

## **Introduction**

White middle-class people in the United States (U.S.) have been saying for some time now that because Donald Trump is a president who holds fascist politics, the U.S. is fascist. This implies that the U.S. was a democracy until Trump got into office. However, the United States has never been a democracy; it has always been fascist. The country was built through settler colonialism, genocide, and chattel slavery. Enslaved African people generated the economic foundation of the nation, while Indigenous land was violently stolen to sustain its expansion. From its inception, the state relied on surveillance, punishment, and gendered racial violence to maintain social order. Black womxn<sup>2</sup>—positioned at the intersection of anti-Blackness, misogyny, transmisogyny, and economic exploitation—have been uniquely targeted within this system. Their bodies, identities, and survival strategies have consistently been framed as threats requiring control, discipline, and punishment.

This paper argues that the United States has been perceived as a democracy and not as fascist for so long because white people only think a country is fascist if a government uses state violence and extreme nationalism against other white people. This ignored how governments harm Black and other non-white people. In this paper, I first give a brief historical background of the criminalization of black womxn and fascism. In the second section, I explain the literature on this topic. Third, I will show the theoretical frameworks used for this study. In the fourth section, I explain my methodology for the critical qualitative case study that I conducted. In the fifth section, I explain my findings from my analysis. Lastly, I discuss why the findings show that the criminal legal system must be dismantled.

## **Historical Background**

### ***The Criminalization of Black Womxn***

To understand the criminalization of Black womxn as case studies, we have to know the historical context because the criminalization of Black womxn in the United States is deeply rooted in the legal, economic, and ideological foundations of slavery. From the colonial period forward, Black womxn were excluded from legal personhood while being subjected to intense regulation, surveillance, and punishment. Enslaved Black womxn were legally defined as chattel and property, rendering violence against them permissible while criminalizing their resistance to exploitation and abuse (Gross, 2015; Gross & Hicks, 2016). Colonial laws such as *partus sequitur ventrem*, which determined a child's legal status through the mother, institutionalized the reproductive exploitation of Black womxn and incentivized sexual violence by enslavers.

At the same time, enslaved Black womxn were harshly punished for acts interpreted as defiance, including self-defense against sexual assault, resistance to labor exploitation, or harm against enslavers and overseers. Historical court records demonstrate that Black womxn were prosecuted for serious and capital crimes, often in response to extreme violence, yet were denied the legal protections afforded to white womxn (McNair, 2009). The legal system thus functioned as a tool of domination that criminalized survival while protecting white patriarchal authority.

Following emancipation, the criminalization of Black womxn intensified under Jim Crow through racialized gender ideologies that framed Black womxn as inherently immoral, aggressive, and dangerous. Stereotypes such as the “Jezebel” and later the “angry Black woman” justified disproportionate policing, harsher sentencing, and the denial of victim status for Black womxn (Gross & Hicks, 2016). Black womxn who defended themselves against sexual or domestic violence were frequently punished more severely than white womxn who committed comparable acts, reinforcing what Gross (2015) describes as an exclusionary politics of protection—where Black womxn were subject to punishment without access to legal protection.

In the twentieth and twenty-first centuries, these logics persisted through the expansion of the carceral state. While mass incarceration is often framed as primarily affecting Black men, scholarship demonstrates that Black womxn—particularly poor, queer, disabled, and young Black womxn—have

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<sup>2</sup> Throughout this paper, I will be spelling women the Black feminist way, which is “womxn.” The purpose of the spelling is that the “womxn” includes transgender and queer women in the definition of women.

experienced significant growth in incarceration and state surveillance (Gross & Hicks, 2016). Policies associated with the War on Drugs, “law and order” politics, and zero-tolerance school discipline disproportionately criminalized Black womxn’s responses to trauma, poverty, and structural neglect. Research on Black girls highlights how these dynamics begin early in life. Black girls are disproportionately funneled into the juvenile legal system through what scholars describe as the “sex abuse-to-prison pipeline,” where experiences of sexual violence, running away, and survival behaviors are reframed as delinquency (Davis, 2020). Rather than receiving care or protection, Black girls are punished for their victimization, reinforcing intergenerational patterns of criminalization.

Across historical periods, the criminalization of Black womxn has been inseparable from state-sanctioned violence. Law enforcement, courts, schools, and social service systems operate together to regulate Black womxn’s bodies through punishment, neglect, and coercion. This history reveals that Black womxn’s criminalization is not incidental but structural—embedded in the foundations of American law, citizenship, and governance.

### ***Criminalization Theory***

Criminalization refers to the process through which the state defines certain people, identities, and survival behaviors as “criminal.” This process does not respond to harm; it produces it. Through criminalization, the state transforms victims into offenders, reframes structural violence as individual deviance, and legitimizes punishment as a solution to social, economic, and political problems. Criminalization operates as a gendered-racist social control. It targets Black communities, particularly Black womxn, by policing poverty, self-defense, resistance, and survival. Within a fascist state, criminalization becomes a moral project: marking certain lives as disposable while presenting punishment as necessary, natural, and just.

However, criminalization theory and research usually focus on the criminalization of Black men and white womxn. Intersectional analyses of criminalization are extremely necessary because people with multiple oppressed identities have different lived experiences with criminalization than people with privileged identities. Therefore, focusing on the criminalization of Black men ignores the criminalization of Black womxn.

### **Fascism**

We are told that fascism emerged in the early twentieth century as a political response to economic instability, social crisis, and challenges to hierarchical power structures. Fascism is often associated with European regimes such as Mussolini’s Italy and Nazi Germany, but fascism is more accurately understood as a political logic characterized by authoritarianism, extreme nationalism, the suppression of dissent, and the normalization of state violence (History Rise, n.d.). Rather than addressing structural inequality, fascism reframes social problems as moral failures caused by internal enemies.

According to white historians, fascist movements developed in the aftermath of World War I, amid fears of socialist and anti-capitalist organizing. Fascist leaders promised national renewal through discipline, unity, and obedience to the state, rejecting democracy, pluralism, and egalitarianism as sources of weakness (History Rise, n.d.). Violence was not a deviation from fascism but a central governing tool, used to enforce conformity and eliminate opposition. White historians believe that Benito Mussolini and Adolf Hitler are key leaders of fascism. However, this is a very whitewashed way of looking at fascism. White historians—and the people who believe that fascism is currently coming to the United States—are basically saying that fascism is when white people systematically use state violence, propaganda, authoritarianism, and extreme nationalism to control and harm other white middle-class people.

The Black Radical Tradition has been talking about how the U.S. is fascist for a very long time. In the 1960s and 70s, Black radicals were arguing that the way fascism is used marginalizes Black people’s experiences with oppression. Black radicals were using fascism as an analytical tool to examine their own experiences. Black radical organizations—such as the Black Panther Party—would organize to fight fascism in the United States. Black radical activists recognized fascist tendencies in everyday state practices, including police violence, political repression, and the criminalization of Black survival and dissent (Duke University Press, 2017). However, the Black Radical Tradition tended to center Black men’s

experiences with oppression in the U.S. Black womxn's lived experiences were usually not centered when fascism was being applied to the oppression of Black people in the U.S.

### ***Jason Stanley's Ten Tactics of Fascism Theory***

Jason Stanley, a political theorist at the University of Toronto, coined a theory that identifies ten tactics fascist politics uses. According to Stanley, the individual tactics are not fascist. Fascism happens when all ten tactics are being used (Big Think, 2021; Stanley, 2018). Hierarchy is a tactic that fascist politics use. Hierarchy is the foundation of fascism. Fascist politics justify why some people are at the top and why others are at the bottom. The dominant groups have higher hierarchical status and are seen as 'pure' and 'traditional', while people in non-dominant groups have lower hierarchical status and are seen as deviant, outcasts, and inherent problems of the nation. Since the United States was built, white people—especially white men—have always had the highest hierarchical status.

Victimhood is another tactic that fascist politics use. After creating a hierarchy, fascist politics makes the people at the top of the hierarchical ladder terrified of equality with the people who have a lower status. In the United States, since white people hold the highest status, they are often the most afraid of real equality—especially when it comes to real equality with Black communities.

Fascist politics is all about the people in power not telling the people of the nation the truth, or rather, unreality. The United States has always used this tactic. Slave owners told lies about the nature and humanity of Black people so they could keep owning people for free labor. More recently, the War on Drugs was able to happen because Richard Nixon and Ronald Reagan lied to the entire country. They told the country that a drug epidemic was going on and that it was dangerous. They did this so they could criminalize people for using drugs.

Fascist politics uses a mythic past tactic, which claims that in the past the dominant group ruled over everyone in the nation and that right now that is being threatened. All fascist nations have a "pure" mythic past. The U.S. has always used this tactic. The U.S.'s mythic past is that White Europeans peacefully came to this land in search of freedom and were originally nice to the Indigenous people who were already living, but then the Indigenous people were a threat to the White Europeans, so the Europeans had to slaughter the Indigenous people. In reality, White European colonizers came here to be able to live white supremacist capitalist cis-heteropatriarchal lives. Since the Indigenous people were culturally, socially, and physically different and since the Indigenous people often resisted the colonizers' social order, the colonizers killed the Indigenous people.

Anti-intellectualism is another tactic of fascism. In fascist politics, the people in power are the only ones who can say what is true and what is false. According to fascist politics, science is only useful if it serves and benefits the people in power. This is because research and expertise that expose reality challenge the authority of the people in power. The U.S. has used this tactic because whenever people want critical race theory, radical feminist theories, and different perspectives of history to be incorporated in education, it threatens the false narratives that the people in power want us to believe. This is due to the U.S.'s educational system being built on white supremacist capitalist cis-heteropatriarchy.

Law and order through fascism does not mean equality or justice. Law and order mean that people in the dominant group are law-abiding by nature, and those outside the dominant group must accept a subservient role and be law-abiding. In fascist politics, the people in power cannot violate law and order because it is only meant to control the people in the non-dominant groups. In the U.S., Black womxn have been criminalized for self-defense since chattel slavery. However, the judges, prosecutors, and police officers do not get held accountable for punishing and further traumatizing them. The U.S.'s criminal legal system is built to allow law enforcement to criminalize and harm with no consequences for the harm they cause.

Propaganda is a tactic that fascist politics uses. Fascist propaganda is based on a friend/enemy distinction. The enemy threatens the very existence of the dominant group and its traditions. Fascist propaganda is structured so that the enemy is fundamentally opposed to the nation. The United States fascist propaganda labels non-white, non-rich, non-heterosexual people as the enemy and the "others." During chattel slavery, U.S. fascist propaganda portrayed Black people as inherently inferior beings that needed to be controlled. During the War on Drugs era, U.S. fascist propaganda portrayed Black people as

dangerous drug addicts who just care about getting high and causing harm to people. During the 9/11 era, U.S. fascist propaganda portrayed Brown people as violent people who want to bomb, rob, and harm white Americans.

Another fascist tactic is *Arbeit Macht Frei* (“Work shall make you free”). According to this tactic, members of the non-dominant group are seen as inherently lazy people who must be put to work. Since those in power see non-dominant groups as lazy, putting them to work gives them a work ethic. In fascist politics, to be valued is to be capable of “hard work.” The U.S. has always used this tactic. White people justified chattel slavery because they convinced themselves that Black people were innately inferior beings, beast-like creatures, that are lazy and stupid and have souls that must be saved by putting them to work.

Sodom and Gomorrah is another fascist tactic that is used. Fascist politics have a rural/urban divide. Urban areas are seen as dangerous, dirty, and “filled with criminals and lazy people.” In fascist politics, rural areas are where the elites congregate and where “real” work is getting done. During the War on Drugs era, Ronald Reagan said that crack cocaine was an “inner city epidemic.” Urban Black communities were portrayed as out of control. Ronald Reagan also created the Welfare Queen stereotype, which portrayed urban Black womxn as lazy people who use the government's money instead of doing hard work.

Lastly, fascism uses sexual anxiety as a tactic. In fascist politics, white supremacist capitalist cis-heteropatriarchy is at the foundation. Anything that threatens the traditional patriarchal norms undermines fascism's definition of strength (Stanley, 2018). Fascist politics creates panic around anything and anyone that deviates from the traditional white supremacist capitalist cis-heteropatriarchal norms—such as the traditional family. When the White colonizers came to this land, one of the first things they did was enforce patriarchal norms onto Indigenous people. Those same colonizers used legal power and stereotypes—like the Black Jezebel—to hypersexualize Black womxn’s bodies. During Reconstruction times, white Americans used the sexual anxiety tactic, also on Black men’s bodies, by portraying them as rapists.

## **Theoretical Frameworks**

### ***The Black Radical Tradition (BRT)***

The Black Radical Tradition (BRT) provides the foundational lens for understanding resistance to this fascist order. The BRT is a lineage of Black political thought and struggle that rejects the legitimacy of racist state power and refuses reformist solutions rooted in capitalism, policing, and prisons. Rather than seeking inclusion within existing structures, the BRT exposes those structures as inherently violent and colonial.

Black struggle, within this tradition, does not merely respond to oppression—it reveals the state’s true foundations. Policing, prisons, and criminal law emerge not as neutral institutions but as tools developed to manage Black life, suppress resistance, and preserve racial capitalism. The BRT therefore frames abolition not as an abstract ideal but as a historically grounded political necessity.

### ***Black Feminist Abolition (BFA)***

Black Feminist Abolition (BFA) emerges from the Black Radical Tradition while centering Black feminism as its analytic core. BFA emphasizes how race, gender, class, sexuality, and state violence intersect to shape Black womxn’s lived experiences with the criminal legal system. It rejects single-axis analyses that isolate race or gender and instead insists that oppression operates through overlapping systems. BFA is also about creating care-based systems while dismantling the oppressive systems. Since prisons and police do not keep Black womxn safe, we must build systems that keep us safe with love and care. This framework foregrounds how Black womxn are simultaneously criminalized, victimized, and erased—particularly in cases involving survival, self-defense, poverty, caregiving, and interpersonal violence. Black Feminist Abolition exposes how carceral responses reproduce harm rather than resolve it, especially for those already positioned at the margins. Importantly, BFA also centers Black womxn’s knowledge, survival strategies, and resistance as sources of theory, not just data.

## Literature Review

There is a lot of BFA scholarship that captures the lived experiences that Black womxn have with the United States' criminal legal system. Beth Richie (2012) offers a foundational intersectional analysis of how Black womxn experience violent victimization throughout their lives, through an analytical tool she created called *the Violent Matrix* (Table 1).

The Violent Matrix captures the different types of violence (i.e., physical assault, sexual assault, and social disenfranchisement). Social disenfranchisement is when society puts Black womxn in vulnerable situations. Central to social disenfranchisement is "social inequality, systemic abuse, and state violence" (Richie, 2022, p.91). The Violent Matrix also shows the different contexts (i.e, households, the community, and the social sphere) that Black womxn experience violent victimization in. The social sphere encompasses the criminal legal system, institutions, and the social conditions that cause harm to Black womxn (Richie, 2012; Richie, 2022). The Violent Matrix shows that Black womxn's experiences with violence tend to be different than white womxn's experiences because Black womxn experience harm and then are further harmed by the criminal legal system by being criminalized.

BFA scholarship has also examined how Black womxn have historically been excluded from being protected in the United States. Mariame Kaba (2021) explains that this is because Black womxn do not fit the perfect-victim narrative of the criminal legal system. According to Kaba, the perfect-victim narrative is made for white womxn. It portrayed all victims as being "innocent" and "respectable" people who do not fit

Table 1  
The Violence Matrix

The Violence Matrix	Physical Assault	Sexual Assault	Social Disenfranchisement
Intimate Households	1. Direct physical assaults by intimate partners or household members, victim retaliation	2. Sexual aggression by intimate partners or household members	3. Emotional abuse and manipulation by intimate partners or household members, forced use of drugs and alcohol, isolation, economic abuse
Community	4. Assaults by neighbors, lack of bystander intervention, availability of weapons	5. Sexual harassment, acquaintance rape, gang rape, trafficking into the sex industry	6. Degrading comments, hostile neighborhood conditions, hostile or unresponsive school and work environments, residential segregation, lack of social capital, threat of violence
Social Sphere	7. Stranger assault, state violence (such as police), lack of gun control policies	8. Stranger rape, coerced sterilization, unwanted exposure to pornography	9. Negative media images, denial of significance of victimization, degrading encounters with religious institutions and public agencies, victim blaming, lack of affordable housing, lack of employment and health care, mistrust of public agencies, poverty

back, use drugs, or have prior contact with the criminal legal system. Black womxn are not seen as perfect victims because the narrative portrays white womxn as the only victims. Furthermore, Gross (2015) argues that Black womxn have been excluded from "the politics of protection." Since the U.S. has controlled Black womanhood since its founding, Black womxn are not included in the politics of protection. Black womxn are seen as inferior people who make irrational decisions that they should be punished for. Kaba (2021), therefore, argues that the criminal legal system must be dismantled, since it will never be able to see Black womxn as humans that must be protected from harm.

BFA argues that there is a through-line from chattel slavery to mass incarceration. In other words,

chattel slavery, lynching, the War on Drugs, and mass incarceration are directly linked to each other. Angela Y. Davis (2003) calls the institutions of lynching, segregation, and the criminal legal system post-slavery institutions. This means that not only did these institutions come after chattel slavery was abolished, but these institutions also use the same oppressive structures that chattel slavery used. Black people were able to be lynched, segregated, and imprisoned because of racism, classism, sexism, etc., just like chattel slavery. Therefore, the 13th Amendment did not solve the big issue, and neither did prisons and police.

Collectively, these scholars establish that the criminal legal system criminalizes Black womxn through intersecting systems of racism, patriarchy, and state violence. However, a critical gap remains in explicitly theorizing how American fascism—characterized by authoritarianism, state violence, surveillance, punishment, and the suppression of marginalized groups—produces and legitimizes this criminalization. The existing literature identifies the *outcomes* of state violence but does not fully name the *political condition* that enables it. This study fills that gap by arguing that the criminalization of Black womxn must be understood as a direct consequence of the United States' fascist orientation. By naming fascism as the governing logic that renders Black womxn disposable, this research extends Black feminist abolitionist scholarship beyond critiques of carceral logic and reform, offering a political analysis that explains *why* Black womxn are systematically criminalized. In doing so, this study contributes to abolitionist feminism by linking the everyday violence of the criminal legal system to the broader authoritarian structures that sustain it.

### ***Data & Methodology***

This study employs a qualitative research design using a case study methodology to examine the role of white supremacist capitalist cis-heteropatriarchy in the criminalization of Black womxn and their lived experiences within the prison-industrial complex (PIC). A qualitative approach is appropriate given the study's focus on meaning, power, structural violence, and lived experience rather than measurement or prediction. The case study method enables an in-depth examination of specific historical and contemporary cases to analyze how criminalization operates over time and across social contexts.

Cases were purposely selected to capture both historical continuity and variation in the criminalization of Black womxn across time and gender identity. The study includes historical cases (Celia; Frances Thompson), recent historical cases (Angela Y. Davis; Marsha P. Johnson), and contemporary cases (Cyntoia Brown; CeCe McDonald). This selection supports a longitudinal examination of how systems of punishment, surveillance, and social control adapt across historical periods while maintaining racialized and gendered logics.

The study examines six cases that reflect distinct historical periods and forms of criminalization.

1. Celia (1835–1855), an enslaved Black woman executed after killing her enslaver, a case that reflects the criminalization of self-defense under slavery.
2. Frances Thompson (1840–1876), a Black transgender woman who testified about sexual violence during the Memphis Massacre and was later criminalized in ways that undermined her credibility and survival.
3. Angela Y. Davis (1944–present), a Black radical scholar and organizer who faced criminal charges and state pursuit in connection with political conflict and activism.
4. Marsha P. Johnson (1945–1992), a Black transgender activist repeatedly targeted by police, whose death was treated with institutional dismissal.
5. Cyntoia Brown (1988–present), a Black girl who survived trafficking and was criminalized after killing a man who purchased her for sex.
6. CeCe McDonald (1989–present), a Black transgender woman who was incarcerated after defending herself during a racist and transphobic attack.

Data for this study are drawn from non-academic secondary sources, including newspaper articles, online magazine articles, books, and publicly available historical records. These sources were intentionally selected to center narratives and experiences that are frequently excluded from traditional academic and legal archives. Emphasizing non-academic sources foregrounds lived experience as a legitimate form of

knowledge and aligns with Black feminist and abolitionist methodological commitments that challenge epistemic hierarchies and institutional gatekeeping.

Data analysis combines chronological and thematic approaches. First, cases are examined in chronological order to trace the historical development of criminalization from slavery through the contemporary prison-industrial complex. This approach highlights how legal, political, and social institutions reproduce racialized and gendered violence over time despite changes in form and context.

Second, a thematic analysis is conducted across all cases to identify recurring patterns related to criminalization, state violence, punishment, gender regulation, and resistance. Themes are developed inductively from the data and interpreted through the study's theoretical frameworks, including Black feminist abolition, the Black radical tradition, fascism, and criminalization theory. This analytic strategy supports cross-case comparison while remaining attentive to historical specificity.

To examine the role of gender identity in criminalization, cases are grouped into cisgender and transgender Black womxn. Cisgender cases include Celia, Angela Y. Davis, and Cyntoia Brown, while transgender cases include Frances Thompson, Marsha P. Johnson, and CeCe McDonald. This comparative framework is used to examine how transmisogyny intensifies criminalization within the PIC while remaining structurally linked to the broader criminalization of Black womxn.

### ***Analysis***

Across the reviewed cases, a consistent pattern emerges in which Black womxn are criminalized not primarily for individual acts, but for existing at the intersection of race, gender, sexuality, and resistance within a white supremacist capitalist cis-heteropatriarchal system. Whether situated in slavery, the mid-twentieth century, or the contemporary prison-industrial complex (PIC), the cases demonstrate how criminalization functions as a tool of social control rather than justice.

### ***Chronological Analysis***

In the historical cases (i.e., Celia and Frances Thompson), criminalization is directly tied to slavery and its immediate afterlives. Celia was born into chattel slavery around 1835. There is not a lot of information on her early years, but during the summer of 1850, she was enslaved by Robert Newsom. She was 14-years-old when he purchased her. He started raping her on the way to their farm, and he raped her for the next five years. Between 1851 and 1855, Celia gave birth to two babies, and her enslaver was the father of the second. On June 23, 1855, she killed Newsom, and she quickly confessed and explained that she was protecting herself against being raped. She was executed by the criminal legal system on December 21, 1855. Similarly, Frances Thompson's survival following racial and sexual violence during the Memphis riots is met not with protection but with arrest and imprisonment due to her gender identity. Frances Thompson was born into chattel slavery around 1840. She was recognized as a girl from a very young age; her enslavers recognized her as such and allowed her to wear feminine clothing. She identified as disabled because she had cancer in her foot, which made it hard for her to walk and do other everyday things. Frances and her 16-year-old roommate, Lucy Smith, were victims of the Memphis Massacre of 1866. Seven white men came into their home and raped both of them. Both Frances and Lucy testified before Congress, explaining what happened to them during the Massacre. Frances is the first transgender person in United States history to testify before Congress. Ten years later, on July 10, 1876, she was arrested for "cross-dressing" and was sentenced to 100 days on a chain gang.

The recent historical cases (i.e., Angela Y. Davis and Marsha P. Johnson) show that even though chattel slavery was abolished in 1865, it did not dismantle oppression at all. The post-Reconstruction era and the civil rights era in the United States were just as oppressive as it was during chattel slavery, but in different ways. Angela Davis was born in 1944. She grew up in Birmingham, Alabama, which was a middle-class Black neighborhood. Her neighborhood was often referred to as "Dynamite Hill" because the Ku Klux Klan (KKK) would constantly bomb houses in her neighborhood. These childhood experiences showed her that protecting herself as a Black woman in this country is very important, so she owned guns during her adult life. In the late 1960s, she joined the Black Panthers and the Che-Lumuba Club, an all-black branch of the Communist Party. In 1970, when Angela was 26 years old, she was charged with murder, kidnapping, and conspiracy after her gun was involved in a courtroom murder. Even though she

had no idea that her guns were being used and had no involvement in the incident, she was arrested and tried as an accomplice to murder. Marsha P. Johnson was born in 1945 in Elizabeth, New Jersey. She started to wear female-like clothing around the age of five years old, but she stopped after getting made fun of and after being raped by a 13-year-old boy. Once she graduated from high school, she moved to New York with \$15 and a bag of clothes. When she moved, she started wearing feminine clothing for the rest of her life. She made money through sex work, for which she was arrested a ton of times. In an interview, she states that she stopped counting how many times she was arrested after the one hundredth time. Marsha and her best friend Sylvia Rivera were at the forefront of the Stonewall uprising. Even though she fought really hard for gay rights, the gay rights movement was extremely transphobic. They did not care that a Black transgender woman put her life on the line for their freedom during Stonewall.

The criminalization that was experienced in the contemporary cases (i.e., Cyntoia Brown and Cece McDonald) shows how Black womxn in the twenty-first century are still criminalized for protecting themselves from dangerous situations. Cyntoia Brown was born on January 29, 1988, in Fort Campbell, Kentucky. Her biological mother put her up for adoption when she was a baby because she was struggling to raise an infant. Cyntoia dropped out of elementary school and experienced many encounters with the juvenile court system. When she was 16 years old, she started running away from her adoptive home. She would stay at friends' houses until she met a 24-year-old man nicknamed "Kut Throat." They started dating, but he would be physically and sexually abusive, and he eventually forced her into prostitution. On August 6, 2004, a 43-year-old man picked up 16-year-old Cyntoia for sex. He was violent with her at his house, and when she got scared that he was going to shoot her, she reached into her purse and shot him first. Cyntoia was arrested, tried as an adult, and sentenced to life in prison. Cece McDonald was born on May 26, 1989, in Chicago, Illinois. She came out as transgender as a young teenager. She experienced physical abuse from her family members and her classmates because they could not accept her gender identity and sexuality. After being physically assaulted by her uncle, she ran away from home at 14 years old. She experienced homelessness until she was 22 years old. Around 2011, she went to Minneapolis Community and Technical College to study fashion and to move to Minneapolis so she could experience less homophobia and transphobia. However, that year she defended herself and her friends from a group of racist and transphobic white people who were physically and verbally harassing them. Cece was arrested and took a plea deal of 41 months in a men's prison.

## **Thematic Analysis**

### ***Criminalization of Self-Defense Throughout History***

Since fascism and fascist theory usually only analyze European countries, it does not capture the fact that the United States of America has always criminalized Black womxn for defending their bodies against sexual violence. Celia, Cyntoia Brown, and Cece McDonald are examples of this, even though they happened in completely different time periods. In all of their cases, they were in danger, with no one protecting them except themselves, and were criminalized for it. Cece McDonald was criminalized for protecting herself and her friends against racist and transphobic people. Instead of caring that Cece—a black transgender woman—was trying to get away from the violent group of white people that had already thrown a glass at her and sliced her cheek, the criminal legal system punished her and forced her to spend her time in a men's prison.

In Celia and Cyntoia's cases, the criminal legal system did not believe that either of them had the right to defend their bodies from sexual violence. Instead of being seen as a survivor of sexual violence, they were arrested, tried, convicted, and sentenced. Celia was executed by hanging in 1855 for killing her enslaver at the age of 19 years old. When she confessed to killing him, she explained that she wanted to hurt him to make him stop raping her. Weeks before she killed him, Celia begged Newsom's daughters to talk to him and make him stop raping her, but they did nothing for her. She also begged Newsom herself, and he did not listen. On the night of June 23, 1855, Newsom came to her cabin and made advances toward her, and she grabbed a long stick and hit him over the head twice, killing him. Celia quickly confessed to killing him, but she explained that she did not mean to kill him; she just wanted to hurt him to stop him from raping her. During her trial, the judge rejected all 9 of the jury instructions the defense proposed. One of the proposals was that the jury find Celia not guilty if the jury believed that she killed her enslaver to try

to stop his sexual advances. The judge instructed the jury that “the defendant had no right to kill [Newsom] because he came into her cabin and was talking to her about having intercourse with her or anything else” (Linder, n.d.). Celia was quickly convicted of first-degree murder and was sentenced to death by hanging. She gave birth to a stillborn child while she was in jail awaiting her execution. Cyntoia Brown was sentenced to life in prison in 2006 for killing an older man who bought her for sex at sixteen years old. She was picked up by a 43-year-old man for sex. He took her to his house and showed her his gun collection. When they went to his bed, he started to be rough with her genitals, and when he went to reach under his bed, Cyntoia got scared that he was grabbing a gun, and she reached into her purse and shot him. The prosecution portrayed her as a poor Black teen girl who wanted to rob an older man. In reality, she was a Black teen girl who was forced into sex work by her abusive boyfriend. The prosecution was questioning Cyntoia on why she got in the car with him in the first place, instead of questioning why a 43-year-old man is engaging in sexual acts with a teenager.

Celia and Cyntoia had similar experiences with the United States’ criminal legal system. They were both 15 and 16 years old when they were criminalized. They were also criminalized for situations that society put them in. Celia was born a Black woman in 1835, and Black womxn during that time were enslaved. Society labeled Black people as enslaved, and society is the one who made it legal for Black enslaved womxn to be raped, but they criminalize Celia for it. Cyntoia grew up poor. She was in and out of juvenile centers for being on the street. She met her boyfriend—who forced her into sex work—because she had no one in life, and the criminal legal system criminalized her for that.

### ***Black Feminist Abolition: Beth E. Richie’s Violence Matrix***

Criminalization must be examined through an intersectional Black feminist framework. Intersectionality argues that Black women face multiple forms of oppression all at once, which makes their lived experiences different than Black men’s and white womxn’s. Beth E. Richie’s *The Violence Matrix* is an intersectional way of examining Black womxn’s experiences with violent victimization. It captures the fact that Black womxn tend to experience multiple forms of violence in different contexts throughout their lives.

### ***Sexual Assault and The Community***

Frances Thompson is an example of a Black woman experiencing sexual assault in their community. Frances’s experience with the Memphis Massacre of 1866 is an example of sexual assault (i.e., types of violent victimization) happening in the community (context of the violence). On May 1, 1866, the Memphis Massacre of 1866 began. It is rumored that the city police sparked a fight with Black federal soldiers, and the fight quickly turned into a massacre (Davis, 2024). Every black church and schoolhouse was destroyed, and hundreds of homes and businesses were robbed and burned. 46 Black people and 2 white people were killed, 285 people were injured, and at least 5 black womxn were raped. Frances and her roommate named Lucy Smith, were two of the five womxn who were raped. Frances and Lucy testified before Congress and described their experiences during the Massacre. They explained that during the massacre, 7 men came into their home—2 of the men were police officers—and demanded that they cook them dinner. Frances and Lucy cooked them dinner, and the men ate their dinner. After they ate, they demanded that Frances and Lucy must have sex with them. Frances told them no, and they pulled their pistols out and threatened to shoot them and burn the house down. They then raped Frances and Lucy. The men were at their house for nearly four hours before they robbed it. Before leaving their house, the men told Frances and Lucy that they were going to kill all the Black people in the town. Frances was a Black transgender woman who was raped by racist and sexist white men in her own home.

### ***Physical Assault and the Community, Social Disenfranchisement and The Social Sphere***

The Violence Matrix also captures Cece’s experiences with violent victimization and being criminalized. On June 5, 2011, Cece and four of her friends were walking to the grocery store. On their walk, they passed a bar, and a small group of white people was standing outside that bar. That group of white people starts to harass Cece and her friends by saying racist, homophobic, and transphobic things to them. They threw a glass cup at Cece, which cut her cheek. After that, a fight broke out, and Cece was

followed by one of the white men in the group, Dean Schmitz. Scared for her life, she pulled out scissors from her purse and stabbed him.

The social sphere harmed Cece because the criminal legal system criminalized her for protecting herself and her friends. When the police came, she explained that she stabbed him in self-defense, but they arrested her right away anyway. She took a plea deal for 41 months in a men's prison. She experienced social disenfranchisement because the United States's racist, homophobic, and transphobic conditions are what put her in that unsafe situation. Cece was physically assaulted by racist and transphobic white people who were verbally harassing her. Society put Cece in the situation of being around oppressive, violent people. Then, the social sphere criminalized her for defending herself against oppressive people that society created.

### ***Additional Layers of Intersectionality***

Intersectionality is also important because when comparing cisgender and transgender cases, the analysis reveals that transmisogyny and transphobia intensify criminalization, but do not operate separately from racialized patriarchy. Transgender Black womxn experience heightened vulnerability to policing, incarceration, and legal erasure, as seen in the cases of Frances Thompson, Marsha P. Johnson, and Cece McDonald. However, the core mechanism remains the same across all cases: the state defines Black womxn as inherently suspect, undeserving of protection, and in need of control.

Frances Thompson was criminalized for "cross-dressing," which is a criminal charge that only transgender and gender-nonconforming people experience. In other words, she was criminalized for not identifying with the sex she was assigned at birth. It is unclear how exactly the police became aware that Frances was assigned male at birth, but after they arrested her, they forced her to sit through four different physicians doing medical examinations to see her genitals. This is the state invading Frances' privacy and controlling her body. Frances was understandably angry about the process, so she told the officers that after her sentence was complete, she would leave Memphis. In reaction to her comment about leaving, the police took her to a photostudio and made her take photos in both female-like clothing and male-like clothing (Figure 1; Davis, 2024). They took these pictures to hang up on their wall for infamous "criminals" and to send them to other precincts. The court fined Frances \$50 for the "cross-dressing" charge, but because she could not pay, she was sentenced to 100 days in the chain gang. While she was in the chain gang, crowds of people would come to see her, ask her questions, and make rude comments. Newspapers also used her "cross-dressing" charge to say that she lied about being raped during the Memphis Massacre.

Marsha P. Johnson was criminalized many times for sex work and for her gender and sexual expressions. According to Marsha, she stopped counting how many times she had been arrested after the 100th time. When Marsha moved to New York City after she graduated from high school, she lived in poverty. She slept at friends' houses, since she did not have a house or apartment of her own. She went into sex work so she could make money. In other words, she went to sex work to survive in this society, and understood that she would be arrested and thrown in jail for days. This had happened to her so many times throughout her life. She was at the forefront of the Stonewall Uprising because she was not afraid of the



Press images of Thompson misspell her first name.

police. As a Black transgender woman, she felt like she had nothing to lose, so she fought back against the police with no hesitation. The police were very rough with her since they saw her as completely disposable, since she was Black, transgender, and a woman.

Cece McDonald was criminalized for defending herself and her friends against a group of racist and transphobic white people. She only stabbed the man after her face was sliced by the glass that was brown at her, Dean—a white, racist, and transphobic man—was following her. She knew he did not care for her safety, so she defended herself. Not only did the criminal legal system criminalize her, but the system also forced her into a men's prison. The criminal legal system does not care about gender identity. Whatever sex a person is assigned at birth is how they will be treated and perceived by the criminal legal system.

### **Discussion**

The findings of this study demonstrate that the criminalization of Black womxn is not a historical anomaly, a series of isolated injustices, or the result of individual failures within the criminal legal system. Rather, the cases analyzed here reveal a continuous and intentional pattern of control that spans from chattel slavery to the contemporary prison-industrial complex. Across time, Black womxn have been criminalized for defending their bodies, asserting autonomy, resisting state violence, and surviving under conditions of racialized and gendered oppression. These patterns support the central argument of this paper: the criminalization of Black womxn is a core function of the United States' fascist social structure. Examining these cases together reveals that the criminal legal system does not respond to harm but actively produces it. In each instance, the state reframes Black womxn's victimization as criminal behavior, transforming acts of self-defense, political resistance, and survival into punishable offenses. This process is evident in the execution of Celia for resisting sexual violence under slavery, the imprisonment and discrediting of Frances Thompson following racial terror, the targeting of Angela Y. Davis for her political organizing, the abandonment and criminal suspicion surrounding Marsha P. Johnson's death, and the incarceration of Cyntoia Brown and CeCe McDonald for defending themselves against gendered and racialized violence. Together, these cases illustrate that criminalization operates as a technology of domination rather than justice.

The comparative analysis of cisgender and transgender Black womxn further demonstrates that while transmisogyny intensifies vulnerability to policing, incarceration, and legal erasure, it does not constitute a separate system of oppression. Instead, transmisogyny operates alongside racism and patriarchy within the same fascist framework that renders all Black womxn disposable. The cases of Frances Thompson, Marsha P. Johnson, and CeCe McDonald reveal how gender nonconformity heightens

surveillance and punishment, yet their treatment remains structurally connected to the broader criminalization of Black womxn as a group. This finding reinforces Black feminist abolitionist claims that liberation cannot be achieved through single-axis analyses or reforms that fail to address the totality and root of state violence—white supremacist capitalist cis-heteropatriarchy.

Situating these findings within a fascist framework clarifies why these patterns persist despite shifts in legal systems, political rhetoric, and formal rights. Fascism, understood as a governing logic rooted in authoritarianism, racial hierarchy, gender regulation, and the normalization of state violence, provides the political conditions necessary for the continued punishment of Black survival. The emphasis on “law and order,” the construction of internal enemies, and the framing of punishment as protection all function to legitimize violence against Black womxn while presenting the state as neutral and necessary. These practices reflect the consistent operation of a fascist social order that relies on criminalization to maintain control.

These findings challenge reformist approaches to justice. The U.S. was built on white supremacist capitalist cis-heteropatriarchy, which means that Black womxn are supposed to be oppressed in this country. The criminal legal system is not supposed to protect and criminalize Black womxn. We cannot seek justice from an oppressive system. If people cared about real justice, they would want patriarchy, racism, capitalism, colonialism, and all oppressive systems dismantled. Since the criminal legal system’s primary function is to control, punish, and harm marginalized communities—particularly Black womxn—then reforms that policing and prisons cannot produce justice. The consistency of criminalization across historical periods demonstrates that the system is functioning as designed, not malfunctioning. As such, abolition emerges not as an abstract or utopian ideal but as the only viable response to a system rooted in fascist governance. Without abolition, the conditions that render Black womxn criminal will remain intact, and the cycle of punishment will continue under the guise of justice.

By centering Black womxn’s lived experiences as sites of knowledge, this study contributes to abolitionist scholarship by foregrounding survival and resistance as analytical tools rather than pathologies to be managed. The use of qualitative case studies grounded in historical and contemporary narratives challenges dominant criminological approaches that prioritize state archives and legal frameworks while silencing those most impacted by violence. This approach aligns with Black feminist abolitionist commitments to epistemic justice and to recognizing marginalized communities as theorists of their own lives. I am also contributing to literature on fascist theory, since fascist theory does not include the oppression that Black people—especially Black womxn—have always faced in the U.S.

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