and increased criminalization of sexual violence will bring justice to the victims and send the message that sexual violence will not be tolerated (Harris,2011, p.34; Spade,2015, pp.39-41).

Regarding the origin of carceral feminist criminal strategies, we must point out that these strategies are related to liberal feminism (Sandbeck,2012, p.3). Historically, anti-violence feminism in the 1960s and 1970s had a ' radical anti-statism' approach (Bumiller, 2008) and was opposed to government intervention to combat sexual violence. Over time, a more liberal reformism emerged in anti-violence feminism, which focused on demanding that the government take serious action against sexual and domestic violence. Liberal feminists became supporters of government intervention, and their goals became more moderate (Gottschalk,2006, p.122). Due to the need for funding and financial resources, the anti-violence

feminist movement called for government intervention to protect women (Houston, 2014, p.253). Liberal feminists considered sexual violence as an individual issue related to some victims who need help and some criminals who deserve imprisonment; that is, sexual violence was individualized and limited to some specific people (Bevacqua, 2000, p.35). The criminal strategy of liberal feminists was defined in terms of a therapeutic-carceral model of social control, whereby female victims of sexual violence were treated in professional state treatment settings. At the same time, strict laws were made to facilitate the conviction and imprisonment of men accused of sexual assault or domestic violence (Gottschalk, 2006, p.122). This therapeutic-carceral model was proposed around the neoliberal ethics of individual responsibility. This led to the complicity and participation of carceral feminists in the neoliberal goal of social control, which, simultaneously, with the sharp increase in the rate of incarceration, unequally targeted people of color and the poor (Bumiller, 2008, pp.5-15). Instead of understanding rape as a social problem that is related to the construction and normalization of sexuality, liberal feminists consider it an individual problem, and rape is considered an incident that requires providing medical services, legal advice to victims, and prosecution, trial and punishment of the sex offenders (Gottschalk, 2006, p.127). From Sandbeck's point of view, carceral feminism is under the domination of neoliberal bio-power (Sandbeck, 2012, pp.1-2). In fact, by supporting criminal justice as a response to sexual crimes and defending more prison sentences against sex offenders, the carceral feminist participates with neoliberal bio-power in the expansion and continuation of the prison and the production of the sex delinquent subjects. As long as there are prisons and sex delinquents, sexual violence will continue. In the continuation of the discussion, Chloe Taylor uses a Foucauldian approach to show how prison perpetuates sexual violence by producing the sex delinquent subject.

2-2-Abolitionist Feminist Criminal Strategies

Since the 1990s, there has been a growing feminist literature that acknowledges that carceral responses of the 'law and order' policy to sexual crimes are ineffective and re-victimize victims (Smart, 1995; Hudson, 2002). Some researchers attribute the beginning of abolitionist anti-carceral feminism to the issuance of a joint statement (2001) by the abolitionist organization entitled 'Critical Resistance' and the anti-violence feminist group entitled 'INCITE! Women and Trans People of Color Against Violence and Critical Resistance'. In this joint statement, these two organizations, while criticizing the feminist anti-violence movement (carceral feminism) for resorting to the criminal justice system and blaming the anti-carceral movement for not focusing on sexual and domestic violence, called for the establishment of social justice movements to combat sexual violence against women, through the development of community-based responses to sexual violence, in such a way that these responses do not rely on the criminal justice system and have a mechanism to ensure the accountability of sex offenders and the safety of survivors of sexual and domestic violence (Critical Resistance and Incite!, 2003; Williams, 2009; Incite!, 2001). Abolitionist anti-carceral feminist criminal strategies are based

on the idea that prison sentences are not deterrents and that prisons do not rehabilitate. On the contrary, prisons multiply criminals and thus produce more crimes. Prisons do this by turning lawbreakers with no criminal record into professional criminals. Prison is ineffective in preventing crime and counterproductive to the extent that it is better to have no criminal justice system at all than to continue with the current system (Davis, 2003, p.105; Lacey, 2011, p.17).

Abolitionist feminists such as Angela Davis (2003), Michelle Alexander (2011), Loïc Wacquant (2009), Lisa Guenther (2016), Robert Nichols (2014), and Chloe Taylor (2019) have each shown in different ways that prison serves the interests of racist, white supremacist colonial governments. As these scholars have argued, contemporary prisons serve similar functions to slavery, lynching, Jim Crow laws, racialized ghettos, eugenic sterilization programs, and residential schools for indigenous people. For some abolitionist feminists, the continuation of the prison industry has a financial interest. Many rural communities near which prisons are built have become dependent on prison employment and the production and supply of prison equipment for survival (Davis, 2003; Kutchins & Galloway, 2007). Since the emergence of the #BlackLivesMatter movement in 2013, abolitionist feminism has had a more robust engagement with the prison abolition movement (Davis et al., 2022; Brown, 2019; Gilmore et al., 2020; Levine & Meiners, 2020). The primary criminal strategy of abolitionist feminism is that organizing to end "gender violence must include the struggle against the prison industrial system" (Davis et al., 2022, p.4). Abolitionist feminists believe that by cooperating with law enforcement agencies, requesting government funding, and criminalizing sexual violence, carceral feminists develop the carcerality and increase violence against marginalized groups of people (Bumiller, 2008, pp.1-15). According to abolitionist feminists, the carceral feminist's strategies have helped to create an 'American prison nation'(Ritchie, 2012).

3-Feminist-Foucauldian Abolitionist Criminal Strategies

3-1-Feminist-Foucauldian Negative Abolitionist Criminal Strategy: Chloe Taylor's perspective

Chloe Taylor, as a Canadian abolitionist feminist, suggests referring to transformative justice programs as an alternative to carceral criminal strategies. Taylor is opposed to any feminist reform of sexual violence laws because it would guarantee more convictions and imprisonments (Taylor, 2018, pp.32-34). She only supports feminist projects that can be implemented outside the framework of the law and without government intervention (Terwiel, 2020, p. 425). According to Taylor, there is no space for "a progressive feminist engagement and participation with criminal law" (Ibid.). Taylor believes abolitionist feminists should distance themselves from the criminal strategies of governance feminism, or carceral feminism, by avoiding engagement and interaction with the law and the government (Taylor, 2018, p.36). Transformative justice seeks to provide societal responses (grassroots or community-based responses) to all forms of crime and deviance, including sexual violence, and is therefore not at all related to the criminal justice system, criminal courts, criminal laws and punishments, or the

state in general. Transformative justice is non-state justice, meaning that it does not provide a state response (including criminal punishment of imprisonment) to crime or deviance, but rather its responses are entirely community-based or societal (grassroots responses). In a system of transformative justice, there is no criminal justice system, but rather non-state local community boards address disputes and hostilities through peace and reconciliation rituals, bilateral negotiations, and mediation. Transformative justice programs are victim-centered and aim to hold perpetrators of violence accountable without stigmatizing them or excluding them from society (through criminal punishment such as imprisonment). Transformative justice has the potential to identify and eradicate the root causes of violence in society. Transformative justice attempts to identify the root causes (sexism, generalized misogyny, gendered power inequities) that lead to sexual violence and to show how these root causes are supported and perpetuated by the local community. Ultimately, it seeks to increase social solidarity and local community participation in eliminating these causes by raising awareness among the local community about these underlying causes of sexual violence. Therefore, instead of the perpetrator alone being held accountable for the violence he has committed, the entire local community must be held responsible and must reform, transform, and rebuild itself by addressing the root causes of violence (Taylor, 2019, p.230). In a system of transformative justice, the local community appears instead of the state because the state does not fulfill its role in resolving disputes or ending the cycle of violence, and because the local community is well-structured and can manage disputes and crises on its own. The local community intervenes in resolving the crisis and conflict that has arisen, and community-based accountability measures that have a social impact are taken to hold the perpetrator accountable, such as raising awareness among the local community about the causes of the violence committed, publicly condemning and blaming the perpetrator, media boycotting or business boycotting the perpetrator, asking the perpetrator to make a private or public apology or compensate the victim or the community, or listening to the victim's point of view, or asking the perpetrator to resign from their position or job, asking the perpetrator to commit to stopping the harmful behavior or changing his behavior and participating in rehabilitation programs, or asking the perpetrator's employer to reprimand, demote, or reduce the perpetrator's salary (Taylor, 2019, pp.230,234; Delmas-Marty, 1992, p.252). These societal responses (grassroots responses) vary culturally within each local community and can even take the form of the victim reciting satirical poems to denounce the sexual abuser (Delmas-Marty 1992, 249). Transformative justice uses methods such as mediation, peace and reconciliation rituals, roundtables and conferences, bilateral negotiations, and the intervention of third parties (wise men). However, these are carried out without the involvement of police officers or judges in the courts and solely by local community boards. Transformative justice is not supported by the threat of imprisonment of perpetrators of violence if peace and reconciliation negotiations in local community boards are not successful. Transformative justice has been theorized and implemented in recent decades in response to both child sexual abuse and sexual assault (Taylor, 2019, p.231). According to Chloe Taylor,

transformative justice leads to the deculpabilizing, de-pathologizing, and destigmatizing of perpetrators of sexual violence, thereby preventing the creation of a defensive and hostile state of mind in sexual offenders resulting from their presence in criminal trials and prisons, and therefore increasing the willingness of sexual offenders to change their behavior and admit their mistakes (Ibid.p.226). Thus, transformative justice prevents the production of sexual delinquent subjects and the continuation of sexual violence. For example, Communities Against Rape and Abuse (CARA) is a community-based organization based in Seattle, Washington, that uses transformative justice strategies and community-based responses (grassroots responses) to respond to sexual violence and assault. In its guiding principles, CARA refrains from dictating any specific process or tactics for responding to sexual violence, believing that the choice of grassroots responses(societal responses) to sexual violence depends on the local community, context, and the wishes of the victim (CARA, 2016, pp.250-266). These guiding principles emphasize issues such as prioritizing the victim's right to make decisions, consensus among community board members in their political analysis of sexual violence, clarity and specificity in the community board's demands on the perpetrator, and seeking help from prominent individuals in the local community to which the perpetrator belongs (Ibid. pp. 251-256). For example, in one case, the CARA organization was able to raise awareness among the members of a political organization led by a sexual abuser, causing the members of that organization to force their leader to resign. The sexual abuser was a prominent black leader who was politically active in the fight against police violence against black people and had repeatedly committed sexual assaults against women members of the organization under his leadership. Despite his refusal to apologize and accept responsibility for the assaults he had committed, he was removed from his position through the efforts of the CARA organization and at the request of the members of that political organization (Taylor,2019, p. 231). In another case, the rapist was the owner of a music club who refused to take responsibility for his actions. As a result of CARA's efforts to raise awareness in the local community, his music club was boycotted not only by local bands and audiences but also by out-of-town bands who played at his club (Ibid. p.232). In CARA cases, the perpetrator of sexual assault was made aware of the perspectives of his victims and was subject to community sanctions. In these cases, a successful outcome was achieved because the victims felt that their experiences were heard, validated, and respected, and society as a whole became more aware of the deep problems of gendered power inequities and sexual violence (Ibid.). The Auckland, New Zealand-based organization generationFIVE is another local organization that uses transformative justice strategies to address sexual violence against children (Ibid.). In peace and reconciliation rituals, in local community boards, the victim of sexual assault is not forced to forgive the perpetrator and can be satisfied with a written or verbal apology from the perpetrator without requiring the victim to forgive and respond to this apology (Ibid. 225). Other local community boards that use transformative justice programs in response to sexual violence include the SALAL Sexual

Violence Support Center in Vancouver, Canada (founded in 1982) and the Support New York Center in the United States (founded in 2005).

3-1-1-Taylor's View of Prison: Prison, an Institution Serving the objectives of Bio-Power

In her book *Foucault, Feminism and Sexual Crimes: An Anti-Carceral Analysis* (2019), Taylor follows Foucault's thoughts on prison in *Discipline and Punish* (1977) by enumerating reasons why prison serves the objectives of bio-power and should therefore be abolished:

1-Prison de-politicized the crime; therefore, the criminal was no longer a political threat to the government. Prison turned crime into a psychiatric issue instead of a political issue related to poverty. In this way, the de-politicization of crime created a gap and hostility between the poor and the criminals. Therefore, although the criminals were still mainly poor people, the de-politicization of crime caused the dissolution of solidarity between the poor and criminals, **preventing the poor's political uprisings** around prison sentences (Taylor, 2019, p.123). Taylor believes that the shame and stigma caused by being incarcerated and having a criminal record lead to the silence of those who directly experience the injustices of imprisonment, especially people of color who are incarcerated unequally, and this helps to suppress political protests. According to Taylor, although prison does not prevent crime, it is a tool for the interests of the capitalist, bio-political, and racist states (Ibid.).

2- Prison is the continuation of the history of slavery and its effects (Ibid.124): Taylor confirms Foucault's claim that prison is in service of the bio-power objectives of incarcerating and eliminating racially inferior populations by citing critical studies of race and de-colonialism. These studies show that after the abolition of slavery, pro-slavery states passed new laws that reproduced slavery. The behavior of free blacks was criminalized in ways similar to what existed during slavery. The new Black Codes prohibited a wide range of actions for blacks, and thus, many blacks were imprisoned and returned to the cycle of slavery through forced labor in prisons (Davis, 2003, p.28). With the abolition of slavery after the American Civil Wars, the industrialization of the American South became dependent on the convict labor system, and the American south was reconstructed and modernized by the black forced laborers (Ibid. p.34). Prison, like slavery, reinforces the social and economic supremacy of white people, the impoverishment and financial exploitation of people of color, and the systematic weakening and destruction of people of color's lives, communities, and families (Ibid.).

3-Prisons are economically profitable (Taylor, 2019, p.126): Privatizing imprisonment shows the continuous economic profitability of prisons (Davis, 2003, p.37). One study shows that private prisons receive funding per inmate and are therefore interested in increasing prison sentence rates, lengthening prison sentences, and rejecting prisoner's parole. These private prison companies have formed lobby groups in the legislature, and to increase their profits, they are looking for approval for 'tough on crime' bills and the expansion of the prison system (Ibid.). Another study shows that "Private prison companies have lobbied for punitive laws aimed at

suspected illegal immigrants, in the hopes of building new immigration detention centers—the newest market in caging human beings" (Alexander, 2011, p.25).

4-Prison is a racialized caste system equivalent to Jim Crow laws (Taylor, 2019, p.126): Taylor confirms Michelle Alexander's claim that prisons today "perpetuate a racialized caste system in the United States, which are the moral equivalent of Jim Crow laws" (Alexander, 2011, p.7). Racialized profiling in the criminal punishment system and mass incarceration of the poor and people of color, combined with post-conviction legal discrimination against all criminals, has done almost what Jim Crow laws did before. People with criminal records have a "Permanently second-class status by law; They can be denied the right to vote, automatically excluded from juries, and legally discriminated against in employment, housing, access to education, and public benefits, much as their ancestors were during the Jim Crow era" (Ibid.10). The mass incarceration of African Americans perpetuates not only Jim Crow laws but also the history of slavery and lynching. Prisoners also confirm the existence of this caste system and say: "It's slavery on the inside; Jim Crow when you get out" (Ibid.p.19). Criminals are so systematically discriminated out of prison that the majority of them return to prison (Ibid. 22). Prison can be accurately described as a form of social death (Guenther, 2013), Alexander writes that "our (US) criminal justice system functions more like a caste system than a crime control system" (Alexander, 2011, p.11).

5- Prison has replaced urban racialized ghettos (Taylor, 2019, p.128): Taylor argues that prison serves bio-power because it seeks to remove inferior races from society rather than to control crime. Taylor confirms Wacquant's study that after the removal of Jim Crow laws, urban racialized ghettos appeared in the United States as a means of containment of African Americans. When urban ghettos were dismantled due to black protests and race riots, the prison expanded as a 'slaughterhouse approach to justice' (Wacquant2009:23) to act as a 'surrogate ghetto' (Ibid.p.196).

6- Based on the bio-politics of the population, the prison eliminates the bio-politically devalued people through eugenics (Taylor,2019, p.128): Bio-power eugenics the populations through the prison. According to studies, prisons have continued eugenics in both the United States and Canada (Guenther, 2016, pp.217-238). Taylor argues that in prisons, eugenic sterilizations are performed by prison doctors without the prisoner's consent. In addition, the sex-segregated structure of prisons works in such a way that racialized, poor, and disabled people are separated from their children or imprisoned for many years of their fertility, and this prevents the biological and social reproduction of bio-politically devalued populations (Taylor, 2019, p. 128).

7-Prison is an instrument to control the indigenous people by the colonialist states (Ibid.): Taylor believes that the prison oppresses the indigenous people. Today, according to studies, indigenous people are unequally targeted by the US criminal punishment system (Mogul et al., 2012, p. xvii). The prison has replaced the residential school of the indigenous, and with the widespread imprisonment of the indigenous people, it acts as an instrument for permanent

colonial control (Nichols, 2014, p.435). For example, indigenous people are ten times more likely to be imprisoned than whites in Canada (MacDonald, 2016).

8- Prison is an instrument to control immigration (Taylor, 2019, p.129): Keeping an increasing number of legal and illegal immigrants in prisons shows that one of the essential functions of the prison today is immigration control (Gottschalk, 2015, p.215). For example, it is now Hispanic immigrants - or, in other words, immigrants of color - who now constitute the largest racialized or ethnic group held in prisons and federal courts in the United States (Ibid.).

9- Prison is an instrument to correct and punish abnormal sexual desires (Taylor, 2019, pp.129-130). According to studies, prison serves bio-power by "policing gender and punishing gender nonconforming and non-heterosexual prisoners" (Mogul et al., 2012; Lydon, 2016). Patriarchal gender norms govern contemporary women's prisons. For example, in Canada, women are taught housekeeping, cooking, and cleaning in federal prisons (Hayman, 2006). Teaching patriarchal female responsibilities to imprisoned women, shows the functions of prison in using patriarchal gendered ideas to tame and restrain women, normalizing patriarchal female norms, creating the docile bodies and constructing the feminine subjectivity (Taylor, 2019, p.129). Study shows that gender nonconforming people imprisoned in women's prisons are mocked and harassed by the guards, labeled as 'little boys', separated from the general prison, and kept in 'butch wing', 'little boys wing', or 'studs wing' (Mogul et al., 2012, p.109). LGBT male prisoners are also imprisoned in men's prisons, where they are never safe from the risk of sexual violence (Spade, 2015; Lydon, 2016).

3-1-2-Taylor's Perspective on Sexual Crimes: The Investment of Bio-Power in Sexuality

Following Foucault, Taylor criticizes not only prisons but, more generally, bio-power politics in criminalizing sexual deviations and imposing prison sentences on sex offenders (Taylor, 2019, p.12). Taylor criticizes the excessive focus of bio-power on sexuality for social control. Inspired by Foucault, she argues that by prohibiting deviant sexual desires, the law not only suppresses them but also forms and strengthens them and that we become passionate about the desires that are forbidden (Foucault, 1978, pp.81-82; Taylor, 2019, p.102). Taylor confirms Adler's statement that "sexual prohibitions cause their violation by increasing the sexual appeal of what they prohibit" (Adler, 2001, p.212). Adler argues that by prohibiting child pornography, the law makes children erotic. She said, "The significant expansion of child pornography laws has inadvertently increased pedophilic desire in humans" (Ibid.). Adler argues that the law actively produces the culture of rape and not merely responds to it (Ibid. p.214) because "Sex thrives on transgression" (Ibid. p.249). Taylor also confirms that the anti-rape laws sexualize and eroticize rape and intensify it (Taylor, 2019, p.103). According to Taylor, the anti-rape laws contain what Adler calls the "perverse effect of sexualizing what is forbidden" (Adler, 2001, p.255; Taylor, 2019, p.103).

According to Taylor, prisons are violent, humiliating, racist, ableist, classist, transphobic, homophobic, and misogynistic institutions. Prisons are not institutions that any social justice

activist should endorse. Prison does not protect us from sexual violence but perpetuates the culture of sexual assault (Taylor, 2019, pp.1-20). In his book *Foucault, Feminism and Sexual Crimes: An Anti-carceral Analysis* (2019), Taylor calls for the abolition of prison sentences for sex offenders for two reasons (Ibid., pp.7-16):

1-According to Taylor, bio-power, through the normalization of sexuality, has naturalized sexual deviants as sexual monsters and the most dangerous individuals who should be prosecuted, convicted, and subjected to the most severe disciplinary measures and supervision during conviction and post-conviction. The application of these severe punitive-repressive measures against sex offenders makes it impossible to reintegrate them into society, and they remain in the cycle of sexual violence, so they become sex-delinquent subjects who cannot escape from this trap of identity (Ibid., p.17). According to Taylor, if we analyze from Foucault's point of view, the focus on sex offenders is due to the investment of bio-power on sexuality for social control. Several abolitionist feminists like Bernstein and Wacquant confirm the normalization of sex offenders as monsters by bio-power. Bernstein argues that the sex offender in contemporary politics and culture is "a singularly demonic figure whose threat to ideals of familial domesticity plays a critical role in legitimating the new penal order" (Bernstein,2012, p.238). Wacquant notes that sex offenders as, "the living embodiment of moral abjectness, provide an immediate incentive to reject the rehabilitation and return to the extreme neutralization and ideal of retributivism" (Wacquant,2009, p.214). Taylor argues that it has become the norm for us to fear sex offenders and imprison them, so we do not resist what we have internalized as a norm (Taylor, 2019, pp.118-119). This shows why many Western governments have been able to imprison large parts of their population as sex offenders without creating public resistance (Ibid.). Statistics confirm that sex offenders are "the fastest growing segment of state and federal prison populations" in the United States due to the passage of increasingly strict laws for sex crimes (Gottschalk, 2015, p.199). Rapists, especially impoverished young black men, are the prime targets of criminal panopticism in America (Wacquant, 2009, p.209). The length of imprisonment has also increased significantly for sex offenders in America (Ibid. p.212). Taylor argues that this assumption that sex offenders are dangerous criminals and the only possible social defense against them is to incapacitate them, helps justify the continuation and expansion of the prison system, and prison supporters (carceral feminists) always point to this category of criminals to justify their opposition to the abolition of prison and consider prison as an inevitable answer for sex offenders (Taylor, 2019, pp.17-18).

2-The second reason is that prison, by normalizing sexual violence, constructs sex-delinquent subjects who continue to commit sexual violence after being released from jail. According to Taylor, sexual violence is an inherent feature of carceral institutions (Taylor,2019, pp.108, 17). Taylor argues that prisoners (both ordinary and sex offenders) are exposed to sexual violence in prison. Taylor cites some statistics and studies and the personal experience of prisoners in support of her claim. According to studies, sexual violence is an aspect of prison

life that is almost equally committed by staff and inmates against other inmates (Donaldson, 2001; Lydon, 2016; Arkles, 2014; Arkles, 2015). According to the US Department of Justice, in 2008, 209,000 of the 2.2 million inmates in US prisons were sexually assaulted, significantly more than the 164,000 women and girls over the age of 12 who were sexually assaulted that year outside prisons overall (Gottschalk, 2015, p.137). According to a study by the U.S. Bureau of Justice Statistics, about half of all sexual assaults in U.S. prisons are committed by prison staff, and most victims of sexual assault in men's prisons are LGBTQ prisoners (Taylor, 2019, p.13). Given these facts, Taylor believes that anyone who cares about the prevention of sexual crimes, including rape, should not think about keeping sex offenders in prison, but should rather keep them out of prison. Taylor argues that prison is one of the most potential places for the occurrence of sexual assault. It is the place where the culture of rape is normalized (Taylor, 2019, p.17). For example, the US Federal Bureau of Prisons estimates that between 9 and 20 per cent of inmates are sexually assaulted in prison, while other studies put the rate of sexual assault in prisons at between 22 and 28 per cent (Kupers, 2001, p.111; Paczensky, 2001, p.133). Ex-prisoner's experiences of rape culture in prisons show the intense misogyny of these sex-segregated institutions, where some male inmates inevitably become 'women' after being raped, and to be a woman means to be violable and submissive to men. If a male prisoner is penetrated even once- whether voluntarily or involuntarily- he loses his male status forever (Donaldson, 2001, p.118). Prisoners who are sexually assaulted in men's prisons are usually not only sexually assaulted once, but may be repeatedly gang-raped by inmates and staff, or may be forced to become sex slaves to the inmates who assault them or become slaves of someone who rents them to others (O'Donnell, 2004, pp.241-255). Taylor argues that sexual violence in prisons is a structural problem because, in addition to the prevalence of illegal sexual assaults in prisons, strip searches, cavity searches, pat-downs and frisks of prisoners by prison staff are common in these institutions. However, they are legal, but they are considered additional sexual assault (Taylor, 2019, p.111). She says, "Prison is a site of systematic sexual assault, albeit lawful" (Ibid. p.14). Taylor confirms the studies of some abolitionist feminists like Lydon and Arkles that show the prisons are inherently sexually violent spaces (Lydon, 2016, p.64; Arkles, 2015, p.74). Taylor, like Arkles, believes that due to the problem of smuggling goods, prisons cannot work without strip searches of prisoners. But she argues that the necessity of strip searches of prisoners does not justify this legal sexual assault, but this is another reason to abolish the prison (Taylor, 2019, p.113).

3-2-Feminist-Foucauldian Positive Abolitionist Criminal Strategy: Holly Henderson's Perspective

In her essay, 'Feminism, Foucault, and Rape: a Theory and Politics of Rape Prevention' (2007), Holly Henderson, inspired by Foucault's views on the effects of power on the body and his proposal to desexualize the crime of rape, proposed the criminal strategy of rape prevention based on physical feminism (Henderson, 2007, p.225). Here, inspired by Allegra McLeod's

perspective on prison abolition in his article 'Prison abolition and grounded justice' (2015), we consider the politics proposed by Holly Henderson as a positive prison abolition criminal strategy. What is the meaning of a positive prison abolition strategy? According to McLeod, the prison abolition strategy is more than removing carceral institutions; That is, this strategy, in addition to trying to eliminate the prison institution, also involves resistance to a set of prison norms and disciplinary practices scattered throughout society. McLeod describes the resistance to these disciplinary procedures and the need for such a transformation as a positive prison abolition criminal strategy (McLeod, 2015, pp.1162-1167). McLeod emphasized that prison abolitionism is not just about closing prison doors but must include several positive social strategies. These strategies do not mean simply replacing incarceration with other penal methods, such as global positioning system monitoring, non-custodial criminal supervision, or obligatory registrations of convicts. Positive abolitionist actions that McLeod describes can include providing food and shelter, providing safe houses for people fleeing violence, community mediation practices and expanding restorative conflict resolution tools, urban renewal and 'greening' projects, Vocational training for people at risk of delinquency, new ways of providing of public security and new forms of employment for populations that have a criminal history (Ibid. pp.1161-1162). The effects of these positive prison abolition strategies unfold over time and profoundly transform society. McLeod argued that prison abolition is not a utopian fantasy. On the contrary, simple and realistic positive social measures can eliminate or reduce many crimes and harmful behaviors. McLeod described these measures as 'preventive justice' (Ibid. p.1218). Providing mental health support services, providing rehabilitative treatments, and alternative ways of earning money for people are other ways to prevent many crimes from happening (Ibid. p.1227). Some other social measures that reduce crime are financial investment in the education system instead of the criminal punishment system and investment in urban development and renovation (Ibid. p.1230).

Chloe Taylor has also pointed out some of the positive prison abolition criminal strategies that can prevent the occurrence of sexual violence: measures such as providing educational programs on sexual abuse and sexual consent, providing financial aid and other support for women and mothers so that they can safely flee from situations in which they or their children are sexually abused, or providing economic and mental health support for individuals and families that can prevent all kinds of stress and conflicts that aggravate violence (Taylor, 2019, p.219). According to what has been said and will be explained in the following, the preventive strategy that Holly Henderson has put forward regarding sexual assault is considered a type of positive abolitionist feminist criminal strategy because this strategy tries to prevent the occurrence of rape or reduce its rate, and as a result, reduce the prison sentences for the crime of rape. Henderson proposed this strategy to resist the disciplinary practices that made women a violable subject.

Holly Henderson, in stating her strategy for rape prevention, urged feminism not to theorize rape as an inevitable outcome. According to her, feminism must learn to see sexual assault as a

sequence of processes that can be undermined before it occurs (Henderson, 2007, p.229). Henderson saw sexual assault along the chain of violence in society and considered the starting point of that chain to be the constructed female body or feminine subjectivity. That is, the modern power, with its productive capacity, has made the female body through disciplinary procedures in such a way that this body is naturally susceptible to violence and victimization (Ibid. p.229). Henderson confirmed Foucault's view that the sexualized female body is the main target of the disciplinary techniques of bio-power. Still, this body is where these techniques can be resisted and neutralized. In Henderson's opinion, Foucault's view about the relationship between power and resistance makes it possible to propose a strategy to prevent sexual assault (Ibid.). Inspired by Foucault's view on the agonistic conception of power, Henderson proposed a new feminist narrative of rape, according to which women are not pre-defined victims who are trapped in the clutches of unchangeable unfortunate biology but have agency at the moment of rape (Ibid. p.225). Henderson agreed with McNay's opinion that Foucault's way of thinking about the agonistic conception of power helps to express the politics of feminist agency. McNay says that in Foucault's point of view, "power does not simply repress its unruly forces; rather it incites, instills and produces effects in the body. Repression produces its resistance. There is no relation of power without resistance" (McNay, 1992, p.38).

Following Foucault, Henderson argued that bio-power produces feminine subjectivity through normalization of sexuality; That is, it makes and naturalizes the female body as a sexual object, a vulnerable, weak, and violable body (Henderson, 2007, p.229). However, she confirmed Foucault's view that there is an element of resistance to power in the female body because resistance is located "right at the point where relations of power are exercised" (Foucault, 1980, p.142) and "where there is power, there is resistance" (Foucault, 1978, p.95). Henderson argued that if the female body is the surface on which the principles of a gender hierarchical culture are written and engraved, according to Foucault, this body is also the place of struggle against these principles (Henderson, 2007, p.229). Henderson concluded that resistance should be done against the culture of sexual assault that already introduces women as victims and considers them to have a structural and inherent vulnerability (Ibid. p. 250). Henderson believed that we should resist the view of scholars (Brownmiller, 1975, p.14; Card, 1996, p.5) who think that rape is a biological fact and that women are inherently violable (Henderson, 2007, p.250). She believed that we must resist the conceptualization of rape that is limited to a subject/object (aggressor/victim) violence framework (Ibid.). Henderson believed that Foucault's suggestion of desexualizing the crime of rape and treating it as violence re-conceptualizes rape under the violence framework of subject-subject (aggressor/self-defender). Based on this, a woman is no longer a sexual object and is repositioned in a fight as an equal subject with a man (Ibid. p.232). It is in this position that a woman may be able to prevent rape. What Henderson wanted to say is that Foucault's proposal to desexualize the crime of rape allows for a change in the position of women within the framework of violence. This position change has a great potential to propose a rape prevention strategy (Ibid.). In this strategy, the

framework of violence changes from subject-object to subject-subject (Ibid. p.252). This rape prevention strategy is a situational prevention. This strategy recognizes the strength of a woman's body to prevent a potential aggressor from putting her in a position of sexual and gender passivity, subordination, fear, and weakness. This strategy predicts the possibility that a woman can prevent rape by putting herself in a different position, for example, by creating a fight and by defending herself (self-defense).

Henderson argued that introducing the concept of resistance in a feminist criminal strategy against sexual assault leads to a re-conceptualization of the female body based on agency: this means the subversion or deconstruction of feminine subjectivity. Women's agency is an essential element of a theory of prevention. Recognizing the capacity of resistance in women's bodies gives women the power to use their physical abilities, which is physical feminism (Ibid. p.233). Henderson argued that re-conceptualizing the female body as a powerful body with agency leads to the de-normalization of the dominance/subordination model of gender differentiation and, thus, the subversion of feminine subjectivity (Ibid. p.251). Henderson argued that to empower the female body, the strategy of physical feminism should be strengthened (Ibid. p.251). Henderson supports the view of Martha McCaughey, the theorist of physical feminism, who says that "teaching women to defend themselves changes their bodies against male dominance and turns women into powerful weapons. The physical empowerment of women and the training of self-defense skills rewrite the conditions of sexual assault" (Ibid.; McCaughey, 1996, p.65). In a chapter of her book, Martha McCaughey describes her experiences learning self-defense skills in martial arts classes and training in the use of weapons and recommends that women learn such skills to prevent sexual assault (Ibid. pp. 59-88).

Conclusion

According to the contents explained in this study, it can be concluded that Foucault, by analyzing the bio-power discourse critically, seeks to reveal that bio-power has made naturalized and self-evident assumptions through the disciplinary mechanism of normalization and has legitimized these false and constructed assumptions by the law and through this process has subjugated individuals and has turned them into subjects. Foucault calls for the subversion or deconstruction of subjectivity and fights against subjugation through de-normalization, de-naturalization, de-familiarization, de-legitimization of, and casting doubt on ideological, patriarchal, capitalist, colonial, racist, and sexist assumptions. Foucault considers that the solution to fight against subjugation is resistance, refusal, and intolerance towards these assumptions. As Foucault shows, the primary purpose of bio-power is to control bodies and populations through the production of subjectivity. In his analysis, Foucault shows that bio-power produces subjectivity through some arrangements (sexuality and race), mechanisms (normalization), and disciplinary institutions (prison). The production of subjectivity means the production of controlled, intrinsically pathologized, worthless, inferior, marginalized, and subjugated identities. As Foucault argues, through the construction of sexuality and its

normalization, bio-power produces feminine subjectivity and sexually deviant subjects. Bio-power then, by regulatory mechanism (the law), controls the bodies of these subjects and their behavior. For example, bio-power imprisons the sexually deviant subject through the criminalization and punishment of sexually deviant desires to remove him from society as a dangerous monster and an inferior creature. Furthermore, Foucault argues that bio-power produces delinquent subjects through prison. Prison, as one of the disciplinary institutions of bio-power, produces delinquent subjects through the normalization of violence in the prison environment and thus perpetuates the cycle of violence inside and outside the prison. The process of constructing the sex-delinquent subject and the feminine subjectivity by bio-power and the ways feminists fight against these two forms of subjectivity and subjugation are the principal axes of analysis in abolitionist feminist criminal strategies in dealing with sexual violence against women. Foucault's critical discourse analysis of modern power or bio-power has provided a suitable theoretical framework for abolitionist feminists because, in this analysis, Foucault explains the process of human subjectification by bio-power and proposes strategies of resistance against forms of subjectivity and subjugation. Feminists inspired by Foucault have proposed abolitionist feminist criminal strategies in dealing with sexual violence against women as resistance strategies against the subjectification of sex offenders and women.

This study analyzed two Feminist-Foucauldian abolitionist criminal strategies as two concrete examples. In the first strategy, Chloe Taylor calls for abolishing prisons and applying transformative justice by expressing two important criticisms of bio-power. Inspired by Foucault, Taylor argues that bio-power produces the sexually deviant subject through the normalization of sexuality and prosecutes, tries, and imprisons him by criminalizing his behavior. The bio-power rejects the sexually deviant subject from society through imprisonment as a worthless individual and does not allow him to live to the point of death. In addition, Taylor, along with Foucault, points out that the prison, as one of the institutions of bio-power, produces a sex-delinquent subject through the normalization of sexual violence in the prison environment and causes the continuation of sexual violence inside and outside the prison, because sexual violence in prison is systematic. In prison, all prisoners (whether they are ordinary criminals or sex offenders) are exposed to sexual violence. Sexual violence is a prison culture and is self-evident and accepted by prisoners. An assaulted prisoner, after being released from prison, transmits the prison culture to society and commits sexual violence, and thus, the cycle of sexual violence never ends. Taylor argues that it is not possible to end sexual violence except by subverting the sex-delinquent subject, and this subversion is only possible by abolishing the prison; therefore, using the agonistic concept of power from Foucault's point of view, Taylor proposes a resistance strategy against the prison, which is a negative abolitionist strategy (prison abolition) and supports the application of transformative justice in sexual crimes. In the second strategy, Holly Henderson, inspired by Foucault, criticizes the bio-power for the production of feminine subjectivity through the normalization of sexuality and proposes a positive prison abolition strategy, that is, the strategy of preventing sexual assault through the

promotion of physical feminism. She considers the real solution to prevent sexual assault to be the subversion of feminine subjectivity; it means re-conceptualizing the female body by recognizing the capacity of resistance in the female body, considering the female body as forceful, and recognizing the female agency. Inspired by Foucault, Henderson argues that bio-power produces feminine subjectivity through the disciplinary normalization of sexuality; That is, it makes the woman's body a sexualized, vulnerable, and violable body. Henderson argues that by proposing to desexualize the crime of rape, Foucault urges us to change the position of women in the framework of violence by desexualizing the female body, de-normalizing the female body as a sexual object, and de-naturalizing the violability of the female body; that is to deconstruct feminine subjectivity. This change of position and re-conceptualization of the female body de-normalizes the gender differentiation of dominance/subordination that is naturalized by bio-power.

If we look at Foucault's views on the decriminalization of issues related to sexuality, the abolition of prison, and resistance against forms of subjectivity and the criminal strategies of abolitionist feminists in following these views from the perspective of the knowledge of criminal policy, which studies different forms of social control of the criminal phenomenon (crime and deviance) or different methods of responding to the criminal phenomenon (Delmas-Marty, 1992, p.13), it can be inferred that by proposing a feminist-Foucauldian criminal strategy of abolishing prisons and implementing transformative justice, Taylor calls for the establishment of a stateless model of criminal policy in response to sexual violence against women, which is called the anarchist-libertarian society model [*Le modèle Société libertaire*]. Mireille Delmas-Marty, a contemporary French theorist of criminal policy, classifies official models of criminal policy into state and societal models [*modèles étatiques et sociétaux*] by modeling large systems of criminal policy. Delmas-Marty introduced the anarchist society model as a societal model without a state that seeks to realize the dream of abolishing the criminal punishment system (Ibid. pp.242,245,250). This model of criminal policy has been implemented both in liberal countries (especially the United States and Canada) and in Marxist countries of Eastern Europe (Ibid. p. 251). In the anarchist society model, disputes, crimes, and deviances are addressed outside of state authorities and in community dispute resolution bodies, and grassroots responses (societal responses) are given to crimes and deviances. In this model, two types of community networks [*Réseaux communautaires*] can be created: 1- Comrades' Courts or People's Courts in Marxist countries [*tribunaux de camarades ou tribunaux populaires*] 2- community boards or local community organizations [*communautés de quartier*] in liberal countries (Ibid. p.251). In liberal countries, local community boards, whose members are citizens of the local community, resolve disputes through mediation and peace and reconciliation rituals. The goal of the anarchist society criminal policy model is to rebuild social solidarity and restore accountability in society. The first local community board was established in San Francisco in 1976, with the goal of implementing transformative justice in response to various crimes and deviances (Ibid. pp. 252-253). Therefore, Taylor's abolitionist

feminist criminal strategy is applicable within the framework of the criminal policy model of anarchist-libertarian society. In the case of Henderson's abolitionist criminal strategy, which proposes a situational preventive justice of the type of physical feminism, it can be inferred that in terms of criminal policy knowledge, this strategy is one of the strategies applicable within the self-governing society model [Le modèle Société autogestionnaire]. The self-governing society model is also a societal model in criminal policy which civil society appears in place of the state in resolving disputes (Ibid. p. 224). In the self-governing society model, self-defense networks (Réseaux D'autodefense) are created (Ibid. p. 234). In introducing self-defense networks, Delmas-Marty has introduced self-defense as proactive and reactive strategies in responses to crimes, and has also named situational prevention measures as proactive strategies of self-defense (Ibid. p. 235). Therefore, Henderson's abolitionist feminist criminal strategy is applicable within the framework of the self-governing society criminal policy model. Criminal policymakers can implement Taylor and Henderson's feminist criminal strategies by constructing societal models of criminal policy (anarchist society or self-governing society) in response to sexual violence against women. The important point is that both of these societal models of criminal policy are based on the ideology of anarchism (Ibid. p. 50). Taylor and Henderson's abolitionist strategies and Foucault's recommendations for the abolition of prisons, the decriminalization of sexual violence, and the subversion of subjectivity also have an anarchist basis. Anarchism is an egalitarian tendency. The anarchist movement is anti-state, calls for the establishment of unlimited freedom and complete equality of individuals, opposes the power of law, legislation, and the criminal punishment system, considering that system to be in the interest of the minority ruling society, and calls for the abolition of the criminal punishment system, opposes the criminalization of deviances, and calls for the resolution of crimes and deviances in community boards based on mediation, peace and reconciliation rituals, and grassroots responses. Anarchists are opposed to any form of domination and subjugation that limits human freedom (Ibid. pp. 50-51). Although Foucault does not consider himself to be indebted to any ideology, some scholars have described him as an anarchist based on his thoughts. It seems that Foucault's critical analysis of the neoliberal power discourse is an anarchist analysis because his main issue is the achievement of freedom and equality by humans and resistance against neoliberal power policies (Bio-Power) that limit freedom and equality (Rodríguez, 2016; May, 2009; Barnett, 2016). By comparing the two abolitionist feminist criminal strategies of Taylor and Henderson, it can be said that the resistance strategy proposed by Chloe Taylor (abolition of prison) is more applicable, because the tendency to apply the anarchist society model of criminal policy and implement transformative justice in response to criminal phenomena, especially sexual violence against women, has increased in Western countries in recent years. In addition, Taylor's proposal to abolish the prison institution and use transformative justice as an alternative strategy to criminal justice system in response to sexual crimes is more aligned and convergent with Michel Foucault's call to combat the main

institution of Bio-Power (the institution of prison) that turns humans into subjects and subjugates them.

Disclosure Statement

The authors report there are no competing interests to declare.

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