

ANNIE COSSINS



FEMALE CRIMINALITY

Infanticide, Moral Panics
and The Female Body



Female Criminality

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Female Criminality

Infanticide, Moral Panics and The Female Body

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Contents

<i>List of Tables</i>	vi
<i>List of Abbreviations</i>	vii
1 Introduction: ‘Dumb Brutes’ and Murderous Mothers	1
2 The Moral Panic Concept: Its History, Social Utility and Ability to Interpret Past Events	16
3 Regulation of the Female Body: Was Infanticide a Moral Panic of the Nineteenth Century?	57
4 The Moral Regulation of Infanticidal Mothers	168
PART 1: Introduction	168
PART 2: The female body on trial in the twentieth century	214
5 The Implications of the Body for Female Criminality	257
<i>Notes</i>	262
<i>Bibliography</i>	270
<i>Index</i>	292

Tables

3.1	Average infant mortality rates, 0–5 years per 1,000 living, 1871–1880	71
3.2	Child deaths from homicide according to age in England and Wales, 1863–1887	78
3.3	Reproductive offences in England and Wales, 1860s	80
3.4	Diseases causing child deaths in London in 1865	120
3.5	The ages at which the women and girls received into the homes of the rescue society were first led astray	146
4.1	Number of child deaths in the UK, 0–4 years 2000–2010	171
4.2	Relationship of suspect to victims of homicide under the age of 16 years, 2007–2008 to 2011–2012 (UK)	173

Abbreviations

BMJ	<i>British Medical Journal</i>
CALPWIW	Committee for Amending the Law in Points Wherein it is Injurious to Women
HDSSA	Health Department of the Social Science Association
ILPS	Infant Life Protection Society
IPN	<i>Illustrated Police News</i>
NAPSS	National Association for the Promotion of Social Science
Ofsted	Office for Standards in Education, Children's Services and Skills
PMG	<i>Pall Mall Gazette</i>
SCPIL	Select Committee on the Protection of Infant Life
SIDS	Sudden Infant Death Syndrome
WHO-UNICEF	World Health Organisation-United Nations International Children's Emergency Fund

1

Introduction: ‘Dumb Brutes’ and Murderous Mothers

*Will the hen drive the chicken from under wing
And leave it to perish, the poor little thing,
Or will dumb brutes desert their offspring, ah! no,
What proofs of affection animals show.
Yet mothers alas their children will slay,
Or else pay another to put it away.¹*

This introductory chapter launches a journey into the role of the sexed female body (defined below) in the criminalisation of infanticide and in the moral regulation of women in the nineteenth and twentieth centuries. It also investigates the female body as a construct in two different historical periods when maternal infanticide became major public concerns: 1861–1870 and 1998–2003.

This book focuses on the moral regulation of women at a time when infanticide reached an all-time high, an apotheosis that, seen through twenty-first-century eyes, reveals the oppressive conditions of working-class women’s lives. For those who were prosecuted, their story was one of moral humiliation and moral triumph for society at large. The last stanza of a broadside ballad, quoted above and published in 1871 in response to one of the most infamous baby-farming cases in British history, tells a moral tale about human and animal mothers and those who were paid to put children away. They were called baby-farmers, she-devils or fell-butchers. Many people have never heard the term ‘baby-farming’, and cannot understand how a mother could sell her child to a stranger who, after pocketing the money, sometimes killed the child or neglectfully allowed it to die a slow, lingering death from starvation. It was common for baby-farmers to have a room full of unwanted babies, sometimes using adopted toddlers as child-carers.

Some, however, tried to keep their adopted children alive against all the odds of cholera, congenital syphilis, diphtheria, dysentery and other common diseases, since a healthy, unwanted child was a commodity sought after by cashed-up, childless couples.

While the secretive trade in children during the nineteenth century was legal, the question is why thousands of children were sold or killed each year in England and Wales. To answer that, and to consider the social implications for women tainted by unmarried sex and the baby trade, this book will document a period characterised by indifferent governments, sexed concepts of morality and a morally punitive society by charting the development of the long-term moral campaign surrounding the practice of baby-farming from 1861 to 1872.

But why study infanticide? An investigation of these years reveals that it provoked the first moral campaign in Britain in relation to infant deaths in out-of-home care, even though infant mortality was excessively high as a result of disease and poverty. Infanticide resonated in a society that had been, generally, indifferent to infant mortality because infanticidal mothers were usually young, unmarried and working-class. In the middle of the nineteenth century, this combination created an explosive moral discourse that centred first on irresponsible motherhood and women's innate immorality, then grew into an attack on all working-class women involved in out-of-home care—from the legitimate to the murderous. At the time, infanticide was considered to be the most 'horrible and hellish crime that can be committed by a human being' (*Reynolds's Newspaper*, 6/8/1865, p.1).

Two case studies—the trials of Charlotte Winsor and Margaret Waters—will reveal the social reality of illegitimacy in terms of its economic impact on women and the role played by the media in what appears to have been the first moral panic concerning children in Britain, as that term is defined by Cohen (1972) and revised by Critcher (2003). At a time when prosecutions of infanticide were largely unsuccessful because of juries' reluctance to convict, the cases that attracted the most attention involved not infanticidal mothers but carers, known as baby-farmers, who were unrelated to the child. These cases were not representative of all infanticide cases even if they amounted to the first police attempt to deal with a problem that was not amenable to criminalisation or criminal sanctions.² That large numbers of illegitimate babies were dying is not in question; that they were dying as a result of murder was the incorrect perception that was disseminated at the time.

A history of a particular crime such as infanticide is also a history of social life, revealing much about class and gender at a specific

period. This book is not intended to be a complete historical account of infanticide, since this lengthy history is covered in many other publications, such as Hoffer and Hull (1981), Rose (1986) and Kilday (2013). Previous work (Carlen, 1983; Edwards, 1984; Heidensohn, 1985; Worrall, 1990; Wilczynski, 1991) has not interrogated the historical package of laws governing infanticide as a form of moral regulation and the role of the sexed female body in that moral regulation. Unlike other publications, this social analysis of the moral regulation of women reveals the relationships between men and women, the working and middle classes, the medical establishment and midwives, moral entrepreneurs and the media (Cohen, 1972), and between judges, juries and convicts during a very important period in Victorian Britain, which eventually saw the passage of the first legislation to protect children in out-of-home care. Underlying these relationships was the sexed female body whose biology, paradoxically, determined both her passive self-sacrifice and her immoral acts of wickedness and aggression.

The nineteenth-century discourse on the sexed female body emerged from an expanding and competitive media which, in exaggerating the characteristics of the infanticidal murderess for entertainment value, also 'educated' the public about the depravity of the working-classes in general and morally debased women in particular. These depictions increased social anxiety about the role of women, many of whom had been displaced from their traditional roles. Rather than being confined to husband and home, lower-class women had entered Britain's newly industrialised economy as (low-paid) full-time workers with out-of-home care a necessary alternative childcare arrangement.

The social consequences of this massive shift in work, home and childcare arrangements were, at the time, not fully realised, although the middle classes feared that high infant mortality rates would rob the country of the next generation of workers and soldiers. When cases of infant deaths in out-of-home care began to emerge, the spectre of infanticide rose to haunt Britain, with a group of influential doctors taking the opportunity to increase the influence of the medical profession by attacking those women who were involved in all aspects of birth control, childbirth and childcare. While infanticide had been on the increase since the late eighteenth century, the greater social problem—infant deaths from poverty and disease—was largely ignored in the moral clamour that surrounded working-class women and their 'unnatural' behaviour.

Moral regulation and moral panics

Nineteenth-century society in England and Wales was highly morally regulated, with moral campaigns and their inherent moral standards constituting individual identities by encouraging women, in particular, to engage in self-regulation in relation to a variety of activities. Moral campaigns may develop into moral panics when the processes of self-regulation are considered to have broken down (Hier, 2002, 2008). In such cases, elite groups known as moral entrepreneurs (such as politicians, religious groups, newspaper editors) campaign against certain individuals targeted as 'folk devils' (Cohen, 1972), a phenomenon that is used to justify particular coercive methods of social control.

By applying moral regulation theory to a study of infanticide during the mid-nineteenth century, the role of the sexed female body in initiating a moral panic will be investigated in order to provide a theoretical basis for moral panic theory, a foundational element that is considered to be missing in moral panic analyses (Rohloff and Wright, 2010). By theorising bodies it is possible to understand how the female body became the focal point of a moral regulatory framework comprising 'good' women who embodied the qualities of passivity, selflessness and modesty and 'bad' women who embodied carnality, heartlessness, selfishness and neglect.

The historical journey of this book also reveals the politics of infanticide as a crime, since the social and legal responses to infanticide raise questions about the cultural value of women, the cultural values imposed on women and mechanisms of control of 'deviant' women. The history of infanticide is characterised by debates about women as the problem, rather than debates about the social and economic problems experienced by infanticidal women. The climax of these debates was the moral campaign initiated by a group of nineteenth-century doctors whose focus on the evils of infanticide cemented the image of the evil, wicked woman who can turn her hand to murder, an image whose potency echoed throughout the twentieth century to, I argue, influence the outcomes in a group of multiple infant murder cases between 1998 and 2003.

By interrogating this history, what emerges is the social, cultural and economic spaces working-class women were permitted to occupy, with women's reproductive crimes located and confined to the red-lighted streets of industrial cities, to brothels, lying-in houses, nurseries and baby-farms where illicit sex, abortion, childbirth, out-of-home care and infanticide took place. In particular, insight is gained into the cultural

importance of the sexed body at a time when women were believed to be run by their biologically driven passions compared with the man of reason, who was considered to constitute the highest form of human development and intelligence.

This was also a time of considerable demographic and economic change. Beneath that change ran a sinister undercurrent of moral regulation that resulted in intrusive punishments of women whose bodies were 'defiled' by prostitution and economic punishment for unmarried mothers who 'had forgotten their sex'.³ In the absence of state responsibility for this part of human life, childbirth, childcare and even infanticide were privatised, with midwives and baby-farmers left to manage tens of thousands of unwanted illegitimate children annually. The homes that were turned into baby-farms or lying-in houses constituted the cultural spaces where moral regulation had little or no regulatory influence; that is, until the sensational case of Margaret Waters in 1871.

Infanticide: A moral or criminal problem?

In this book 'infanticide' is defined as the homicide of a child under the age of 12 months. It is distinguished from 'neonaticide' (Resnick, 1970), which is the homicide of an infant within the first 24 hours after birth, and from 'filicide', which describes the homicide of a child of any age by its parent. Infanticide is the term most commonly used in this book, since the killing of an infant under the age of 12 months was the most common type of homicide committed by women in the nineteenth century.

A history of the law of infanticide shows that governments have used the blunt instrument of the criminal law to control the maternal body. The first such attempt was made in 1624 under the statute 21 James I, c.27 (An Act to Prevent the Destroying and Murthering of Bastard Children), which stated:

That whereas many lewd women, having been delivered of bastard children, to avoid their shame, and escape punishment, do secretly bury or conceal the death of their children . . . it is enacted that if any woman privately, either by herself or other, conceals the death of a bastard child, she, upon conviction, shall suffer death; unless she shall prove by one witness that the child was born dead.

As discussed in Chapter 4, so blunt an instrument was this statute that it was described as 'an ordinance of a barbarous character' (Safford,

1866: 225), since proof of burial or concealment by a 'lewd' woman amounted to a presumption of murder. Nonetheless, the provision remained in force until 1803 when Lord Ellenborough's Act (43 Geo 3, c.58) reversed the presumption of murder and treated infanticide as any other type of murder.

By the middle of the nineteenth century, when there were calls for harsher punishments to discourage child-murder, Safford (1866: 225) recognised that, since the 'severe measure' of the James I statute was 'found utterly useless to repress the crime of child-murder' over a period of nearly 200 years, what greater severity could the criminal law provide? As Safford (1866: 226) and other social commentators recognised, child-murder would remain a fact of life as long as the Poor Laws made unmarried mothers liable for the upkeep of their children but made it almost impossible for them to secure maintenance from the fathers of their illegitimate offspring, as discussed in Chapter 3. If an unmarried mother succeeded in securing a maintenance order, 'supposing the girl to have been sufficiently acute and careful to gather proofs [of sexual intercourse] against him', the most she could receive was a paltry 2s 6d a week, a sum that was also allowed 'to the housekeeper of a government department for the keep of each cat'.

What can we learn from this extraordinary period in the nineteenth century when women shouldered all the burdens of extra-marital sex with few solutions to illegitimacy other than infanticide, and the legislated upkeep for an illegitimate child was equivalent to that of a cat? Safford (1866: 226) was astute enough to ask:

What inducement beyond natural affection has a woman in that position to protect her offspring? None. But, by the murder of her child, is probable protection from open shame and ability to seek her usual employment, instead of being turned from her parents' door, she and her infant both despised rejected outcasts, to seek a refuge in the prison or the workhouse, or to support her life... by still more awful misery [through prostitution], still deeper degradation, terminating in many instances by murder and suicide.

Safford's conciliatory view about the obvious reasons for infanticide was not shared by most other social and medical commentators on the topic. The more common stance was expressed by the dogmatic Coroner for Central Middlesex, Dr Lankester (1866: 216), who considered that social 'indifference to the destruction of newly-born infant life' contributed to women's 'disposition to destroy it whenever it stands in the way of the

selfishness of those whose sacred duty it is to secure its protection and welfare’.

Lankester’s view became the predominant one during the 1860s, when a group of doctors ‘discovered’ infanticide and began a moral campaign against working-class women, engaging in the politics of folk devilry long before Cohen (1972) used those words to describe an exaggerated, ideological reaction to a perceived social threat. As discussed in Chapters 2 and 3, this book focuses on the social construction of folk devils by identifying the sexing processes which produce particular sexed bodies of deviance, a phenomenon that infused almost all discussions, reports and articles on women and illegitimacy by casting the unmarried mother as selfish, immoral, debased and unnatural. By studying moral panics associated with sex and the female body, I will trace the development of that body at two different historical periods. The overall aim of this book is to chart the emergence of the sexed female body and its sensationalised characteristics as a particular type of folk devil in the mid-nineteenth century, and to uncover its influence in relation to a group of infanticide cases in the late twentieth century.

The incidence of infanticide in the nineteenth century

Stone (1983) has observed that variations in the homicide rate suggest significant social and economic changes in a society, while statistical trends in relation to homicide demand a qualitative interpretation (Sharpe, 1985). Certainly, as Chapter 3 shows, that seems to be true of a time when women were just as likely as men to be accused of murder. Infanticide was an offence that constituted a dark pool of female criminality, since it amounted to the most common crime committed by women during the nineteenth century. Like the gender division of labour in the workforce, there was a gender division in relation to murder, with most infanticide being committed by women—by mothers soon after birth or through abandonment of the child in a public place, by a midwife at birth or by a baby-farmer as a result of the underground trade in children.

But official crime rates do not present a complete picture of the incidence of infanticide in the nineteenth century simply because this was a domestic crime, hidden from public view, with children’s bodies easily disposed of and live births readily masked as stillbirths since midwives knew the ways to produce ‘a “quiet ‘un” ’ (Wynter, 1870). While convictions for infanticide bore little relationship to the true rate of infanticide in nineteenth-century England and Wales, the prosecution

of reproductive crimes in that century reveals a governmental focus on punishment rather than solutions to why women sought abortions, abandoned their children, murdered them or sold them to baby-farmers. Since the sale and purchase of children was known to be an everyday, legal transaction during the nineteenth century, this suggests that governments knew that baby-farmers provided a necessary social service. However, baby-farmer infanticide was distinguished from other types of infanticide because baby-farmers were involved in an economic crime, an activity frequently engaged in, compared to the young, unmarried girl who made a choice between her own survival and that of her child.

This is not to invoke the economic rationality argument for explaining infanticide, as Laster (1989) has warned, but to recognise that the public *and* the law treated infanticide differently, depending on the alleged perpetrator. Indeed, baby-farmers were operating in irrational social and economic times which, despite women's responsibilities for raising the next generation, were characterised by a gendered division of labour, low wages for women's work and the risks to infant life associated with urban working-class life without sanitation and running water.

Infant mortality rates during the nineteenth century were extremely high compared to today, with death rates for those aged under 12 months exceeding death rates for those aged 65 years and over. Paradoxically, murder rates by women were also at an all-time high, with the majority of victims being children. Even though women committed murder at a rate that sometimes equalled or exceeded those of men, rates of infanticide were outstripped by a factor of 100:1 by other causes of infant mortality. Yet the major moral concern in the nineteenth century was not infant mortality due to poverty and disease; rather it was the 0.2% of infant deaths due to foul play.

Sexing the body: A brief review of the sex/gender distinction⁴

Within a context of moral regulation (defined in Chapter 2), this book reveals the story of the largely undetected dark pool of female criminality when infanticide became a prerogative of the poor and women became serial killers. This book will interrogate one of the few criminal activities that are distinctly 'feminine' both in relation to the perception of crime and, in past eras, the actual commission of the crime. It is also a story about the social significance of bodies, in particular the female body. Were it not for the public's hunger

for sensationalised crime stories and newspaper proprietors' hunger for increased circulation, it is possible that the sexed female body would not have grown so large, so monstrous and so feared in the public mind that its attributes lived on into another century and another historical moment, when women were once again accused of killing their babies.

By using the sexed bodies approach, as described below, rather than the concept of gender, I will examine the influence of the cultural values associated with the female body to understand:

- (i) the social construction of crimes committed by women;
- (ii) the creation of moral panics concerning women as offenders;
- (iii) the interpretation of scientific evidence in multiple infant death cases.

But what is the sexed bodies approach? In order to understand the theoretical concepts in the following chapters, it is necessary to consider the analytic utility of the concepts of sex and gender for understanding the way the female body is constructed. Gender is an epistemological concept that is the hallmark of the feminist project (Heidensohn, 1994; Newburn and Stanko, 1994; Hahn Rafter and Heidensohn, 1995; Walklate, 1995) with theories that are premised on the sex/gender distinction supporting claims of equality independently of biological differences so as to avoid the 'dangers of biological reductionism' (Gatens, 1996: 4). For this reason, gender as an analytical tool has been considered to yield 'high explanatory returns (as opposed to the barren category of "sex")' (Gatens, 1996: 3).

As a social category, gender is considered to be conceptually distinct from sex, which describes the sexual and physical differences between the two categories of human referred to as men and women. In the social sciences, gender is considered to describe cultural differences that arise from performance; active social practices or recurring accomplishments, to use the terminology of West and Zimmerman (1991), who coined the phrase 'doing gender' to describe the active participation of individuals in gender construction. This means that 'gender is not fixed in advance of social interaction, but is constructed in interaction' (Connell, 1995: 35), with the term describing the variety of social relations that arise from interaction, including different positions of power based on sex, race, ethnicity, disability, religion and sexuality. Critics of the 'doing gender' approach have identified its lack of engagement with power and structural inequalities (Daly, 1997: 36) compared with the 'class-race-gender' approach which emphasises social relations of

inequality and 'conceptualises inequalities, not as additive and discrete, but as intersecting, interlocking and contingent' (Daly, 1997: 33; see, further, Cossins, 2003).

While the concept of gender has been an important conceptual tool for feminist theorists in identifying structural inequalities, it has also been used to describe the diversity and differences between men (see, for example, Connell, 1987, 1995). This has given rise to an explosion of work on masculinities and crime (Messerschmidt, 1993, 2013; Newburn and Stanko, 1994; Connell, 1995, 2002, 2008, 2013; Carlen and Jefferson, 1996; Collier, 1998; Cossins, 2000; Connell and Messerschmidt, 2005). Arguably, a similar epistemological phenomenon that interrogates femininities is needed to explain the diversity and differences between women and their relationship to crime, in particular (i) different women's relationships with men and their experiences as victims of crimes as a result of race, class, ethnicity, age, sexuality, disability and religion; and (ii) how legal cultures create different categories of woman according to race, class, ethnicity, age, sexuality, disability and religion as well as their social and sexual behaviours.

Nonetheless, the concept of gender has been criticised on the grounds that it is premised on both a sex/gender and mind/body distinction, in that the concept assumes that the body has no cultural or social significance, and is an immutable, biological pre-given upon which gender inscriptions are made (see Gatens, 1996: 3–20; Davies, 1997: 25–46; Collier, 1998: 21–22). In other words, 'the distinction between sex and gender turns out to be no distinction at all' (Butler, 1990: 7), since use of the term 'gender', commonly refers to sex—that is, the cultural meanings ascribed to bodies sexed male or female. Similarly, the concept of gender has also been criticised as being 'an empty tautology', since if everything that men do is masculine and everything that women do is feminine, then 'gender collapses into sex' (Hood-Williams, 2001: 45).

My starting point in attempting to discern the legal and cultural responses to female criminality begins with the concept of sex, not gender—that is, the meanings that the female body carries culturally and historically. The cultural significance of sex has been addressed by the literature that has questioned how we understand the body, corporeality, sexual difference and the sex/gender distinction. A number of feminist theorists (Butler, 1990, 1993; Butler and Weed, 2011; Grosz, 1994, 1995; Grosz and Probyn, 1995; Gatens, 1996; Puwar, 2004) have analysed the role of sexual difference in the construction of male and female subjectivities. At the same time as they have eschewed an essentialist view of sexual differences (Lacey, 1997) by using the

term 'sexing', they recognise that male and female bodies carry specific cultural meanings at both an individual and an institutional level.

In this context, 'sexing' refers to the feminist project of recognising the cultural significance ascribed to sex by various legal institutions and cultures. In other contexts, 'sexing' describes those practices by which legal cultures construct particular legal subjects. The sexed bodies approach is concerned with discerning the cultural meanings that are ascribed to the sexual characteristics of different bodies and the experiences that derive from the cultural significance ascribed to sex. Like gender, sexing is both an historical and a cultural process, employing as it does a social constructionist method (Lacey, 1997). This means that sex and gender are different ways of conceptualising men and women in that both are understood to be social constructs. The sexed bodies approach attempts to describe 'what kinds of bodies are ... "normalised" in social discourses' (Lacey, 1998: 107; emphasis in original).

Feminists who have theorised the body see it as being 'interwoven with and constitutive of systems of meaning, signification and representation' (Grosz, 1990: 18). The body is 'shaped by political forces with strategic interests in keeping that body bounded and constituted by the markers of sex' (Butler, 1990: 129), meaning that there can be no conception of the body that is independent of the cultural values that are ascribed to different sexual characteristics. Although the sexed bodies approach rejects the essentialism that the categories of male and female evoke, ' "sex" as much as "gender" is attributed ... by powerful but contingent social processes ... which are thus susceptible to analysis, critique and, potentially, reconstruction' (Lacey, 1997: 66). The sexed bodies approach rejects the assumption implicit in the sex/gender distinction that sex differences are 'natural' or fixed, as well as the view that institutions of power operate at a level of sexual neutrality. As Gatens (1996: 8–9; emphasis in original) has recognised:

[i]f we locate social practices and behaviours as embedded in the subject ... then this has the important repercussion that the subject is always a *sexed* subject ... Gender is not the issue; sexual difference is. The very same behaviours ... have quite different personal and social significances when acted out by the male subject on the one hand and the female subject on the other.

Nonetheless, a focus solely on sexual difference is problematic since it prioritises sex 'as an axis of difference' which obscures the influence of other cultural differences based on factors such as race and class. This

leaves the sexed bodies approach 'vulnerable to interpretation as essentialist' (Lacey, 1997: 70), something that proponents of the approach recognise (see, further, Cossins, 2003: 86–87).

Nonetheless, the sexed bodies approach reveals that social discourses, such as legal and medical cultures, produce more than one type of sexed female subject while women also play an active role in producing and shaping their identities. This raises for consideration the relationship between the concepts of sex and gender. While the sexed bodies approach recognises the cultural significance of the body, gender describes what sexed bodies do and how experiences of sexual difference might manifest at the level of social interaction. Thus, gender describes the social practices and constraints on bodies sexed as either male or female, although the concept also recognises that not all bodies sexed as female will engage in identical social practices: resistance, conformity and change will all be features of individual gender practices. What then is the relationship between sex and gender? The different cultural values that are ascribed to the male body and the female body, in particular social discourses, 'cannot but have a marked effect on male and female consciousness':

[m]asculinity and femininity as forms of sex-appropriate behaviours are manifestations of a historically based, culturally shared phantasy about male and female biologies, and as such sex and gender are not arbitrarily connected. The connection between the female body and femininity is not arbitrary in the same way that the symptom is not arbitrarily related to its etiology. Hence, to treat gender, the 'symptom', as the problem is to misread its genesis.... To speak of 'acquiring' a particular gender is to be mistaken about the significance of gender and its intimate relation to biology-as-lived in a social and historical context.

(Gatens, 1996: 13–14)

The sexed bodies approach recognises the cultural significance of the way the body is constructed in social discourse and how that construction (sexed female or male) affects the formation of individual consciousness. Since gender describes the influence of the cultural significance of the sexed body on social practices as well as the choices and defensive reactions employed by differently sexed bodies in light of other cultural constraints, such as class, the sexed bodies approach allows for the recognition of multiple femininities and masculinities

without implying that the body is to be 'treated as sex-neutral and consciousness as a passive tabula rasa' (Gatens, 1996: 16).

The different cultural meanings that are ascribed to the sexed female body will also depend on the social practices 'permitted' by class, which suggests that a conceptual distinction can be made between the cultural significance of sex and class, and the cultural significance of the social practices that sexed bodies engage in. Such a distinction warrants the continued use of 'gender' as a way of describing the lived experiences of same-sexed bodies in response to cultural and structural constraints, which challenges the existence of a universal female experience. However, it is the structural constraint of class together with the cultural significance of the female body that will be investigated in the following chapters. In particular, the sexed bodies approach, as an analytical tool, allows me to interrogate the nineteenth-century sexing processes involved in the campaign against midwives and baby-farmers from 1861 to 1872, and the processes involved in the construction of mothers who kill, in order to discern the particular cultural meanings ascribed to the body of the female murderer.

Organisation of this book

By applying the sexed bodies approach to understand the relationship between women, moral regulation, criminalisation and criminal justice outcomes, this book fills a gap in the literature given the increased media and criminal justice focus on women who commit crime in the twenty-first century (Heidensohn, 2006). A history of the criminalisation of infanticide shows that the moral regulation of women and perceptions of guilt and innocence were influenced by the cultural values associated with the female body. Why was the moral reaction to the unmarried woman and women who killed vastly different from that of the unmarried father and men who killed? Long before Cohen's (1972) development of the moral panic concept, the language of moral panics was evident in legal, medical and media discourses about 'unnatural' women and men's 'natural' urges.

Whether or not these discourses amounted to a moral panic as that term is understood today is the question that I answer in Chapter 2, 'The Moral Panic Concept: Its History, Social Utility and Ability to Interpret Past Events'. This chapter documents the history of the moral panic concept to consider its analytical utility for interpreting historical events generally, and the moral campaign against 'immoral' women initiated by a group of influential doctors specifically.

Although it is a concept embedded within both academic and popular discourse, the term, 'moral panic', remains open to criticism, reinterpretation and reconceptualisation. Chapter 2 documents the political history of the concept, its limitations and underlying normative judgements, and recent attempts to situate moral panics within a framework of moral regulation. As one of the most comprehensive analyses of the history, problems and social utility of the moral panic concept, the chapter delineates the boundaries of moral regulation and moral panics and discusses why the moral panic concept remains a useful conceptual tool for detecting, charting and understanding a new or shifting moral order by reference to its historical context, social control processes and dynamic relationships of power. A focus on historical context allows moral panic analyses to consider fundamental questions about how cultures develop, change, control and punish, and how they create and maintain power relations between outsider groups and the silent majority over time.

Chapter 2 also reveals that the new challenge for moral panic theory is to consider the role of the body in constructing concepts of morality, as well as the regulation and control of particular individuals. Since the structures of power inherent in the development of a moral panic require close interrogation, my particular focus is on the construction of the sexed body in creating and maintaining these structures of power, which may involve shifting allegiances as the moral panic grows or diffuses. At the same time, the chapter extends the theoretical boundaries of the moral panic concept to reveal the role of, and values associated with, the Victorian female body, in order to understand the nineteenth-century obsession with 'immoral' women.

Chapter 3, 'Regulation of the Female Body: Was Infanticide a Moral Panic of the Nineteenth Century?', reviews the social, media and political responses to infanticide and baby-farming in the mid-nineteenth century. In doing so, it seeks to identify a causal and theoretical model of moral regulation generally, and of moral panics particularly. This will be done by focusing on the moral regulation of the female body and the power relations established between a group of moral entrepreneurs and female folk devils and how these were constructed during the moral campaigns around infanticide in the *British Medical Journal*, the popular (down-market) media and up-market newspapers.

In using Cohen's processual model (Critcher, 2003) as an explanatory framework, I will identify the cultural moments when the mechanisms of moral regulation are perceived to fail in order to theorise the significance of (sexed) bodies in the moral panic process, and to identify

causal processes for explaining how endemic moral regulation of the female body during the nineteenth century grew into more extreme forms of moralising and control. This framework allows me to consider the ongoing conceptual utility of Cohen's model in relation to an historical era that was probably more prone to moral campaigns, regulation and control of individuals compared to contemporary liberal democratic societies.

Chapter 4, 'The Moral Regulation of Infanticidal Mothers', is divided into two parts. Part 1 begins with an analysis of the incidence of infant deaths compared to child-murder in developed countries today. What is revealed is that child-murder is a rare event and much less common than cases of Sudden Infant Death Syndrome (SIDS). Perpetrators of child-murder are most often male, with mental illness, poverty and child abuse issues in their backgrounds. As such, Part 1 raises the question, since child-murder is such a rare event, what was the impetus for the prosecutions of four mothers who had suffered multiple infant deaths but who were not male, not living in poverty and not suffering from a psychological disorder?

Part 2 answers this question by documenting the cases of Donna Anthony, Sally Clark, Angela Cannings and Trupti Patel, three of whom were acquitted on appeal and one of whom was found not guilty at trial, in order to discover the reasons for their prosecutions and, in the case of Anthony, Clark and Cannings, their convictions. I consider whether or not the sexing processes which constructed the 'evil' body of mother during the nineteenth century constituted the moral regulatory climate in which Anthony, Clark and Cannings were wrongly convicted. Is contemporary society driven by similar conceptions of the female body that drove an apparent moral panic around infanticide more than one hundred years ago? A detailed examination of the Anthony, Clark and Cannings cases will explore this issue.

2

The Moral Panic Concept: Its History, Social Utility and Ability to Interpret Past Events

Introduction

The first task of this book is to determine whether or not infanticide—the nineteenth century’s solution to thousands of unwanted illegitimate children—gave rise to a moral panic. In doing so, it is necessary to document the history of the moral panic concept to consider its analytical utility for interpreting historical events. At the same time, I will extend the theoretical boundaries of the concept to reveal the role of, and values associated with, the Victorian female body, in order to understand the nineteenth-century obsession with ‘immoral’ women.

It is an uncomfortable fact that during the nineteenth century large numbers of unmarried mothers and midwives either killed or abandoned illegitimate babies or sold them to baby-farmers who killed, neglected or underfed dozens of children during their careers. Some might say this took place because of the innate criminality of women. If so, infanticide would be as great a problem today as it was 150 years ago. There is, however, a direct link between improved economic and health conditions and a decrease in infant mortality, with this rate often being used as an indicator of the level of health of a country.¹

Infanticide by mothers and baby-farmers was a feature of all large cities in the nineteenth century, and it is to city life we must look in order to discover the living conditions for working-class women in England and Wales. During the trial of a baby-farmer in 1869, it was revealed she had been employed by the baby-farm ‘to dispose of the failures of the farm’ by depositing them in the streets (PMG, 21/6/1870, p.10). A contemporary though melodramatic description captures the reality of these baby-dropped ‘failures’ through middle-class, male eyes:

the metropolitan canal boats are impeded...by the number of drowned infants with which they come in contact, and the land is becoming defiled by the blood of her innocents. ... [T]he feeble wail of murdered childhood in its agony assails our ears at every turn, and is borne on every breeze. The sight is horrified as, day by day, the melancholy catalogue of murders meets the view... In the quiet of the bedroom we raise the box-lid, and the skeletons are there. In the calm evening walk we see... the suspicious-looking bundle, and the mangled infant is within. ... [A]nd [in the train carriage], we find at our journey's end that the mouldering remains of a murdered innocent have been our travelling companion.

(Ryan, 1862: 45–46)

Even more dramatically, Ryan declared:

We are told... that there are 12,000 women in London to whom the crime of child murder may be attributed. In other words, that one in every thirty women (I presume between fifteen and forty-five) is a murderess.

(1862: 45–46)

At the same time as 'the specter of mass infanticide...arose to haunt' England and Wales during the mid-nineteenth century (Behlmer, 1979: 404), the government provided no state welfare other than the infamous workhouses (Longmate, 2003; Higginbotham, 2012), which unmarried mothers sought to avoid since 'once admitted, they are treated almost as prisoners' (Tyler Smith, 1867: 21). Poverty, high infant mortality,² the expectation that children died young and the moral condemnation of unmarried mothers combined to produce sufficient social indifference so that the deaths of illegitimate children were inevitable, the casualties of a war against morality and the 'dangerous' female body.

For the nineteenth-century middle classes, illegitimacy would disappear if sex could be strictly controlled amongst the working classes:

The promiscuous lodging of the sexes during...harvesting;...the public hiring of male and female servants... by which large numbers of young people of both sexes are collected together...; the crowding of young people in sleeping rooms, from the want of proper dwellings for the poor... are all prolific causes of illegitimacy.

(Tyler Smith, 1867: 22)

In a society that believed illegitimacy was a moral failing, there were limited solutions to an unwanted child, except to answer one of the many advertisements in the newspapers that offered to take a child for a fee. The economic system based on selling illegitimate children involved a complex network and ‘a continuum of out-of-home infant care’ made up of relatives, neighbours, wet nurses, midwives and baby-farmers. Within this network there was ‘a close relationship between the “murderous” and the “benign” ’ (Allen, 1990: 29), with the ‘benign’ slipping over to ‘murderous’ when the baby-farming fee (which only covered a few months of a baby’s life) ran out, or nursing payments ceased. Sometimes the ‘murderous’ found the economic benefits on that side of the line far too attractive to climb back to firm ground. If women such as Charlotte Winsor and Margaret Waters, the two most infamous baby-farmers of the mid-nineteenth century, were serial killers, they were not alone. Because dozens of midwives and baby-farmers adopted babies for a few pounds, I will investigate how women in their hundreds—not just a handful of ‘maladjusted’ individuals—crossed the line from benign childcare to infanticide. What was it about the social circumstances of the time that bred indifference, neglect and murder? And why did concern about child-murder transform from ignorance and indifference to intense medical and media attention during the 1860s?

Described as ‘wolves in women’s clothing’ (Homrighaus, 2001: 351), baby-farmers were often characterised in the typical terms of a ‘moral panic’—a phenomenon in which one or more people are viewed ‘as a threat to societal values and interests’ (Cohen, 1980: 9). But one must be circumspect about applying the moral panic label too freely, since there is ‘a tendency to pluck the concept out of its intellectual context and for the... conceptual structures to be discarded’ (Young, 2009: 4). In fact, the term ‘remains open to interpretation and contestation today’, not least because Cohen’s (1972) classic definition (below) has led to accusations that it is descriptive rather than explanatory with no theoretical foundation to explain the causal basis of a moral panic (Thompson, 1998; Hier, 2002; Rohloff and Wright, 2010). Nonetheless, a moral panic analysis is useful whenever ‘deviance’ is described, since it pulls the reader away from ‘the deficiencies of the deviant, and attends more to the definers of deviance: the labellers rather than to those labelled’ (David et al., 2011: 215) and the relationships of power between them.

The history of the moral panic concept

In writing this book, I was unsure whether a moral panic analysis would explain the extraordinary reaction to baby-farming during the

1860s and the outraged reaction to cases of multiple infanticide in the 1990s. To understand the moral panic concept and the criticisms it has attracted, it is necessary to chart its history, its limitations and its social utility, if any, for interpreting historical events. As many will know, the concept developed during the socially turbulent 1960s when youth culture strained the tolerance of post-war conservatism (Young, 2011). Since that time, a huge literature on the phenomenon of moral panics has developed in relation to a variety of perceived social threats, such as sex offenders, mugging, homosexuality, serial killers, drug use, Afro-American men, juvenile crime, biker and youth gangs (see Cohen, 1972, 2011a; Hall et al., 1978; Hay, 1995; McCorkle and Miethe, 1998; de Young, 1998; Critcher, 2002, 2003; Jenkins, 2002; St. Cyr, 2003; Jenkins, 2009; Dagistanli et al., 2010). The literature is also replete with debates about the overuse of the moral panic concept, and the pejorative judgement embodied in the word 'panic'.

Young (1971) first used the term 'moral panic', although Cohen's (1972) classic study of the public reaction to the rebellious behaviour of the 'mods and rockers' was responsible for spreading its use to a wider public audience (Ben-Yehuda, 2009). In influencing the future direction of British criminology, Cohen's work 'launch[ed] generations of thinkers in[to] the areas of deviance, social reaction, media and moral panic studies' (Hier, 2011: 253) and created 'an important research agenda that hardly existed prior to the 1960s' (Garland, 2008: 23). Both Cohen and Young were part of a 'new generation of sociologists [who] became advocates for the emerging subcultures of youth and fierce critics of the conservatism of the various agents of social control' (Young, 2009: 8). In this way, the work of Cohen, Young and others exposed social reactions 'slanted in a particular ideological direction' (Cohen, 2002: xxxi) and the 'moral conflict between authority and subculture' (Young, 2011: 247), perhaps because these researchers identified with the 'deviant' subculture (Garland, 2008: 19).

As a result, moral panic analysis by British sociologists 'brought labelling theory and subculture theory together' and saw 'deviants' as people committing acts of resistance, compared to American sociologists who viewed the offender as antisocial (Young, 2011: 247; 248). By asserting that the powerful initiated moral panics, Young and Cohen were themselves engaged in a political project. In questioning the basis of social reactions to and the control of young men, '[i]rrationality was, therefore, shifted from the supposedly wanton youth or mindless drug taker to the agents of control themselves' who manufactured a panic in 'a struggle for cultural power' (Goode and Ben-Yehuda, 2009: 30).

To counter criticisms of ideological bias as a result of this history, attempts have been made to situate moral panics within an objective framework of social constructionism (Jenkins, 2009), contextual constructionism (Cohen, 2011a: xxviii; Young, 2009) and moral regulation, in order to conceive a theory of moral panics as critical ideology (Hier, 2002, 2008, 2011). These attempts take account of the fact that the characteristics of a moral panic are intimately related to their historical roots, including the fears and moral climate of the times, and arise alongside significant social, cultural and structural changes (Cohen, 1972, 2011a; Critcher, 2003; Garland, 2008; Young, 2009).

As a concept that has been used to explain a range of social reactions, not only male adolescent behaviour but other perceived moral threats, such as AIDS and paedophilia, it has been 'one of the most successful sociological concepts in finding its way' into public discourse, with around 30% of media articles in the USA using 'moral panic' for the period 2000–2007, compared to 2% during 1985–1989 (Altheide, 2009: 83). While this increase may be due to the 'allure of crime' as entertainment (Altheide, 2009: 88), since the advent of the popular press in the early nineteenth century, crime has long been the staple entertainment for the general public, as discussed in Chapter 3. More likely, the increase is due to 'the magic, appeal, [and] usefulness' of the concept, which has seen its establishment 'in social science, the media and in popular culture generally' (Ben-Yehuda, 2009: 1). Despite decades of critique and criticism, the concept lives on, with over 1,300,000 results on Google for 'moral panic'.³

Broadly, Cohen used 'moral panic' to describe the reaction of a significant section of the public towards a newly perceived threat to common values and the process by which the perpetrators of the threat are constructed as 'folk devils' or scapegoats in what would now be described as a 'dramatic form of othering' (Young, 2011: 250). Where the threat is transformed into a socially constructed 'panic', it is repeated, popularised and eventually established within social discourse to sustain a particular moral/political agenda, resulting in asymmetric power relations between elite interests and targeted groups. Although moral panic analyses tend to focus on topics in which the researchers and their audience have an ideological interest (Jenkins, 2009: 36), the strengths of such analyses reveal the 'limits to how much diversity can be tolerated in a society' (Goode and Ben-Yehuda, 2009: 29) and the complex processes involved in maintaining existing social structures in the face of social change.

Nonetheless, '[f]ully fledged moral panics need an... especially dramatic case to get going' (Cohen, 2011a: xiii) in that they are 'exceptional rather than ordinary forms of social action' (Hier, 2008: 173). While morality varies culturally and historically, moral panics appear to arise, not arbitrarily against a particular activity per se but against the people *involved* in the activity, such as drug use by hippies (Young, 2009) or street crime committed by certain racial groups. Moral panics are not 'separate, discrete, time-bound events' which come and go arbitrarily, leaving no trace of their impact (Goode and Ben-Yehuda, 1994: 229), since some 'form part of a series, each episode building on the other', such as panics about teenage drug-taking or child sexual abuse (Cricher, 2003). But moral panics also ebb and flow: while a particular social phenomenon 'may remain more or less unchanged over time, it can be seen as a problem or social fact in one era but not another' (Jenkins, 1998: 3). When employing a theory of elite interests acting together, the suddenness of the triggering event may be confected rather than volatile:

[f]ar from being isolated, sporadic or sudden, these are predictable moves from one 'site' of tension to another.... The political crisis of the state is displaced onto softer targets, creating a climate of hostility [for] marginal groups.... Even the most fleeting moral panic refracts the interests of political and media elites... [thus] sustain[ing] the dominant ideology.

(Cohen, 2011a: xxxvi)

Without the interests of the powerful—lobby groups, politicians and the corporations who own the mass media—a moral panic could not be created or maintained (Cohen, 2011a: xxxviii).

At its heart, moral panic analysis delves into the phenomenon of deviance, since a moral panic is centred around perceived deviance and the politics of labelling. As an attempt to assert power over marginalised or subordinated groups, often based on age, class or sexuality, 'a moral panic does not occur when hegemony is successful, but rather when it is in crisis'. The construction of a folk devil is the essence of a moral panic, with such labelling representing a displacement of social anxiety and the chosen folk devils being 'closely related to the source of anxiety' (Young, 2009: 13–14). This suitable enemy amounts to 'a soft target, easily denounced, with little power and preferably without even access to the battlefields of cultural politics' (Cohen, 2011a: x). Driven by moral indignation on one side are those with the power to name and shame;

on the other, the shamed, although, as discussed below, resistance may be part of the folk devil experience.

The process of symbolisation is inimitable to the social construction of a folk devil (Cohen, 1980: 40). First, words (for example, ‘mods and rockers’) become symbolic of a certain status which is, in turn, associated with specific types of (criminal) behaviours. Certain objects symbolise the word, such as clothing or hairstyles, until the objects themselves come to symbolise the status. In this way, the symbolic meaning of the folk devil is created, invoking fear, concern or alarm which, in turn, reinforces a clear moral boundary between folk devils and ‘ordinary’ people. The more a particular folk devil is paraded publicly, the more entrenched is the symbolic meaning and the underlying moral standard. Cohen (2011a: viii–xxvi) classifies folk devils as belonging to ‘seven familiar clusters of social identity’:

- (i) young, working-class, violent males (the most enduring folk devils);
- (ii) school violence: bullying and shootings;
- (iii) wrong drugs: used by the wrong people in the wrong places;
- (iv) child abuse, satanic rituals and paedophile registers;
- (v) sex, violence and blaming the media;
- (vi) welfare cheats and single mothers;
- (vii) refugees and asylum seekers.

As discussed below, opportunities then arise for interest groups—the police, the media, lobby groups or politicians—to manipulate the threat posed or for the public to demand a suitable response to nullify the threat.

Moral panic definitions

The key question is to determine how and why certain activities by particular people become a moral problem. While most moral panic analyses begin with the classic moral panic definitions, it is necessary to question whether or not the conditions of panic and moralising are *assumed* rather than empirically validated and whether, in their focus on function, moral panic definitions ignore the issue of causation. Here is Cohen’s classic definition, which has acquired ‘canonical status’ in the literature (Jenkins, 2009: 35):

Societies appear to be subject, every now and then, to periods of moral panic. A condition, episode, person or group of persons

emerges to become defined as a threat to societal values and interests; its nature is presented in a stylized and stereotypical fashion by the mass media; the moral barricades are manned by editors, bishops, politicians and other right-thinking people; socially accredited experts pronounce their diagnoses and solutions.... Sometimes the object of the panic is quite novel and at other times it is something which has been in existence long enough, but suddenly appears in the limelight. Sometimes the panic passes over and is forgotten... at other times it has more serious and long-lasting repercussions and might produce such changes... in legal and social policy or even in the way the society conceives itself.

(Cohen, 2004: 1)

Cohen (2011a: vii) has since qualified his definition and warned that '[c]alling something a "moral panic" does not imply that it does not exist or happened at all' or that the reaction to a social threat is based on 'fantasy [or] hysteria'. Rather, moral panic analysis ought to be concerned with the exaggeration of a threat for political purposes, rather than an attempt to dismiss real public anxieties. Nonetheless, much of the moral panic literature has 'relied upon ritually reproducing the "stages" implied' in the above opening paragraph to Cohen's book on mods and rockers (Rohloff and Wright, 2010: 404), as if moral panics are assumed to be the inevitable result of some (unstated) condition of humanity. While the loose use of the term 'suggests that it is a polemical rather than an analytical concept' (Waddington, 1986: 258), Cohen's definition has been criticised as envisaging social reactions as deterministic, predictable, monolithic and functional with no causal or theoretical grounding (McRobbie and Thornton, 1995) and employing, indiscriminately, the construct of social control (Hier, 2002: 321). As such, calls have been made to move beyond moral panic as a heuristic device to connect moral panic analysis with social theory and processes (Rohloff and Wright, 2010).

Just as problematic is the circular reasoning that has seen the moral panic concept being used as *evidence* of the underlying anxiety or fear that accompanies everyday life at the same time as moral panics are thought to be caused by this anxiety or fear (Pearce and Charman, 2011). The strength and weakness of Cohen's definition is that it 'allows for but does *not* necessitate most of the presumptions and concepts' (Ungar, 2001: 272) that have been associated with moral panics by subsequent researchers.

Another definition of moral panic comes from Hall et al. (1978: 16), who argued that the concept of 'mugging' as a major crime problem

during the 1970s was an orchestrated law and order campaign against Black adolescents in South London:

[w]hen the official reaction to a person, groups of person or series of events is out of all proportion to the actual threat offered, when 'experts', in the form of police chiefs, the judiciary, politicians and editors perceive the threat in all but identical terms, and appear to talk 'with one voice' of rates, diagnoses, prognoses and solutions, when the media representations universally stress 'sudden and dramatic' increases (in numbers involved or events) and 'novelty' above and beyond that which a sober, realistic appraisal could sustain, then we believe it is appropriate to speak of...a moral panic.

These authors identified moral panics as an elite strategy to manipulate public opinion in order to legitimise the introduction of punitive measures of social control. They saw their role as one of intervention in 'the struggle to change the structures and conditions' which lead to the creation of moral panics (Hall et al., 1978: x⁴). Later criticised for their class bias (Downes and Rock, 1998; Waddington, 1986), Hall et al. took a Marxist view, compared with Cohen, on the (historical) circumstances that give rise to moral panics by linking the moral panic concept to 'the dominant ideology, geared towards the consolidation of hegemony conceived of through the discursive regulatory apparatus of "law and order"' (Hier, 2002: 321).

Hall et al.'s (1978) definition implies an inevitability about moral panics, since a law and order society is considered to embody shared punitive anxieties which secure public consent for state control, with the definition assuming monolithic control by the state over passive citizens. As such, it overlooks the possibility of counter movements and active resistance, including the dissenting voices of folk devils and their supporters, such that a putative moral panic may fail to emerge (McRobbie and Thornton, 1995). Evidence of *public* panic in moral panic analyses is often missing, since 'personal worries and agitated conversations leave few traces' while mass media coverage of a moral crisis does not necessarily represent a measure of the degree of public concern (Ungar, 2001: 279). As Waddington (1986: 257) later criticised, '[w]ithout some clear criteria of proportionality, the description of publicly expressed concern...as a "moral panic" is no more than a value judgment', a theme I return to later in the chapter.

In an attempt to identify the attributes of a moral panic, Goode and Ben-Yehuda (1994: 33–39) identified five key characteristics or conditions of a moral panic which can be used to ‘test’ whether a moral panic has occurred (Critcher, 2003; St Cyr, 2003: 27). They are hostility, measurable concern, consensus, disproportionality and volatility. Like Cohen’s (1972) definition, the first condition requires a disturbing event which triggers concern, fear or anxiety. This triggering event may or may not be a previously unreported threat or deviant behaviour, such as satanic ritual abuse or gang-related murders. This event in turn produces a hostile reaction against the perpetrators of the event, with a consensus that they and the event threaten fundamental societal values.

Although Goode’s and Ben-Yehuda’s five characteristics appear to be a simplistic list of attributes, described as a ‘near-orthodox typology’ by Hier (2002: 313), the authors also posed three causal models to explain the initiation of a moral panic: grass-roots, elite-engineered and interest-group models, all of which are discussed later in this chapter. However, this attempt to elucidate the causes of a moral panic did not, according to Critcher (2003), expand our understanding of the moral panic concept because central to both Cohen’s and Hall et al.’s definitions is the role of the media in influencing social subjectivities, a recognition that is missing in Goode and Ben-Yehuda’s causal models.

As a way of critiquing ‘government policies and social control of deviance’ (Altheide, 2009: 84), researchers agree that the identification of a moral panic reveals the moral regulation at its heart (Hier, 2008; Critcher, 2009), since the moral panic concept ‘delves to the very heart of our social order; its occurrence is potent ammunition in the production of division, and... the fabric of legitimation’ (Young, 2007: 64).

Nonetheless, the political interests of researchers means that the sociological domain represented by moral panic literature is selective—sociologists select some crises or moral issues and ignore others, resulting in ‘a relatively small pool of mostly familiar threats’ such as youth deviance, while other social anxieties worthy of study may be ignored because they do not ‘fit the moral panic paradigm’ (Ungar, 2001: 271–272, 276).

Ungar’s (2001) argument that today’s risk society has supplanted the old threats that gave rise to moral panics is considered to be ‘clever but glib... specious and fallacious’ (Goode and Ben-Yehuda, 2009: 82), since the old threats (and new ones) continue to re-emerge. However, the moral panic literature has left a legacy that hinders its usefulness as an analytical concept because it is now so widely used that

it is common for references to be made to a phenomenon being a moral panic without any analysis of how and when a moral panic arises, sometimes amounting to nothing more than 'a familiar if not ridiculous journalistic rhetoric' (McRobbie, 1994; Hier, 2002: 315). Some simply state that at such and such a time, a particular country, town or city experienced a moral panic (Knelman, 1998; Homrighaus, 2001; Krzanich, 2010; Goc, 2013; Kilday, 2013), as one would report a fire, flood or tornado sweeping through, quickly passing and leaving in its wake the destruction wreaked by new laws which clamp down on some type of (mis)behaviour.

Because of its casual and loose application, the moral panic concept has been described as being so elastic it lacks explanatory criteria and a 'precise theoretical grounding' (Muncie, 1987: 45; see also Thompson, 1998), an issue that must be addressed when 'prob[ing] the wider normative foundations from which moral panics emerge' (Hier, 2002: 323).

Moral regulation

Some researchers have attempted to go beyond the boundaries of moral panics to consider risk and harm more broadly (Hunt, 1999; Ungar, 2001; Hier, 2002, 2008, 2011; Critcher, 2009, 2011; Rohloff and Wright, 2010; Lundström; 2011). This move came out of a critical reappraisal of:

scholars' continuing reliance on a narrow set of explanatory criteria that limit the [moral panic] concept's wider applicability... [and] how moral panic studies can benefit from and contribute to [areas]... beyond [those]... associated with (youth) deviance.

(Hier, 2011: 524)

The linking of moral panic studies with concepts of moral regulation answered repeated criticisms that the explanatory power of the moral panic concept was undermined by its imputation that the social reaction to a particular threat was irrational. Hier situated the volatility represented by a moral panic within a broader framework of moral regulation in neo-liberal democracies; that is, as '*volatile local manifestations of... the global project of moral regulation*' when there is a breakdown in these processes (2002: 329; original emphases). For Hier (2002: 317), it was necessary to recognise that the ways in which people 'conceptualize themselves and their social positions are situated within the normative

and historical parameters of a particular social and moral order', which manifests in a system of moral regulation:

as a mechanism of state legitimation [*sic*], moral regulation serves to facilitate the consolidation of state power by having certain epistemological social arrangements appear to the citizenry as both natural and inevitable.

(Hier, 2002: 324)

Although he was one of the original proponents of the moral panic concept, Critcher (2009: 17) agrees with the need to 'reconceptualize moral panics as extreme instances of risk discourses within a process of moral regulation', concurring with Hier (2008: 173) that moral panics are a 'routine extension' of risk, responsibility and moral regulation rather than suddenly emerging as 'irrational, disproportional, and exceptional forms of social action'.

Corrigan and Sayer (1985) introduced moral regulation into 'contemporary sociological debate' (Hier, 2011: 525) as being 'coextensive with state formation ... [which is] always animated and legitimated by a particular moral ethos' and linked to citizen formation (Corrigan and Sayer, 1985: 4). Moral regulation involves the imposition of moral standards by formal state-based and non-state-based activities which 'entail long-term processes of normalization concerning some field of moralized conduct'. These processes aim to 'effect changes in the conduct and ethical subjectivity of individuals' (Hunt, 1999: ix; 17) by encouraging self-monitoring and governance, as well as reaffirming the identity of the regulator (Hier, 2002: 328–329). They, ultimately create cultures as we know them, giving rise to 'manners, customs, rituals and routines' (Hier, 2011: 525).

If, according to Hunt (1999, 2003, 2011), the state is a unified monolith of moral regulation and discipline, '[t]he moral code is not merely for public display and enforcement; it penetrates and helps constitute individual identity in its most intimate forms' (Critcher, 2009: 19). Through these individual and social processes the coercive powers of the state are asserted and legitimated, constituting us all as moral subjects.

A reconceptualisation of moral panics within a moral regulation framework sees moral panics as part of a broader system that seeks to coerce or persuade individuals to exercise certain moral customs and rituals. As extreme moralising phenomena, moral panics can only occur in a context of moral regulation when the regulated fail to respond to everyday processes of self- and external moral governance,

thus justifying 'authoritative intervention' (Hier, 2002: 330). While this reconceptualisation takes the moral panic concept beyond its limited explanatory or heuristic function (Rohloff and Wright, 2010), the particular ideological agenda behind, and those who benefit from, processes of moral regulation are two of the key questions that are left unanswered, other than state and non-state actors. In addition, the assertion that the moral position embedded in a moral panic analysis is intrinsically bad or wrong (Hunt, 1999: 7) is itself a normative judgement, an issue not addressed by moral regulation theorists.

Nonetheless, a moral regulation framework reveals the everyday discourses and forms of control that enable moral panics to surface, since they arise from and contribute to 'ongoing moral regulation processes'. Their initiation appears to depend on a (perceived) breakdown in routine regulatory processes (Hier, 2011: 533). The rhetoric of politicians and news reports regularly carries messages of alarm about certain people (such as asylum seekers, terrorists and gang members) so that, in a morally regulated society, where individuals make regular decisions about self-governance and risk, moral panics represent a perceived abeyance of individual responsibility which legitimates further control—as if the public needs 'softening up' before it will accept another level of moral regulation.⁵

At the same time, elite interests confirm preferred modes of conduct and identity. The ongoing narrative of demonisation, morality, control and panic that permeates everyday discourse (producing a 'culture of fear') is 'rooted in the changing nature of economic and political structures'. In other words, discursive practices of fear condition and legitimate moral panic processes, such that the 'political dimensions of all moral panics are indisputable' (Critchler, 2011: 262, 268).

While some moral regulation theorists reject the moral panic concept because of its inherent normativity, Hier (2011) views moral panics and moral regulation as similar processes: moral panics amount to short-term defensive phenomena which focus on the conduct of others, while moral regulation involves long-term processes which focus on the conduct of self and the internalisation of moral codes. While one is about controlling others and the other is about control of the self, both the identity of the regulator and the regulated are constituted through these processes. For example, if nineteenth-century society was obsessed with the moral regulation of the female body, as discussed in Chapter 3, both men and women were constituted through this moral regulation, in that conceptions of manliness arose from delineating the values and conduct associated with the sexed female body.

As neat as Hier's analysis of the relationship between moral panic and regulation appears, Critcher (2009) and Cohen (2002) are doubtful about the range of issues that is encompassed by moral regulation theory and, by implication, moral panics, something later recognised by Hier (2011). In order to distinguish between moral regulation and moral panics, and to specify the analytical boundaries of moral panic research, Critcher (2009: 25–26) suggested the following 'criteria of differentiation':

- (i) 'moral order: the degree of perceived threat to basic values';
- (ii) 'social control: the extent to which there is identified a viable solution';
- (iii) 'governmentality: how far moral regulation of others is represented as requiring ethical formation of the self'.

Behind these criteria lies Critcher's objective of not losing sight of the moral panic concept as a form of social criticism which recognises the politics of deviancy. While the moral order varies over time and place, moral panics are more likely to develop in response to behaviour that evokes high levels of moralisation and control owing to the immediate or perceived risk of harm and threat to public order, such as public violence or threats to children.

Hier (2011: 531) has both endorsed and criticised Critcher's criteria because he considers that Critcher has reintroduced the very problems associated with negative normative judgements which underpin moral panic analyses, something a moral regulation framework was designed to address. He recommends avoiding explanations that imply 'a unified "society" that acts collectively' on the powerless folk devil, and suggests it is important to recognise the 'nuanced ways' in which people control the conduct of others. This includes a recognition of the 'formative influence [of moral panics] on the regulators [and] the wider population' as well as the selected 'deviant' individuals (Hier, 2011: 535), and the fact that moral panic analyses must embrace the 'significance of how moralizing claims articulate in specific historical periods' (Hier, 2011: 531).

Rohloff and Wright (2010: 414) advocate moving beyond the use of moral panic as a heuristic and normative term by recognising moral panics as 'short-term decivilizing processes'. Elias's (2000) concepts of civilising and de-civilising 'explored the interrelationship between long-term changes in standards of behaviour and processes of state formation' (Rohloff and Wright, 2010: 411–412; see also Hunt, 1999). Rohloff and

Wright consider that moral panics represent 'episodes of decivilisation' which occur during times of real increases in danger and 'a (perceived) failure of the state to reduce those dangers'. Arguably, however, in examining the processes that enable both civilising and decivilising to occur, Rohloff's and Wright's analysis does not provide any greater insights than those of Hier (2002, 2008, 2011), Cohen (2011b) or Ben-Yehuda (2009), who also ask how certain issues transform into social problems and how changes in power relationships between particular groups affect the development of a moral panic.

The reason why some activities and not others attract official and/or media concern is the key question that none of the above analyses and definitions fully addresses, although a moral regulation framework provides the clue. That clue may be contained in the type of crimes and people that have historically attracted moral responses, regulation and state intervention, such as adolescent men, drug-takers and muggers. That clue is the sex of the body of the offender, discussed further below.

The complexity of moral regulation is reflected in Hier's warning not to conflate social control processes with the discursive constructions that create or justify the need for control (Hier, 2011: 533). Arguably this can be done by identifying the processes that are a necessary precondition to the commencement of a moral panic; that is, deviancy construction. This book argues that concepts of moralisation and harm are contingent on the classed, raced and sexed body that is implicated in the moralising process, and how that process both constitutes the body and creates the context in which a moral panic may occur. This argument will involve identifying the sexing processes that construct the 'dangerous' body which, in turn, will address the criticisms that moral panic analyses lack a theoretical foundation, something that may have arisen from a lack of clarity about the broader context in which moral panics arise (moral regulation) and a consequent inability to identify the initiating processes of a moral panic.

Moral regulation does not engage with the structures of power that arise as a result of relationships based on sex, race, class and age and the manipulation of concepts of harm when state power is contested. If moral panics are an extreme form of moral regulation that seek to coerce certain individuals, then it is necessary to engage with the relations of power that determine what is 'moral', what is 'harm', who the dangerous others are and what forms of regulation will be imposed on them. A moral regulation framework does not expressly recognise that we are not all equal, in that moral regulatory processes do not affect all of us in the same way, with selective moral regulation of, for example,

men and women, gays and straights, blacks and whites able to be traced historically.

The framework also does not engage with the lived experiences of those subject to violence, discrimination and control as a result of sex, race, class and age, nor with the power relations established through the processes of moral regulation. This begs the following questions: what is the ongoing role of moral panic analyses within a moral regulation framework? Is moral panic a socially useful concept for identifying not just constructions of deviancy but power relations that are centred on coercive forms of control of some bodies, but not others? Arguably, we still need the moral panic concept to discern the mechanisms of social control that constitute different people differently and to discern the reasons for doing so.

The limitations of terminology: What is ‘moral’ and when is it appropriate to ‘panic’?

There is much unease with the term ‘moral’, given its inherent negative normativity, its relational nature and its variability historically and culturally (Hunt, 1999). While each moral panic analysis has ‘its own morality’ in terms of why a particular social reaction is singled out as a moral panic (Cohen, 2011a: xxvi), it is necessary to address the criticism that the concept is ‘judgemental, normative and biased’ (Cohen, 2011b: 237) because it implies exaggeration and invites conspiracy theories. In fact, ‘moral panic’ may be so ‘value-laden’ that it has become a ‘political epithet’ of left-leaning sociologists and journalists who apply the term in relation to moral responses from conservative groups (Cohen, 2011a: xxxix).

As a result, criticisms have centred on the left ‘being “out of touch” with the reality of crime, its harmful effects and the fears of “ordinary people” ’ (Cohen, 2011a: xxxix). Indeed, without any apparent criteria of proportionality, the moral panic concept may be nothing more than a polemical label, particularly since it is difficult to discern exactly when a social concern transforms into a disproportional ‘panic’, whether collective action is involved, or whether media coverage truly represents an indicator of public concern (Ungar, 2001).

Hier (2008: 180) considers it would be preferable to replace ‘judgements of irrationality’ with an explanation of ‘the volatility of moralization in the context of wider practices of governing oneself and others’; that is, within a moral regulation framework, as discussed above. Cohen (2011a: xxxiii–xxxiv) agrees that the word ‘panic’ is unfortunate because

it implies 'irrationality and being out of control... and evokes the image of frenzied crowd or mob'. But he remains convinced of the word's utility since 'media driven narratives' still commonly exhibit the irrationality of a panic while representing a rational manipulation of the social agenda.

Indeed, critics of the moral panic concept are not necessarily objective and amoral observers; the terms of a moral argument mean that, for some, morality is a concept for rebalancing society when 'things' have gone too far, while for others morality is an ideological concept that is exploited by the powerful to punish soft targets. Often risk and harm are discussed acontextually, offering no insights into the economic and political structures that police individual behaviour. As a result, the moral panic concept lives on, with a number of researchers defending its analytical utility. Critcher (2003: 144) suggests that to retain the concept, the moral dimension to a panic must be identifiable and distinctive:

It must centre on deviance as an inherent condition of a group, condition or activity. It must involve a perceived threat to the moral order as a whole... [and] [i]t must ultimately cast this threat in the most basic terms of good and evil.

This means that the moral response to a threat must transcend notions of morality that characterise moral regulation; that is, when responsible self-control and risk management, both aimed at encouraging self-governance to avoid harm (Hier, 2002, 2008, 2011), offer no solutions. While it is important to describe the processes involved in the construction of a moral panic, its essence is the 'expression of irreducible moral values' as opposed to risk or harm more broadly speaking. As an analytical concept it may still have utility for describing certain social phenomena even if its value has declined over the years (Critcher, 2003: 177–178). If Cohen's original definition of a moral panic constitutes an explanation of the *processes* that make up a moral panic, it is clear that the concept also embodies the characteristics of moral regulation in neo-liberal societies as discussed above: a convergence of state/media concerns, social anxiety and attempts at social control. Indeed, the very purpose of moral panic analysis is to detect, chart and understand a new or shifting moral order by reference to the 'social control processes aimed at the moral failings of dispossessed groups' (Ungar, 2001: 277; see also Garland, 2008: 12).

Other problems with moral panic analyses stem from the loose application of Cohen's (1972) original definition. Often a particular social threat, such as juvenile delinquency or youth gang behaviour, is described in such a way to match the conditions of a moral panic with underlying assumptions (rather than analysis) that the perceived social threat was more imagined than real and that juveniles or youth gangs were indeed 'a soft target, easily denounced' and turned into 'folk devils' (Cohen, 2011a: xii). As a result, it can be difficult to discern if and why a particular moral panic was actually created because of a lack of chronology of events and historical context. Most moral panic researchers focus on one crisis retrospectively, which is deemed to fit the moral panic paradigm with no other examples for comparison (Ungar, 2001), which amounts to no more than anecdotal evidence for the propositions they seek to prove. There have also been few attempts to study moral panics according to their content:

do moral panics about gender issues share the same political strategies and ... structure as those about race, ethnicity and immigration?
(Cohen, 2011b: 239)

Since the moral panic concept appears to be an explanatory tool for minimising or dismissing certain social reactions to public threats, Ungar (2001: 287; emphases in original) cautions that critics ought to have 'sufficiently rigorous evidence to support the contention that *particular* reactions are *patently* unwarranted'. So where do we go from here?

Making moral panics visible: Normativity and the political project

The issue of normativity (Hier, 2002; Rohloff and Wright, 2010; Young, 2011) arises out of a judgement that a moral reaction is politically driven and may even be responsible for creating a perceived social threat. Calls have been made for greater detachment and objectivity by Rohloff and Wright (2010: 410, 413), who ask: 'Can our assessments be relatively non-normative ... while still allowing space for the "political project"?' Jenkins (2009: 36) argues that social issues should be examined using a 'constructionist approach [which] makes no initial assumptions about the legitimacy of the subject matter'. This means that researchers must decide whether or not the moral panic concept is really 'an analytic distraction' or 'a useful conceptual tool' (Cornwall

and Linders, 2002: 314). In labelling a reaction a moral panic it is necessary to be aware of the concept's limitations (Waddington, 1986; Hunt, 1997; Thompson, 1998; Ungar, 2001; Cornwall and Linders, 2002; Hier, 2002, 2008; Critcher, 2003; Cohen, 2004; Garland, 2008; Walton, 2008; Rohloff and Wright, 2010); 'to be more rigorous in its use and more sensitive to its hidden implications'; to be wary of 'attempting to construct a grand unified theory of moral panic' (Hunt, 1997: 630) and to question various assumptions:

first, that moral panics are timeless, common to 'all societies' ... and 'subject to eternal recurrence' ... [and] that they are embedded in the 'collective conscience' ... as part of the 'landscape of public imagination'.

(Hunt, 1997: 644; references omitted)

While Garland (2008: 15) considers that the best moral panic analyses 'render ... [societal] anxieties conscious and intelligible and ... show how they contributed to the outcry in question', he agrees with Ungar (2001) that sociologists need to be aware of:

the failure to provide evidence that these background anxieties truly exist and that they—rather than the deviant phenomenon being reacted to—actually contributed to the emergence of the moral panic in question.

(references omitted)

For example, St Cyr (2003: 31) discusses how:

public concern over gangs and gang violence is not entirely unwarranted. Gang members have consistently been found to have higher rates of violent and property crimes and drug use than their non-gang peers ... [and] have delinquency rates four to five times those of non-gang members.

Since the moral panic label implies an ill-judged over reaction out of all proportion to the triggering event and the harm caused, the sociologist seeks to change the way the event is perceived, to defend the folk devils at the centre of the crisis, and/or to ameliorate the political response to the crisis. In labelling a phenomenon which itself is engaged in labelling a particular group or individual, there is a risk not only in terms of a backlash from the proponents of the moral crisis

but also in setting oneself up as the rational sceptic: '[i]f moral panics sometimes have a religious zeal to them ... the task of exposing them as moral panics falls to doubters, agnostics, and unbelievers' (Garland, 2008: 21).

How does a sociologist decide if a moral reaction is out of all proportion, the key element for establishing the existence of a moral panic? What 'criteria of proportionality' (Waddington, 1986: 246) should be used, and what of the dangers of making a subjective judgement that the 'experts' have got it 'wrong' and the sociologist has got it 'right'? The answers lie in identifying the strategies of moralisation at 'particular historical and political moments' (Hier, 2008: 181). Hier (2008: 178) considers that the use of disproportionality as the measure for determining the existence of a moral panic is unsound, since there is no 'reliable indication of what constitutes a realistic level of concern, anxiety or alarm', making it difficult to theorise the point at which 'moralization in everyday life' is transformed into 'atypical volatility' (Hier, 2008: 171–172).

Goode and Ben-Yehuda (2009: 44–46, 76–77) disagree, and propose five indicators for measuring disproportionality and determining whether a threat is exaggerated or not. They consider that when (i) there has been gross exaggeration of the data on the scope of the threat; (ii) the threat is fabricated; (iii) the threat or atrocity is not backed up by evidence; (iv) the harm from the threat is the same as other, ignored threats; and (v) the attention paid to the threat is vastly greater compared to other times with no increase in seriousness, a judgement of disproportionality is valid. These five indicators may be accompanied by exaggeration of the social threat beyond its actual impact and a call for solutions, such as a ban on certain offensive material, or for laws to control certain behaviours or places of congregation which may culminate in draconian legislation, such as restrictive censorship laws, terrorism laws or wider police powers. A claim of disproportionality is also justifiable when folk devil labelling targets the wrong cause of the perceived threat, particularly in a context where the goal of news reporting for downmarket newspapers is to create a moral panic (McRobbie and Thornton, 1995) and when the body of the folk devil is sexed by reference to the extreme negative qualities associated with maleness or femaleness. I argue that disproportionality can also be measured by utilising the sexed bodies approach discussed in Chapter 1 to discern the social significance of the particular bodies that are subject to moralisation processes and how they are constructed as harmful (see Chapter 3).

Because there may be many interpretations of one event, it is incumbent on researchers to be aware of their epistemological position and to recognise that a threat can evoke genuine fear and anxiety at the same time as elites utilise the threat for their own political agenda. The task is to investigate whether a particular reaction is a response to a real social threat as opposed to constructed deviance—as Garland (2008: 23) advises, one must not lose sight of the social problem (and the issue of causality: Hier, 2002) which gives rise to the reaction. To this I would add that one needs to distinguish between fear of harm and actual harm as a result of a threat. The different actors involved in a crisis—victims' rights groups, politicians, police, civil libertarians, radio DJs and newspaper editors—will not necessarily have the same interests, agenda, motivations or experiences of harm.

Another criticism of moral panic analysis is that it does 'not take account of the historically structured processes that feed into the panic', since moral panics are associated with 'transitions in the social, economic or moral order of the society' (Garland, 2008: 14). The tendency to focus on a social threat in isolation is described by Rohloff and Wright (2010: 416) as ironic, since 'disproportionality necessarily depends on a degree of a historical measure'. Arguably, this is the more interesting sociological question; that is, the social function that a particular moral panic serves and the changes it produces, historically speaking. While the slogan 'if it bleeds, it leads' (Ben-Yehuda, 2009: 2) may characterise modern-day newspaper reporting in the daily tabloid press, an ahistorical analysis means it is easy to overlook the fact that this slogan has defined news reporting since newspapers came to political and social prominence from around the middle of the nineteenth century, as discussed in Chapter 3. By taking an historical approach, moral panic analysis will involve fundamental questions about how cultures develop, change, control, punish, create and maintain power relations between outsider groups and the silent majority over time:

moral panics are about representations, images and coercion: about which sector of a society has the power to represent and impose its images, world views and interests onto others as being both legitimate and valid. In other words, moral panics are about struggles for moral hegemony.

(Ben-Yehuda, 2009: 3)

The struggle for hegemony must involve threats to existing hierarchical relationships of power or structures of moral regulation and the

involvement of particular 'moral entrepreneurs' who have an identifiable political agenda and a permanent orientation towards moral issues (Cricher, 2003: 147), such as politicians campaigning on tough law and order platforms. Similarly, the media must have a nose for triggering events that challenge accepted moral values, since these constitute the staple diet for selling newspapers and drawing viewers.

In other words, moral panics are orchestrated rather than unintended and underpinned by strategic concerns (Hall et al., 1978) with elites' 'rhetoric of morality' (Cricher, 2003: 147) justifying the moral high ground and the erosion of civil rights. Young (2009) reiterates the conditions for social intervention by moral entrepreneurs: a powerful group whose interests and/or moral values are directly threatened by a particular subculture. A necessary condition is 'the existence of marginalized, outsider groups suitable for portrayal as "folk devils" ' (Garland, 2008: 14), such that the threat posed and the deviant person or group are placed on one side of a moral boundary against 'right-thinking' people. Moral panics need a focus—the 'devil' in human form onto which deviance can be projected—which differentiates a moral panic from other forms of moral regulation (Ungar, 2001; Hier, 2002, 2008; Cricher, 2003, 2009; Young, 2009). Whether or not all folk devils represent marginalised groups is debatable, since anyone can be transformed into a deviant; for example, one day a well-respected priest or teacher, the next a predatory paedophile; one day a middle-class mother and lawyer, the next day a baby-killer.

Moral indignation is accompanied by 'assertions of violation of public safety or the safety of the deviant', with these justifications corresponding to "'conservative" and "liberal" othering' whereby '[t]he first demonizes, insisting the deviant is alien from us, and the second suggests that deviance is sick or immature behaviour, and...lacks our norms and values' (Young, 2009: 10–11). It is also necessary to recognise the ever-changing and complex struggles for power between certain groups, such as the agency of folk devils, the different media and public interests and those who oppose the moral entrepreneurs involved in spearheading a moral panic (Miller and Kitlinger, 1998: 216). More sophisticated analyses recognise that folk devils are not necessarily passive recipients of labelling and may reject or even counter the stigmatisation attached to them (McRobbie and Thornton, 1995), with folk devils sometimes being 'active participants in the unfolding drama of moral panics' (Ben-Yehuda, 2009: 2).

While moral panic models describe a relatively simple pathway from start to finish, the trajectory of a particular moral panic is usually more

complex, reflecting the unpredictability of human behaviour, the power relations involved and the point at which a social issue is claimed or transformed by moral entrepreneurs into a threat with a folk devil at its centre. It is difficult to identify when a moral panic will arise as a result of this complexity, although Critcher (2003: 146) considers this does not necessarily undermine the existence of a moral panic as 'an ideal type'. But for those struggling with the criteria set out in moral panic models, the task is not easy.

Revision of moral panic models

Critcher (2003: 16–19) revised Cohen's (1972) definition of a moral panic to elicit 'a processual model' for analysing social phenomena. In order to reveal the elements of the model that are constant over time irrespective of the crisis under discussion, Critcher defined Cohen's 'seven loosely defined stages' 'to incorporate omissions'. Although still explanatory rather than causal, the processual model attempts to explain the *conditions* that give rise to a moral panic, and includes the following seven stages taken from Cohen (2004: 1):

(i) *Emergence*: '[a] condition, episode, person or group of persons emerges to become defined as a threat to societal values and interests'. For those who seek to analyse the type of situations that might give rise to a moral panic, it is necessary to explain the form in which the threat emerges, as well as why and in what ways the behaviour is perceived as a threat to the moral order.

(ii) *Media inventory*: complex processes underlie Cohen's original statement that after a threat is perceived, 'its nature is presented in a stylized and stereotypical fashion by the mass media'. The mass media must begin reporting the threat and perhaps drawing together similar events, although the initial reports are characterised by 'exaggeration/distortion, prediction and symbolization' with 'an identifiable folk devil' linked to the threat.

(iii) *Moral entrepreneurs*: are necessary to the development of a moral panic, since they are the groups ('editors, bishops, politicians and other right-thinking people') manning Cohen's 'moral barricades'. In describing the threat and offering explanations and solutions, moral entrepreneurs may 'lead, follow or operate alongside the media'.

(iv) *Experts*: it appears that Cohen thought that the 'socially accredited experts [who] pronounce their diagnoses and solutions' operate

alongside the moral entrepreneurs, although Critcher considers that experts are not necessary to the emergence or development of a moral panic. Nonetheless, experts may affect 'the way the media, especially upmarket papers and broadcasting come to identify the issue'.

(v) *Coping and resolution*: media reaction as well as the demands of moral entrepreneurs and experts will determine the 'ways of coping' that must be introduced to contain the folk devils' behaviour.

(vi) *Fade away*: as 'the condition then disappears, submerges or deteriorates', the moral panic dissipates and the media turn their attention to other stories. Often the fading away coincides with media satisfaction about the resolution, such as new laws or the arrest of the folk devils. Nonetheless, the threat could recur at any time, beginning the cycle all over again.

(vii) *Legacy*: a moral panic may have 'little long lasting effect' or may have 'more serious and long-lasting repercussions and might produce such changes... in legal and social policy or even in the way the society conceives itself'.

Several researchers have called into question many of the assumptions that underpin Cohen's model, as well as the three causal models proposed by Goode and Ben-Yehuda (McRobbie and Thornton, 1995; Ungar, 2001; Critcher, 2003; Hier, 2003, 2008). However, it is doubtful that Cohen intended his opening introduction to moral panics to be interpreted in a prescriptive manner. After all, his analysis of the public reaction to the mods and rockers was without empirical support in that one case study does not a phenomenon make. Cohen did not document, nor did he intend to document, all the moral panics that had ever occurred.

Nonetheless, McRobbie's and Thornton's (1995) criticism of Cohen's conceptualisations of society as predictable and monolithic is not fatal to moral panic analysis, since nothing is lost by recognising the diversity of social reactions to a particular threat or harm. In fact, a closer inspection of the development of a moral panic reveals the nuanced power relations between elites, moral entrepreneurs, folk devils and different sections of the public without losing any of Cohen's insights. Identification of these power relations will necessarily be more sophisticated than the work of Cohen and the study by Hall et al. (1978) simply because of the development, during the 1990s and 2000s, of masculinities studies, which in describing the social construction of gender and power, identified the complex and changing social structures that both privilege

and marginalise different men and women according to race, class, sex, ethnicity, religion, sexuality and disability (Messerschmidt, 1993, 1999, 2000; Connell, 1995; Cossins, 2000; Connell and Messerschmidt, 2005).

A recognition of diverse social relations of power necessarily involves pinpointing positions of hegemony and subordination which exist in dynamic relationship to one another, something that Hall et al. (1978) considered inimical to the development of a moral panic; that is, a 'crisis of hegemony' may manifest in a moral panic as a strategy for imposing greater levels of control (Hall et al., 1978). Since then, Critcher (2003, 2009, 2011) has continued to argue that moral panics are a product of social relations of power in the form of moral regulation; that is, the misuse or abuse of power by elites (and the media) to reinforce dominant norms of behaviour through the control of certain individuals. In other words, within a moral regulatory framework the moral panic concept is contextual, relational and inherently political.

Since the essence of a moral panic involves 'the politics of group relations and status competition' (Garland, 2008: 11), a perceived threat to the structures of power invites an interrogation of the relationship between masculinities and moral panics. Certain social threats will challenge what Connell (1987) calls the power of hegemonic masculinity. Messerschmidt (1993: 81) explains that 'Gramsci (1978) used the term "hegemony" to refer to the ascendancy—obtained primarily by manufactured consent rather than by force—of one class over other classes'. Connell (1987: 184) defines 'hegemony' to mean:

a social ascendancy achieved in a play of social forces that extends beyond contests of brute power into the organization of private life and cultural processes. Ascendancy of one group of men over another achieved at the point of a gun, or by the threat of unemployment, is not hegemony. Ascendancy which is embedded in religious doctrine and practice, mass media content, wage structures, ... welfare/tax policies and so forth, is.

Hegemony involves various forms of moral regulation to obtain public consent for its ascendancy with processes of self-governance ('manufactured consent') amounting to an ingenious method for the dominance of one class over another. In particular, the cultural power of those with the economic and institutional means to name and shame through the symbolic language of morality amounts to the ascendancy of particular interests over those individuals constructed as folk devils, who, in the struggle to maintain hegemony, must be controlled, ostracised or

punished. Such power is demonstrably different from that of a group of adolescents disturbing the peace, or gangs of drug dealers fighting a turf war.

Identification of these power relations allows us 'to re-think the possibilities for the generalizability of moral panics in societies that have become fragmented and multicultural' (Ben-Yehuda, 2009: 2). While there may be many groups contesting the cultural playing field in relation to whether an event is a threat or a legitimate form of social agitation, the task is to determine at what point, if at all, a coalescence of interests between elites, the media, lobby groups and experts is sufficiently great to transform an event into a moral panic. Arguably, this coalescence is more likely to occur when the threat involves harm to children, while some predict that fragmented, multicultural societies are likely to produce more rather than fewer moral panics (Hier, 2008; Ben-Yehuda, 2009), possibly because of the ease with which 'outsider' groups can be constructed by reference to cultural beliefs about various racial and ethnic groups.

Garland (2008: 17) argues there has been a shift in the development and nature of moral panics from the traditional 'vertical relation between society and a deviant group', representing asymmetrical power, to more contested, dissenting, non-consensual views about moral issues, with those subject to folk devil status having the means to resist social condemnation. Garland (2008: 17–18) calls this 'a shift from consensual moral panics to conflictual culture wars', which recognises the role of the media and politicians in creating moral panics.

The late twentieth century is also characterised by the development of the concept of risk (Ungar, 2001; Hier, 2008) (rather than the nineteenth-century concept of morality in the Christian tradition). In a context which recognises previously unforeseen risks (such as nuclear war, climate change and terrorism), 'moral panic narratives have to defend a "more complex and brittle" social order, a less deferential culture' (Cohen, 2011a: xxx) but also a more sophisticated one. Thus, narratives of risk, risk analysis and management compete with the traditional moral stories of yesteryear, such as murder and 'debauchery'. With the acceptance of a range of previously immoral behaviours (sex outside marriage, unmarried motherhood and homosexuality), the latter part of the twentieth century has been characterised by a 'collapse' in morality as that concept was understood a century ago. To some extent, moral panics may have been replaced by 'risk panics', where the threat is a depersonified danger such as nuclear weapons, environmental damage or stock-market crashes; that is, something that amounts to a scientific

or economic challenge (such as climate change) or an external threat (such as North Korea's nuclear capability).

While Ungar (2001) contends that the moral panic concept is too vague to capture the extent and variety of risks that characterise modern societies, Cohen (2011a: xxxii) disagrees, since '[p]ublic talk about child neglect, sexual abuse or predatory street crime strongly resists the language of probabilities'. Fear of crime remains an everyday public, political and media concern. Where there is a personified threat and a need to allocate blame, the ingredients for a moral panic remain (Cohen, 2011a). Rather than the moral panic concept becoming antiquated, a risk society predicts a greater proliferation of moral panics than in past eras.

Nonetheless, contention remains about moral panic models and their utility. Critcher's (2003) application of Cohen's seven-stage processual model to various moral crises in order 'to prove' the model's efficacy has been criticised by Rohloff and Wright (2010: 404–405; original emphasis): 'one suspects that [Critcher] is rigorously testing so as to come up with *the* model', an approach that they consider reinforces the model's imprecision and its lack of theoretical grounding.

Critcher (2003: 18) recognises that 'reduc[ing] the complexity of [Cohen's] analysis to a rather mechanical model of progression through inevitable stages' misses the fact that after the emergence of a threat, the other six stages are not simply linear and progressive since people do not operate in such straightforward ways. Moral threats may dissipate at any particular point, media interest may rise and fall inexplicably, moral entrepreneurs may drop off, or politicians may respond immediately to avert political fallout.

Moral panic models must also take account of the lack of empirical data to support the initiation, progress and decline of a moral panic. While several moral panic case studies are reported in the literature, it is unclear whether all can or should be so described, as Critcher (2003) and Goode and Ben-Yehuda (2009) found in their analyses of various moral issues. While critics focus on the extent to which a social phenomenon cannot be explained by the models, moral panic proponents consider that '[i]t is enough if the model reveals commonalities and differences between issues'. Although partly a debate about the general versus the particular, Critcher (2003: 154) is adamant that Cohen's model is still relevant where an issue:

emerges as a symbolic threat; where the media as a whole accept a single definition of the problem; where there are organized groups

supporting the panic and none disputing it; where expert opinion does... support the diagnosis of the problem; where the state... does institute repressive measures.

Critcher (2003) also recognises the need for a media campaign to 'catch on' amongst other media for a moral panic to really take off and that, at some stage, either at the beginning or after protracted media attention, the elites (politicians and/or experts) express sufficient concern and consensus that 'something must be done'. When that occurs (usually in the form of legislative change), it 'temporarily appeases the moral campaigners' (Hall et al., 2006: 43), the moral panic subsides and the media move on to other issues.

In fact, one of the indications of a moral panic is that the legacy constitutes 'panic' legislation; that is, laws drafted expediently in response to a perceived social threat, with little or no foresight about 'the wider political, economic or social implications' (Krzanich, 2010: 180), the effectiveness of the legislation or consultation with those groups most affected. A moral panic may justify coercive laws that would not otherwise be tolerated, such as terrorism laws in the USA, the UK and Australia which deny detainees fundamental rights and freedoms (Williams and Lynch, 2006) and increased police search and seizure powers (Goode and Ben-Yehuda, 2009).

While transitory moral panics are unlikely to have a sustained social impact, the quest for evidence of a moral panic is found in relation to sustained moral panics, which have a cumulative effect depending on the number and type of triggering events and existing social or economic insecurities. Hall et al. (1978) discuss how a moral panic over mugging triggered the emergence of a law and order society, while 'the American panic over drugs drove the build-up of mass imprisonment' (Garland, 2008: 15). Similarly, 'the recurring sex offender panics of the last ten years have led to an intrusive apparatus of supervision, restraint, and confinement' (Garland, 2008: 15; see also Jenkins, 1998; Hier, 2008), while moral panics about gang crime have led to 'institutionalized legacies' such as special policing units, community task forces and gang control legislation in a majority of states in the USA (St Cyr, 2003: 26). With time, the cumulative effect of moral panics can 'create social divisions and redistribute social status as well as building infrastructures of regulation and control that persist long after the initial episode' (Garland, 2008: 16).

Still, it is necessary to consider how moral panic models can be improved to enhance their analytical utility by recognising the role of

moral panics within a moral regulation framework and incorporating causal theories.

The social constructionist approach of Goode and Ben-Yehuda (1994; 2009) (which Critcher (2003: 25) calls the attributional model) also identifies key stages through which a moral panic passes. This model is, in turn, based on three causal models for explaining the progress through these stages. It begins with a 'heightened level of concern' about the behaviour of a particular group and its effect (Goode and Ben-Yehuda, 1994: 33; 2009: 37–43). With an eye to proportionality, this concern must be 'measurable in concrete ways' such as public opinion polls, media attention, political responses and 'social movement' agitation. After the concern comes 'an increased level of hostility' towards those acting in harmful or threatening ways. Out of concern and hostility comes consensus or agreement, something that differs from Cohen's model—'there must be at least a certain minimal measure of consensus in the society...or in designated segments of the society...that the threat is real, serious' and caused by the wrongdoers (Goode and Ben-Yehuda, 1994: 34). The consensus of fear has to affect a substantial proportion of the public, without which there can be no moral panic.

The fourth condition requires the public's reaction to be disproportionate to the threat and the harm posed, while the last condition is volatility—a moral panic erupts quickly and suddenly subsides, although it may reappear over time.

Critcher's (2003: 39–41, 56–58) analysis of the attributional model's effectiveness for explaining why particular social phenomena develop into moral panics reveals a number of problems. First, the model is even more prescriptive than Cohen's seven stages, amounting to something of a formula, so that the lack of one attribute means a particular social phenomenon will not amount to a moral panic, with no empirical or theoretical explanation as to why all five conditions must exist. Critcher (2003) decided that the model had little explanatory utility because of its focus on public concern as a necessary criterion, since he found that widespread public opinion was not necessary to the creation of a moral panic. In fact, the focus on public consensus and grass-roots initiation of a moral panic belies the demonstrable role of the media in creating moral panics, while Goode and Ben-Yehuda's (2009: 39) latest defence of the need for public concern and consensus reveals no evidence for its necessity. It is now clear that 'the media themselves, especially the popular press, can become active claims makers with or without other groups to back them up' (Critcher, 2003: 26) and that public reaction may mimic media reaction, something not envisaged

in the original attributional model. While volatility is another element of the model, Critcher found that many moral panics, such as the one around paedophilia, lasted years with no quick dissipation. In fact:

Goode and Ben-Yehuda make only limited attempts to trace general patterns in the construction of moral panics. Their definition is more about outcomes than the ways they are produced. Concentrating on claims makers, they are remarkably uninterested in other key actors. Consequently they underestimate the role of the media ... [and] do not emphasize the processes of newsmaking in the media.

(Critcher's, 2003: 26)

In the second edition of their book, Goode and Ben-Yehuda (2009: ix, 89–90, 106) accept that they failed to recognise that the media is 'a central and foundational feature' of moral panics. They concede that 'the modern mass media provide the most effective spark for the creation of moral panics' because of their large audience reach and their ability to reinforce the moral panic message by recycling a story time and again with new angles. They now recognise that the tabloid press has an institutionalised 'need for moral panics', including the need to report and sensationalise unusual events—especially violent crime—that appeal to 'relatively unsophisticated, gullible' readers, by focusing on the emotional significance of an issue through melodramatic headlines, language, visual images and exaggeration. Nonetheless, the causal question remains: what is the cultural necessity for the development of a moral panic?

The causal development of a moral panic

If a moral panic analysis is a method for naming the inequitable power relations around a particular social struggle, then the folk devil concept allows us to identify how a power imbalance arises between those named and those who have the power to name within an overarching framework of moral regulation. If folk devils 'are less marginalised [today] than they once were' (McRobbie and Thornton, 1995: 559), this is a reflection of the flux and impermanence of power relations as various individuals gain access to the means of power and ways of challenging the status quo (Connell, 2002).

But when does everyday political or media reporting of an event transform into a moral panic? Goode and Ben-Yehuda (1994, 2009) proposed three causal models (the elite-engineered, the interest-group

and the grass-roots models) which seek to explain the causes of moral panics. These models conceptualise moral panics as a social response initiated by particular groups in a way that is more explicit than Cohen's processual model.

The first causal model holds that moral panics are engineered by elites, such as the police, politicians and the judiciary, who deliberately attempt to divert attention from more serious political issues. By fabricating or exaggerating a particular threat, such as youth gang violence or illegal immigration, elites use the media and other institutions to spread and manipulate fear, often proposing more arcane laws to serve their own interests. Critcher (2003: 134) describes elites as 'primary definers' but queries 'how far the media act as mouthpieces for the[ir] views'. What appears to be required is a *coalescence* of elite interests with those of the media before the press is likely to become a mouthpiece for what really amounts to shared interests. In fact, Critcher (2003: 134–135) notes that primary definers 'are less likely to be discrete groups than alliances', such as government and pressure groups. Notably, the elite-engineered model ignores the capacity of media corporations to challenge 'the interests of the powerful' such that the 'dominance of primary definers' cannot be assumed.

On the other hand, Welch et al. (1997: 475) consider that the perspectives of primary definers in the form of law enforcement officials 'command the field... [and] succeed in establishing the terms of reference from which all discussion of crime emanates'. In other words, 'crime news is commodified—for public consumption' (Welch et al., 1997: 479) according to an ideology that perpetuates particular class, race and gender structures. In producing crime news, the media rely on law enforcement personnel in a structured relationship of power and ideology that is 'mutually rewarding':

[i]t is through this structured relationship that the dominant ideology of crime is filtered... [so that] the media do not autonomously select news topics but... are 'cued in' to 'specific new topics by regular and reliable institutional sources' who serve as primary definers within a hierarchy of credibility.

(Welch et al., 1997: 489; references omitted)

Within this relationship of reciprocity, primary definers have 'the luxury of interpreting events *first*... [and] the opportunity to promote their institutional objectives' (Welch et al., 1997: 490; original emphasis), which for the police might include additional resources and more police powers, as well as self-promotion.

As discussed in Chapter 3, since the advent of the popular one-sheet, 'infotainment' broadsides in the late eighteenth century, the most common topic of media reporting throughout the centuries has been crime, with a disproportionate emphasis on street crime committed by low-income people, suggesting that the events selected by newspapers are 'ideologically filtered... [to] reproduce a public image of lawlessness' (Welch et al., 1997: 479; original emphases). This historical concentration on crime means that the conditions for moral panics about criminal events are culturally ingrained, with elite groups typically responding in predictable ways.

By contrast, Goode and Ben-Yehuda's *second* causal model holds that moral panics arise as a result of moral crusades perpetuated by particular interest groups (Cohen's 'moral entrepreneurs' or Critcher's (2003: 134) 'claims makers') who seek to publicise and agitate against particular 'moral evils', such as youth violence, gun ownership, abortion, teenage pregnancy or child sexual abuse. While these interest groups may exaggerate the 'moral evil' in order to increase the influence and reach of their own interest group and its ideological agenda (see, for example, Jenkins, 1992; Victor, 1998), they require a degree of legitimacy and lobbying power, since their claims must be endorsed by the media or political elites to gain publicity (Critcher, 2003: 135).

Less believably, the third model, the grass-roots model, holds that a moral panic arises spontaneously as a result of particular social stresses. This model envisages a realistic, social response to people's experiences of crime and rejects or downplays the role of specific interest groups and elites in promoting a moral panic for their own ends. The problem with the grass-roots model is the lack of a causal explanation about how and why social fears and anxieties are displaced onto a perceived social threat, since before social media, the public had limited means of learning about and communicating a social threat other than through word of mouth or the traditional media. Presumably, for an outbreak of such public concern or vigilante behaviour to occur, communication is required. Goode and Ben-Yehuda (2009: 69) now recognise that 'latent public fears... must be... given a specific outlet' and must be articulated and publically expressed by organised 'middle-level interest groups'. However, it is doubtful whether the public at large is capable of sustaining a moral panic, or whether public opinion is manipulated by the media and other interests. Hunt (1997: 645) has other criticisms:

[i]n the 'grassroots' theory...one is left with a theory of moral panic that is disengaged from the immediate political circumstances

in which a panic occurs. There is a worrying lack of historical specificity... and a facile optimism.

To this could be added a lack of empirical proof of the extent to which the public is directly affected about particular threats, with no evidence that 'the grassroots provides the fuel or raw material for a moral panic'. Goode and Ben-Yehuda (2009: 70–71) have since conceded that their three causal models, as stand-alone theories, are naïve, cynical and empty: all three interests appear to be required for the instigation of a moral panic. Indeed, several researchers have commented on the differences between the events that concern the media and the events that concern the public (McRobbie, 1994; Tester, 1994; Hunt, 1997; Critcher, 2003) and the problematic assumption that the media reflects public fears and concerns rather than choosing stories with 'news values' that will increase circulation and their own economic interests.

The role of the media

A discussion of moral panics necessarily involves an understanding of how the media create social subjectivities and how moral panics represent a political strategy for disseminating particular values or ideologies more broadly. As discussed above, there is debate about whether the media follow or generate public opinion and the extent to which exaggerated media concerns about a social threat are shared by the general public (Hunt, 1997; Cohen, 2002; Critcher, 2003), or whether 'what the papers *say* [is] what the public *thinks*' (Hunt, 1997: 645; emphases in original).

Critcher's (2003: 137) review of several moral panics found 'little evidence of public concern about issues. They seemed, if anything, confused or indifferent', leaving him to conclude that 'the media neither creates nor reflects public opinion, but constructs it'. Indeed, the success of a moral campaign is derived from the media's ability to swamp all other viewpoints 'by constructing a single, incontestable discourse' (Critcher, 2003: 177). With measurable criteria, such as ratings and circulation figures, the most influential media outlets tend to be the drivers of public opinion as well as the opinion-makers to whom politicians respond.

The centrality of the media to the development of a moral panic means that public reaction is easily manipulated by how a moral threat is interpreted and disseminated by the media. Some consider that the concept of a moral panic may now be outdated (McRobbie and

Thornton, 1995; Ungar, 2001), because of the emergence of the internet and social media and the decline of public interest in traditional media forms. However, Critcher (2003: 148) considers that 'classic moral panics show no signs of abating', since the power of the traditional media has not declined in terms of its direct relationship with elites. Moral panics are now more likely to be about childhood and paedophilia than the behaviour of male adolescents, with the qualification that crime, in general, is more likely to be reported as a pervasive threat to everyone (Reiner, 2001).

Communication is a necessary and key condition in the creation of a moral panic (Critcher, 2003; Cohen, 2004; Garland, 2008) and requires continuity of communication between the media, moral entrepreneurs and the politically powerful. The media feed off the supposed threat by constructing a titillating narrative that 'condemns and... amplifies the problem', creating 'a spiral of fear and indignation' (Young, 2009: 6). While contemporary society 'can no longer get away from the ghetto and the delinquent, from the murderer and the hoodlum', since they appear with ongoing regularity in the news and on TV programmes (Young, 2011: 249), such images have proliferated since the emergence of broadsides and cheap popular newspapers in the early nineteenth century which, like today's downmarket press, also traded in half-truths, exaggeration and tall tales of murder and violence.

The role of the media is essential in turning disparate, unconnected events into a growing threat, focusing on a similar folk devil onto whom cultural fears can be projected. Depending on the number of triggering events, such as serial killings, gang violence or schoolyard shootings, communication about these events may be short or long-standing, accompanied by intense media replaying of the events, analysis and opinion from 'experts', all of which may give rise to specific social movements or vigilante groups who agitate for laws to control the folk devils in question.

Nonetheless, before an unusual event will develop into a moral panic, 'it must gain the kind of traction that is only possible when mass media collaborate with political interests and/or law enforcement agencies' (Jenkins, 2009: 44). Ultimately, the social and moral significance of a threat must be constructed—the stuff of panic is the media's distortion of the threat and the 'violation of reason' about the likely harm (Young, 2011: 249). For example, a paedophile's release from gaol could amount to a short paragraph on page five of a newspaper about one man's quiet reintroduction into the community, or his release could result in

a page one headline with a recycling of all his offences and victims, and warnings that his release represents a looming threat for families.

But what causes the media to initiate a moral panic? A number of factors influence the media's agenda which may take precedence at different times, such as political influence or concern and agitation by interest groups, along with editors' overarching concerns about commercial interests. Both the emergence and disappearance of a moral panic can be attributed to the media's attention span, since media organisations must capture, titillate and keep the public's attention with the next novel news story. Issues guaranteed to gain public attention, such as paedophilia, infanticide and women who kill, tend to appear and decline in a serial fashion as new cases emerge. Crime stories that are suited to a crisis framework tend to hold their news value, since the 'crisis formulation quickly establishes the reality of the "problem"' based on the media's interpretation rather than the facts or empirical evidence (Ericson et al., 1987: 62; cited in Critcher, 2003: 140). Crisis thinking also demands immediate solutions that are likely to be poorly thought through and unrelated to a real assessment of the threat in question.

Although we now live in a multi-media world, so that multiple voices and perspectives make it harder to demonise groups who have the means to challenge elite interests in naming and shaming, some media outlets are 'vastly more powerful than others, [with]... a true hierarchy in mass communications' (Goode and Ben-Yehuda, 2009: 96–97, 100). In addition, the mass media is not 'a monolithic whole' (Critcher, 2003: 131), with differences between the reach and influence of television and radio, compared to upmarket and downmarket newspapers, magazines and internet media outlets. While latter day moral panics are characterised by the commercial imperatives of an intrusive and 'sensationalist' mass media (Hunter, 1997: 631–632; Garland, 2008: 14), for whom moral panics are institutionally driven (Young, 2009), sensationalism has always been a feature of the printed word—from the political pamphleteering of the seventeenth and eighteenth centuries to the lurid, exaggerated claims of London broadsides and daily newspapers during the nineteenth century (see, for example, Waugh, 1890; Tomalin, 1992; Knelman, 1998; Mayhew, 2005; Rubenhold, 2008).

It seems that the answer to understanding the media's need for sensationalism via moral panics lies in examining the historical development of the media's role in terms of the cultural space that the media grew to occupy from the middle of the nineteenth century onwards. While

many modern social problems are defined and constructed by the media according to what is considered to have 'news value', an extensive literature on the news value of crime and deviance (see Knelman, 1998; Chassaigne, 1999) shows that today's popular press in Britain developed from murder and execution broadsides, whose sole purpose was to report crime news and convey particular moral warnings. Broad­sides were popular, well-circulated, one-page criminal biographies that originated in the sixteenth century. Reaching their 'apogee during the first half of the nineteenth century' after the abolition of stamp duty on newspapers in 1855, broadsides were eventually supplanted by several daily newspapers, which copied the broadsides' popularisation of stories about crime and deviance (Chassaigne, 1999: 25).

For more than 200 years, the media has used crime stories for their inherent news value because of the ease with which criminal behaviour can be depicted as deviant, abnormal or frightening, particularly crimes of violence—'the deviant-normal axis is easily exaggerated into a contest between good and evil', with no need for complexity, nuances or subtleties (Critcher, 2003: 133). Crimes of violence, such as murder, are a gift to media organisations because they are sudden, random events, easily turned into a narrative of danger and innocence, with sufficient salacious details for seeding a moral panic, constituting the most commonly reported crime in news stories (Reiner, 2001). While media formats and the events that amount to 'a good story' change with time, the process remains the same—print and electronic media 'report some events and not others'. Those that are reported are subject to interpretation to enhance their news value and the popularity of the particular media format. The selection of some crimes and not others 'is crucial to the development of moral panics' (Critcher, 2003: 132–133), with that selection varying historically according to media interests at the time.

An historical analysis of the development of today's modern media outlets, continued in Chapter 3, reveals that the construction of deviance and the broadcasting of moral tales has given the media its legitimacy. Media organisations represent the cultural lighthouse that warns the public of impending threats to its way of life, with some people unquestioningly accepting the media's interpretation of events in order to assess social threats. The media's reach and power in relation to disaster-type stories assures us that it holds the key to our survival. As the media's influence expanded throughout the nineteenth and twentieth centuries, so too did its cultural, political and economic power. Its legitimacy is partly founded on its continuance as the cultural lighthouse that warns us of the dangerous outsider.

The new challenge

As Chapter 3 shows, cultures of fear have been produced since the inception of the popular press in the early to mid-nineteenth century. An historical analysis shows that the media has traditionally spread fear via mass communication, symbolism and expectations of danger (Altheide, 2002; cited in Critcher, 2011: 263), while discourses of deviancy have historically been used to claim legitimacy by governments, the media and interest groups. While today's media is faster and more efficient at communicating fear, the nineteenth-century media used grave, moral lessons, 'infotainment' stories and visual images to produce alarm, voyeuristic excitement and titillation, if not actual panic about crime and the poor.

While many analyses of fear are ahistorical (see, for example, Critcher, 2011), they also fail to disclose the class, race and sex interests of those involved in producing cultures of fear. Where there is a failure or breakdown in the processes of moral regulation, the body matters in terms of who is regulated, coerced or punished and who the regulator is. Discourses of fear and deviancy are associated with particular sexed and raced (deviant) bodies, which become the vehicles of fear and panic in particular political and economic circumstances in order to justify further regulation and control of, and to foster hostility towards, the dangerous other. If folk devils 'serve as the ideological embodiment of deeper anxieties' (Hier, 2002: 313), the body that produces these anxieties is the entry point into discerning the values and power relations that are affirmed in the orchestration of a moral panic.

A failure to delve into the history of deviance as a cultural product has seen claims made about the twentieth century being the hothouse for the development of moral panics compared with previous centuries: '[t]he vast expansion in the nineteenth century cities...generate[d] a situation of extreme class segregation, restricted knowledge and limited media sources' (Young, 2011: 249). But as discussed in Chapter 3, the nineteenth century saw a massive expansion of literacy throughout the working classes accompanied by an explosion in the number of daily newspapers and in circulation figures during the 1850s. A belief that today's mass media is unique belies the vast influence of the nineteenth-century media, with moral campaigns and folk devils the daily fodder which produced images of an out-of-control criminal class. Whether or not this media expansion coincided with what may have been the first moral panic of the nineteenth century's new media is one of the tasks for Chapter 3, along with an historical analysis of the role of the

sexed body in the development and continuity of certain categories of deviance.

Neither a moral regulatory framework nor concepts of civilising/decivilising position the body at the centre of these processes. The need to do so comes from the obvious question: why does some human behaviour become immoral or decivilising such that it must be regulated and/or controlled? As moral panic researchers have recognised, concepts of morality/immorality are associated with 'who'. Moral panics focus on 'direct and coercive intervention' and involve a 'much clearer distinction between innocent victims and culpable perpetrators' compared with moral regulation (Critcher, 2009: 23–24).

The problem with latter-day accounts of moralisation (such as Hunt, 1999; Hier, 2011) is that they do not explain the processes that give rise to normative moral judgements, beyond the view that they involve 'dialectical constructions of self and other' (Hier, 2011: 527). Arguably, moral regulation and moral panics require a symbolic vehicle, and that vehicle is the body, sexed male or female, raced black or white.

If a moral panic represents a temporary disturbance in the everyday processes of moral regulation at times when moral regulation is in a (perceived) state of failure (Hier, 2002: 329), the focus of this book is on the politics of folk devilry—the 'other' who must be ostracised, punished or controlled. In investigating moral panics, it is necessary to look beyond the language and images of denunciation to discover the symbolic and cultural meanings of a moral campaign (Cohen, 2002). Consonant with Young's (2009: 5) observation that moral panics focus on particular people engaged in a particular activity rather than the activity by itself, the body, sexed male or female, is inimical in the construction of deviance and the development of a moral panic. The concept of sexing discussed in Chapter 1 identifies the body being controlled and the moral order to be protected by reference to the (undesirable) values associated with that body. Drawing on conceptions of the body discussed previously, that body, as the personification of deviance, criminality or evil, is referable to the essentialist values associated with maleness or femaleness. Individuals acquire folk devil status when the essentialist values associated with a particular body resonate with danger, although race and class also influence this process.

I will investigate the long-term moral regulation of the female body, tracing its development over time, and the historical processes that gave rise to moral campaigns, if not panics, around women and infanticide in the mid-nineteenth century and the late twentieth century in order to develop a theoretical foundation for the development of a moral panic.

This will be done by examining the impact of that concept at an individual level, since '[s]pecifying how the deviant other is constituted and the line drawn between us and them remains vital' (Critcher, 2011: 271) to understanding the who, where and why of moral regulation and panics.

Specifically, I aim to explain the moral regulation of the female body across two centuries where in the first (the nineteenth century) moral regulation of the working-classes and female sexuality was one of the primary roles of a state that had yet to intrude into and regulate many other aspects of human life; while in the second (the late 1990s) state-run agencies regulate all aspects of human life from public surveillance on the streets to drug-taking, immigration, unemployment, health, disease prevention, food consumption, child protection and fertility.

Class and sex were the drivers of moral regulation in the nineteenth century, which was not viewed as a 'risk society' but one in which social problems were believed to arise from the aberrant behaviour of the working classes and 'fallen' women whose behaviour necessitated coercive control. There were clear, largely uncontested conceptions of morality, with attributions of good and evil associated with particular bodies, class and sex being the predictors of cultural representations of immorality. These boundaries were maintained through social, legal and economic control of the female body and the working classes.

While many have focused on the relationship between moralisation, risk management, harm avoidance and moral panics, reliance on a moral regulation framework takes the sex and politics out of the moral panic equation, reducing the analysis to a non-sexed world. Yet the concept of sexing is consonant with the role of moral regulators who shape ethical self-formation (Hier, 2008), since the identification of the sexed, immoral body and its deviant behaviour defines the 'other' and confirms the normality of the rest. Critcher disagrees that this type of ethical-self formation is a feature of moral panics. For example, Critcher (2009: 28–29) considers that 'most men [are not] required to examine their own sexual behaviour because of a small number of paedophiles'. But moral panics over paedophilia, with their focus on the deviant offender (the stranger), confirm what is normal for other men (Cossins, 2000).

The next chapter will show how the identity of not only the regulated but also the regulators are reaffirmed through sexing processes which, arguably, create the social subjects of a moral panic.

Conclusion

The extensive review of the literature in this chapter highlights the limitations associated with the moral panic concept, in particular its lack

of a theoretical base to support the normative judgement that a particular social reaction is disproportional to an identified threat, and is merely constructed to further elite and/or media interests. Nonetheless, the concept opened researchers' eyes to the construction of deviance as a political strategy by those with the power to name, shame and impose standards of moral behaviour. Merely naming the conditions that may give rise to a moral panic can be, however, a self-fulfilling prophecy, in that the evidence for the putative moral panic is sometimes taken to be the *definition* of a moral panic, leading to the circular reasoning that a moral panic occurred.

Although the moral panic concept has been subject to ongoing revision and criticism, this chapter questioned the extent to which the concept has ongoing analytical utility for explaining particular relationships of power in neo-liberal democratic societies which are subject to global economic insecurities and crises. Because moral panic models have been criticised as descriptive rather than explanatory, revisions have seen their location within an overall process of moral regulation. They are best understood as an extreme form of endemic social processes of moral regulation, which are subject to historical, economic and political change. The movement towards incorporating moral panics within a broader framework of moral regulation reveals the pervasive influence of the state and non-state entities in controlling human activities. The broader analytical focus that Hier argues is necessary for a moral panic analysis allows researchers to think critically about morality and moralising in different historical times. In this book, it allows me to investigate the construction and role of sexed bodies in those regulatory processes, and in creating structures of power that lead to the development of moral panics.

Classically, a moral panic involves a threat to white, middle- and upper-class, heterosexual men and the structures of power from which they benefit, and is a strategy for reasserting power and legitimacy by elites when their cultural hegemony is under challenge. Often the threat is perceived to come from the criminal behaviours of male adolescents, different ethnic and racial groups, child sex offenders, gays or terrorists, who are perceived to be a threat to property, the family, children and/or the heterosexual way of life.

Usually the body of the folk devil is not specifically described, although implicit in many moral panic analyses is the sexed male body. Rarely is that body female. In the next chapters, I will trace the significance of the sexed female body and its relationship to moral campaigns centred on infanticide to understand the perception that midwives, nurses and baby-farmers were a significant moral threat to

nineteenth-century society. At the same time, it is necessary to recognise there is a distinction between moral campaigns surrounding young men's criminality versus female criminality, given the visibility of male adolescent behaviour and the historical responses of the state compared with the hidden nature of infanticide and the state's historical disinterest.

The next chapter will focus on the role of the nineteenth-century media in creating a moral campaign, if not panic, hand in glove with a group of moral entrepreneurs who brought to the public's attention Britain's 'slaughter of the innocents'. My job is to decide whether the moral campaign around infanticide in the mid-nineteenth century meets the criteria set out in Cohen's processual moral panic model in a context where the high infant mortality of illegitimate children was a real social issue. While critics have denounced Cohen's model as nothing more than an explanatory device, the next chapter seeks to identify a causal and theoretical model of moral regulation generally and of moral panics particularly. This will be done by focusing on the moral regulation of the female body and the power relations established between the moral entrepreneurs and the folk devils constructed during the moral campaigns around infanticide.

In using Cohen's processual model within a moral regulatory framework, I will identify the cultural moments when the mechanisms of moral regulation are perceived to fail in order to theorise the significance of (sexed) bodies in the moral panic process, and to identify causal processes for explaining how endemic moral regulation of the female body during the nineteenth century grew into more extreme forms of moralising and control. This framework allows me to consider the ongoing conceptual utility of Cohen's model in relation to an historical era that was probably more prone to moral campaigns, regulation and control of individuals compared to contemporary neo-liberal democratic societies.

What did it mean, politically, to moralise in nineteenth-century society in terms of who benefited from moralising discourses and who suffered? To what extent did these discourses establish relationships of power between the moralisers and the targets of moral campaigns?

And was the extensive media reaction to baby-farming and infanticide an historical moral panic? We shall see in Chapter 3.

3

Regulation of the Female Body: Was Infanticide a Moral Panic of the Nineteenth Century?

Introduction: The ‘angel in the house’ and the devil in the dungeon

In order to answer the question in the title of this chapter, it is necessary to document the development and significance of Victorian concepts of womanhood and motherhood, since it was in the Victorian period that female sexuality and the body became a critical issue for social commentators, legislators and the medical profession. What were the values associated with the female body during this time?

The female body was associated with the unconditional love and nurture of husband and children, as well as submissive self-sacrifice, obedience, chastity, passivity, gentleness and a delicate constitution. Representations of women were based upon a dichotomy between the naturally passive, virginal and selfless wife and mother, who embodied the needs of men and the state (reproduction and wifehood), and ‘the sexually aggressive harlot’ (Levene et al., 2005: 15), who was an outcast because she defied the strict codes of conduct governing the female body (but paradoxically supplied other needs). When a woman breached the norms associated with the sexed female body, she was deemed irrational or wicked and accused of ‘forgetting her sex’ (the phrase used at the time). Becoming more like the animal within, she was a mythical figure of power and destruction, selling ‘her soul to the powers of Darkness’:

[i]f we turn away from the male criminal with . . . loathing and disgust, we cannot gaze upon the woman without the deeper emotions of execration and horror.

(*Morning Chronicle*, 14/11/1849, p.4, cited in Knelman, 1998: 253–254)

Rowbotham (1989) considers that the ideal of Victorian womanhood was the result of two interrelated historical developments. The first took place during the Industrial Revolution, when the means of production moved out of the domestic sphere to workplaces separate from the home, and the second was the desire of an emerging, wealthy, male middle class to distinguish itself from the working classes by ensuring its wives and daughters were not associated with paid work. Indeed:

[t]he fear that middle-class women would slide towards the status of working-class women by engaging in economic activity, as well as the threatened breakdown of the separation between women . . . and property and commerce seemed to portend disaster for the middle-class family.

(Hunt, 2006: 78)

The creation of 'norms of sexual and moral behaviour was an important part of the creation of class hegemony', including the power to control not only the economic conditions of the working classes but also their social status. The emergence of an economically powerful middle-class during the industrialisation of England produced certain desires, including a:

distinct class identity which would set the middle class apart from the social and economic classes above and below it [This was achieved] through the formation of shared notions of morality and respectability—domestic ideology and the production of clearly demarcated gender roles were central features in this process of class definition.

(Nead, 1988: 5)

The model of ideal femininity was located 'in the middle-class wife and mother whose asexual, morally uplifting influence was . . . a vital bulwark against the sordid intrusions of industrial life' (Zedner, 1991: 11). Also influential at the time was:

the Post-Enlightenment discourse of binary opposition with regard to gender . . . which vested rationality and morality solely in the male [and] helped to create the nineteenth-century notion of 'separate spheres'.

(Hartnell, 1996: 458)

According to this philosophy, femininity and masculinity were immutable. But, in practice, the morally chaste ideal of Victorian womanhood suited the new industrial, middle-class landscape where the middle-class wife's propriety confirmed her husband's status. Thus, it appears that the intense moral regulation that governed the lives of nineteenth-century women and girls had its antecedents in a rapidly changing economic environment, with women's domestic services supporting an expanding industrial economy and the growing power of middle-class men.

The converse of ideal femininity was the 'creature' who threatened middle-class values—whose self-expression through unmarried sex, prostitution or crime led to her description as a 'fallen woman' and whose fall from grace was so profound that she was considered to occupy the 'depths of degradation and contaminated all who came near her' (Zedner, 1991: 11). A woman who determined her own sexuality and social behaviours was feared by men (whose reputation and power was at stake if their wives or daughters transgressed) *and* women (whose respectability was at stake if they followed their errant sisters).

Nineteenth-century sexing processes produced representations of female sexuality that were 'class specific'. Out of the two predominant representations of women emerged a female body that was both a paradox and a contradiction—on the one hand, a 'decent' woman had a 'natural resistance' to seduction and venal passions since the desire for sex was 'dormant, if not non-existent' (Nead, 1988: 6–7; quoting *The Westminster Review*, 1850, vol. 53, 456–457). But once her resistance was broken down and she had yielded to her unnatural passions, her body was irredeemably defiled, a view that justified the sexual exploitation of women who turned to prostitution to survive (Jordan, 2007).

While reformation of the male criminal was thought possible, women were usually considered to be completely undone by their immoral and criminal behaviour, sinking lower than a man into moral bankruptcy. As described in the first sociological history of the underclass in Britain, '[l]iterally every woman who yields to her passions and loses her virtue is a prostitute'. So great was the fall, that '[t]here is a great abandonment of everything that one may strictly speaking denominate womanly. Modesty is utterly annihilated, and shame ceases to exist in their composition' (Mayhew et al., 2005: 10, 17).

Thus, the nineteenth-century female body and standards of female sexuality were subject to the political and economic forces that sought to set the middle classes apart from their working-class 'inferiors'—the tamed sexuality of the middle-class female body became the standard

for all other representations of women, providing the boundaries for the moral regulation of middle- and working-class women and the line that respectable women would cross to their eternal disgrace. In this way, both sex and class intersected to produce diametrically opposed but complementary sexed female bodies. *All* women's reputations were based on the innate sexuality of the sexed female body (dormant or out of control). So closely tied was a woman's reputation to her sexual morality that it was improper for respectable women to mention sexual topics in public, as the feminist, Josephine Butler, found in her campaign to reform the laws governing prostitution when she was shunned by 'polite society ... for shamelessness and indecency' (Moore, 1993: 3).

Nineteenth-century sexing processes also meant that when explanations were sought for displays of immorality, most were found to rest in the women themselves, such as 'natural levity', 'love of dress and display', reading improper books or a desire for their own gratification (Mayhew et al., 2005: 76). Explanations that would inculcate men in a woman's seduction, such as rape, abduction, the sexual slave trade in women and children, or coercion by an employer were rare. Indeed, a man's moral conduct could be completely excused by a working-class woman's sexual desire, which was demonised as a wilful lack of moral virtue:

Maid-servants in good families have an opportunity of ... making themselves, attractive to men of a higher class. It is a voluntary species of sacrifice on their part. A sort of suicidal decking with flowers, and making preparations for immolation on the part of the victim herself. Flattered by the attention of the eldest son, or some friend of his ... the pretty lady's maid will often yield to soft solicitation. Vanity is at the bottom of this, and is one of the chief characteristics of a class not otherwise naturally vicious.

(Mayhew et al., 2005: 76)

The boundaries governing men's lives were broader, more flexible and less likely to be policed. Men derived their 'masculine respectability' from the workplace, as head of a family and from their public identities (D'Cruze, 1999: 40), which included an overtly expressive sexuality on their part. In fact, 'male immorality was a trivial matter' because it 'was taken for granted that it was impossible for men to live without sex' (Committee for Amending the Law in Points Wherein it is Injurious to Women (CALPWIW), 1871b; Moore, 1993: 3).

Paradox, contradictions and hyperbole were everywhere. Although the moral qualities of woman were believed to be *innate*, they required constant vigilance by every woman, her male relatives and her fellow sisters. Moral regulation of the female body meant that rigid discipline was necessary to avoid a descent into darkness. As if alert to the belief that war could break out any moment, all had to be on watch for the emergence of the enemy, the 'fallen woman':

the very susceptibility and tenderness of woman's nature render her more completely diseased in her whole nature when this is perverted to evil; and when a woman has thrown aside the virtuous restraints of society and is enlisted on the side of evil, she is far more dangerous to society than the other sex.

(Carpenter, 1864: 31–32)

For women who defied their sex, there was a continuum of immorality from those whose virtue might be redeemed to those whose body represented the most debased state of the female condition, no longer human beings but 'foul sewers...without souls, without rights, and without responsibility' (Moore, 1993: 3; quoting Josephine Butler). Once on the slippery slope, the 'fallen woman' was 'wretched', 'a brutal, shameless creature, clothed in rags, and mouldering with disease' (Brownlow, 1858: 32–38, cited in Williams, 2005: 91) who was beyond the moralising assistance offered by charitable institutions.

During the nineteenth century, these sexed depictions became more and more prevalent as charities, philanthropists and parliamentary inquiries grappled with the growing numbers of unmarried mothers, illegitimate children, prostitutes and the spread of venereal disease (Levene et al., 2005: 15). Fears of overpopulation, the financial burden of the poor, who were thought to be 'were racially degenerate', 'dangerous and infectious' and 'threatened to undermine the nation with their prolific breeding and inferior offspring' (Nead, 1988: 31), and a perceived rise in prostitution were believed to pose 'a threat to social order' (Williams, 2005: 90). In this climate, the notorious Contagious Diseases Acts of 1864, 1866 and 1869 were enacted, which permitted the forcible internal examination of any woman believed to be a prostitute in certain military towns and her detention for up to nine months in order to control the spread of venereal diseases in the army and navy (Jordan, 2007). It was a time when concern about the moral destitution of working-class women was the drytinder to ignite a moral campaign. In other words, the female folk devil was ever present in nineteenth-century society,

lurking in the consciousness of men so that it did not take much to stir up moral indignation when a criminal woman appeared, especially one who murdered for monetary gain.

Dichotomous representations of women enabled 'many commentators... to blame women rather than men for sexual immorality' (Cody, 2000: 136) and to propose that reform lay in greater control of the female body. Conceptions of the sexed female body—the whore and the virtuous—were essential to a nineteenth-century society with neither the imagination nor the will to solve a range of social problems, such as poverty and sexual exploitation.

In the eyes of middle-class men, the step from the innocence of the Virgin Mary to the depravity of the street-walker was a very short one indeed, explicable because of the inherent nature of the female body. However, there was a certain degree of sexual voyeurism in these accounts since the 'investigation' of the sexual behaviour of working-class women was a common theme by self-styled sociologists and their published accounts of the 'lower classes'. No one appeared to be bothered by the paradox of the prostitute who was both 'the supreme type of vice' *and* 'the most efficient guardian of virtue' because 'the virtue of respectable women... would be protected from seduction only if men had access to prostitutes' (Moore, 1993: 3).

It was inevitable that a discourse of moral regulation premised on immutable maleness and femaleness would invite derogatory criticism of women when their behaviour contradicted their 'innate' nature. In Coventry Patmore's hugely influential poem, *The Angel in the House* (written in two books in 1854), the submissive, modest, self-sacrificing, patient, sensible, nurturing, ideal woman complemented the opposing characteristics of men—aggression, licentiousness, toughness, self-focusedness, impatience and ambition—which were needed in the masculine pursuits of work, politics, sport, economics and play. Patmore's poem embodies this notion through the idea 'that men cannot achieve their full potential on earth or in heaven unless women act in accordance with their (supposedly) innate feminine nature' (Hartnell, 1996: 469).

Also prevalent was the idea that women's innate moral virtue was akin to godliness. When a woman failed to attain this standard of perfection, the moral censure was even greater. 'The weaker vessel' who, according to Patmore, was an irrational being required strong masculine guidance:

most of the failures in marriage come of the man's not having manhood enough to assert the prerogatives which it is the

woman's... secret delight to acknowledge. She knows her place, but does not know how to keep it unless he knows also.

(Patmore, 1887: 149–150)

Unless, a woman 'has got her master',

she does not know what to do with herself, and begins to chatter or scream about her rights; but in this state, she has seldom understanding enough to discern that her true right is to be well governed by right reason.

(Patmore, 1887: 154–155)

There was much to be feared from the ungoverned woman, and Patmore's poem was a warning to the man who has become 'womanish' and might be overtaken by his irrational wife. A woman's innate inferiority was a paradox—whilst she was innately virtuous and morally superior, these qualities sprang from man's control of her which was necessary because of her own lack of rationality. In the absence of men's moral regulation, she would resort to irrational, unfeminine and immoral behaviour.

Patmore lauded the selfless devotion and submissiveness of the Victorian feminine ideal woman and modelled the angel on his wife, Emily, the 'perfect' woman, as this excerpt, entitled 'The Wife's Tragedy', shows:

Man must be pleased; but him to please
Is woman's pleasure; ...

She casts her best, she flings herself.
How often flings for nought! and yokes
Her heart to an icicle or whim,

...

While she, too gentle even to force
His penitence by kind replies,
Waits by, expecting his remorse,
With pardon in her pitying eyes;
And if he once, by shame oppress'd,
A comfortable word confers,
She leans and weeps against his breast,
And seems to think the sin was hers;

...

She loves with love that cannot tire;

And when, ah woe, she loves alone,
 Through passionate duty love springs higher,
 As grass grows taller round a stone.¹

'The Angel in the House', 'who had no existence outside... her home and whose sole window on the world is her husband' (Hartnell, 1996: 460), embodied a contradiction in terms, since she was both a child, utterly innocent, helpless and dependent, and an adult, responsible for running a home, raising children and ministering to her husband's every need:

she grows
 More infantile, auroral, mild,
 And still the more she lives and knows
 The lovelier she's express'd a child.

(Patmore, 1858)

She was 'all that a lady should be, infinitely perfect in pettiness... a bright and cherished toy' (Symons, 1920: 269). She was trained to be shameful, that great principle of social control, so that 'the female character' dreaded the detection of the 'slightest impropriety of conduct' (Mayhew and Binney, 1862: 466). In fact, this ideal was embraced by women themselves, who policed their bodies and those of other women since '[d]enied access to economic or political power, women gained coveted status through this respectability' (Zedner, 1991: 12); an insidious form of moral regulation.

The impact of Patmore's poem cannot be overestimated, given that 'sales of the poem rose to over a quarter of a million copies by the end of the century' (Hartnell, 1996: 473). Fiction, etiquette manuals and books of advice also emerged to protect and reinforce women's moral boundaries (Gorham, 1982; Zedner, 1991: 15) and to protect society as a whole, such were the expectations of the moral body of woman which absolved men from responsibility for their own licentiousness. In fact, Patmore's poem was still influencing conceptions of women well into the twentieth century, with various female writers 'depict[ing] household angels in the Patmorian sense' in their novels:

Today, ... the Patmorian domestic woman is still alive and well and living in the plots of mass-produced women's romances. Angelic

women—even those with university degrees and exciting careers—are still big business.

(Hartnell, 1996: 473–474)

If, as discussed previously, moral regulation involves the imposition of moral standards by formal state-based and non-state-based activities, which ‘entail long-term processes of normalization’, the above discussion shows that the nineteenth-century female body was a *sexed* body. The essentialist qualities associated with the condition of being female determined the endemic moral regulation that governed the boundaries of women’s lives, creating complementary, oppositional bodies: the modest, obedient and chaste mother and wife (the Victorian ideal) complemented by the dissolute, shameless harlot.

The body of the female criminal and beyond

The standard represented by the ideal Victorian woman meant that female criminals confounded all societal expectations. Because women were believed to be ‘naturally’ less criminal than men (Mayhew and Binney, 1862; Morrison, 1891), the female criminal was the antithesis of middle-class femininity. So much so, it was necessary to reach to the very bottom of one’s bag of hyperbole to describe this particular perversion of the female species and her out-of-control, carnal nature. For Victorians, the link between unbridled female sexuality and criminality was clear. Amateur sociologists of the time considered that the poor were racially inferior, painting a picture that stereotyped ‘all the males [as] thieves and all the females prostitutes’ (Acton, 1857, 1869: 132). Criminal women were ‘brazen and callous things’ with ‘wild animal passions and impulses’. A criminal woman had no moral sensibilities to ‘govern and restrain the animal propensities in her nature’, being ‘reduced to the same condition as a brute’. All female criminals were from the ‘public class’, with crime virtually unknown among ‘the chaste portion of the female sex’, and were more ‘ignorant and degraded’ than male criminals (Mayhew and Binney, 1862: 466–467). Mayhew complained that:

the promiscuous sleeping together of both sexes in urban working-class apartments and lodging houses corrupted young women, turning them from innocent girls to infanticidal mothers.

(Homrighaus, 2001: 353, quoting Mayhew, 1985; 1851–1852)

Prostitution was the great vice amongst these street-walking women who preferred not to labour for their bread but chose 'to trade upon their personal charms in order to secure the apparent luxury of an idle life' (Mayhew and Binney, 1862: 454, 464). In fact, the social commentators Mayhew and Binney understood the moral regulation at the heart of nineteenth-century society, and how its breakdown apparently led to licentiousness and crime:

Shame...becomes one of the great means of moral government in a State; so that to exhibit a callousness to the feeling, is to lapse...into the savage form of life.... [H]aving once...broken the ice of shame [is] to be ultimately absorbed in the whirlpool of infamy and crime.... [T]he effect of the violation of this great social principle must be even more strongly marked in women [since] prostitution... is the one capital act of shamelessness, and that which consequently fits the creature for the performance of any other iniquity.

(1862: 455–456)

Fallen women had a terrible influence on society, with prostitution 'diffus[ing] itself through the social fabric' like 'the moorland stream which stains...the bluest river', with prostitutes 'rarely courting the light, but lurking in covert spots to catch the reckless, the besotted, and the young of the opposite sex' (Acton, 1857: 53, 72). More likely to be involved in criminal activities, working-class women who earned a living from prostitution or petty crime also threatened the social fabric through inculcating their children in criminal ways and acting as an immoral influence on other women who might be similarly tempted to vice.

Victorians were obsessed with 'crimes of morality', which was 'out of all proportion to their gravity' (Zedner, 1991: 31). Deviations from the norms of ideal femininity invited not only social condemnation but moral regulation in the form of legal intervention. Paradoxically, working-class women's battle with poverty saw the criminalisation of prostitution, soliciting, vagrancy and homelessness. Because of this, 'women were said to represent more than 40 per cent of the total known "criminal" population' in England and Wales. When these particular offences were removed from the official Judicial Statistics, women made up about one fifth of known criminals for the period 1860–1890 (Zedner, 1991: 20–21).

Women's restrictions to the domestic sphere also saw their criminality associated with reproduction and children. In fact, reproductive crimes

were part of the very fabric of working-class women's existence, given the lack of a welfare state, the fragility of employment without minimum working standards, significantly lower wages for women and the burdens of childbearing without reliable contraception. As such, infanticide and baby-farming represented 'evidence of working-class women successfully determining their own fertility' (Allen, 1982: 112). Within this context, baby-farming became a necessary thread in the intricate weave of sex and class—providing a solution to the twin burdens of biology and fragile female employment, at the same time as providing a source of income to unskilled working-class women. But when a group of doctors sought to publicise the full extent of working-class women's reproductive crimes, the hyperbole surrounding this class of woman took a new and unexpected moral turn.

The economic and social necessity of baby-farming

Baby-farming and baby-murder were the subjects of the first publicised moral campaign around the safety of children in the nineteenth century, although it was long and sustained with ebbs and flows over a ten-year period. Since moral campaigns and panics are related to the cultural and structural changes, fears and moral climate of a specific historical period, this chapter will review the medical, social and political responses to baby-farming in light of the economic, social and political context of the mid-nineteenth century.

Unlike many moral campaigns of the twentieth century, the concern at the centre of this campaign related to an endemic, if completely under-policed and misunderstood, social problem, with London newspapers regularly reporting 'baby-dropped' infants found 'stuffed down privies, tossed into the ornamental ponds of Regent's Park, or simply left in gutters' (Behlmer, 1982: 17). In 1870, the end of the decade during which baby-farming had become a well-publicised moral issue, the Metropolitan Police recorded 276 baby-dropped infants in London's streets (Select Committee on Protection of Infant Life, 1908: 82) which represented the tip of a very large infanticide iceberg, since it was estimated that for every child discovered there was at least one never found (BMJ, 2/2/1861, p.128). Yet inquests into infant deaths frequently returned verdicts of death by natural causes even in the face of evidence of child mistreatment (Rose, 1986; Haller, 1989).

While laws prohibited the mistreatment of animals, no such laws governed the care and treatment of children. Any woman could set herself up as a midwife or ladies' nurse and take in as many unwanted children as she could accommodate without any state scrutiny in the form of

licensing or inspection. In fact, this lack of state scrutiny and regulation meant that nineteenth-century society accepted that baby-farming was a necessary social evil:

As long as women who bear illegitimate children are looked upon with reproach and as unclean . . . , as long as the father is not liable to social ostracism, and hence self-restraint is less obligatory in the male sex, so long will the . . . incentive to neglect and crime continue.

(Jones, 1894: 63)

Contact between baby-farmers and mothers was made through the daily press. The down-market newspapers, such as *The Daily Telegraph*, the *Christian Times* and *Lloyd's Newspaper*, published advertisements where children were sought or advertised for sale like cats and dogs, since the sale and adoption of children was not illegal in England and Wales until the Adoption Act of 1926.

It was common for working-class women to nurse babies for a weekly fee or to adopt unwanted babies in exchange for a lump sum called a 'premium', ranging from £5 to £20, paid by the mother, her family or her lover. Where a premium was paid, mothers understood that the child would be adopted 'for life', although many also accepted that 'adoption' meant the child would eventually be disposed of (Greenwood, 1869). Baby-farmers either sold children to childless couples for a profit, or sold children on to poorer baby-farmers for a smaller fee and pocketed the difference. Others kept their adopted babies in 'farming' conditions until they died from disease, neglect, starvation or murder.

It appears that baby-farming, fostering, day-care and temporary adoption arrangements became more prevalent during and after the Industrial Revolution, with the movement of working-age people into the cities, the dependence of working-class families on two incomes and the lack of extended family to look after children (Honeyman, 2000). Honeyman (2000: 18–34, 51–71) explains how a gender division of labour arose as a result of industrialisation and the proliferation of Malthusian attitudes which identified 'poor women as a problem in need of a solution', resulting in their marginalisation into low-paid factory work, domestic service and childrearing with a corresponding 'gendering of work' into men's and women's occupations. With the working classes in Europe living in continuous states of crisis as a result of various economic upheavals (Reinhart and Rogoff, 2008), these crises served to reinforce working-class women's already disadvantaged

position through increasing their vulnerability to economic and sexual exploitation (CALPWIW, 1871b).

The 1851 Census for England and Wales revealed that the biggest employer of women and girls was domestic service, and this continued into the early twentieth century (Rose, 1986: 15), with the proportion of female servants increasing from 10.6% of the female population in 1857 to 11.6% in 1881 (Best, 1973: 123). But living-in gave rise to its own problems, since the most common form of employment for unmarried mothers was domestic service (Acton, 1859: 493). In fact, pregnancy was a financial disaster for a domestic servant, since she was expected to behave with propriety under strict supervision of her master and mistress. Both morally and economically, childless servants were 'best suited to the needs of their employers' (Kilday, 2013: 39).

The pervasive fear of the licentious female body occurred during a time of mass industrialisation and urbanisation, and the destabilisation of traditional family life when the poor expanded, resulting in their greater economic dependence on local parishes. It was no surprise, therefore, that Malthusian, middle-class fears of overpopulation led to greater regulation of the poor and the unmarried mother in the name of morality.

The intensification of work in the industrial cities and 'the low wages to secure an elastic supply of labor' had a major impact on family life, child care and illegitimacy rates. Illegitimacy and child abandonment progressively increased during the Industrial Revolution which, in bringing profound cultural and economic changes, put the rules governing courtship and marriage under pressure (De Vries, 1994: 258, 260), by 'disrupt[ing] traditional routes to marriage' and making women more vulnerable to sexual demands (Levene et al., 2005: 8). In the 1670s–1680s, illegitimate births constituted 1.5% of all births. This rate increased to 3% in the 1750s and 6% in 1810, while '[o]ver the same interval prenuptial pregnancies rise from approximately 15 percent to 30 to 40 percent of all first pregnancies' (De Vries, 1994: 260).

The fact that the population doubled in England and Wales from 9 to 18 million between 1801 and 1851 (Rose, 1986: 5) only partly accounted for the explosion in illegitimate births. Census reports showed that illegitimate births rose from an average of 5% in England and 7.7% in Wales in 1830 to an average of 6% in England and 10% in Wales in 1840, after which they began to fall. By 1869, the average rate was 5.8% in England and Wales. Although these figures were considered to be incomplete, the Registrar-General estimated that 14,757 more illegitimate babies (or 74%) had been born alive in 1842 compared to 1830, even though

the population had only increased by 17% in the same period (BMJ, 2/3/1867, p.232).

By 1861, recorded illegitimate births amounted to an annual figure of 44,157 compared with 20,039 in 1830. Yet the population of England and Wales had only increased by less than a third in that period, while illegitimate births had more than doubled. In 1864, 47,448 illegitimate births were recorded, making up an average 6.5% of total recorded births that year, an underestimation given that registration of births was not compulsory. In fact, the *British Medical Journal* (BMJ) considered that illegitimacy rates were underestimated by 30% because of the lack of compulsory registration and the need to hide the shame of unwed motherhood (BMJ, 2/3/1867, p.232; see also Behlmer, 1979: 416; Rose, 1986: 22).²

Notably, illegitimacy rates did not include stillbirths, which were not officially recorded until 1926 (Rose, 1986: 7), and no one knew how many live births were turned into 'stillbirths' through the intervention of a mother or midwife. In fact, it was believed that 'not fewer than sixty thousand still-born children are produced in the country every year' (BMJ, 2/2/1861, p.129). For the five-year period 1860–1864, recorded illegitimate births amounted to 227,661 (Tyler Smith, 1867: 21).

While children under the age of five years accounted for most recorded deaths during the nineteenth century, 54,798 out of 89,527 (61.2%) total deaths in 1855 occurred under the age of one (Registrar-General, 1857: 98). Similarly, of the 167,000 children aged 0 to five years who died in England and Wales in 1860, 101,000 (60.5%) were aged under one year, although '[a] third of all deaths within the first year took place in the first month, and a fifth in the first week' (Rose, 1986: 7). Although a majority of children's deaths were due to natural causes (Registrar-General, 1857: 120), most concern was exhibited in relation to the relatively small number of infants who met their deaths through violence. Illegitimate babies were easy to kill and their bodies easy to hide, as the BMJ suggested when it compared the official illegitimacy rates in London's wealthy West End parishes (such as 9.1% in Marylebone) with the poorer East End parishes (such as 3.3% in Whitechapel and 1.6% in Stepney) (BMJ, 2/3/1867, p.232).

Because of the high rate of 'seduction' of teenage girls and the poverty facing working-class women, infants under the age of one were disproportionately at risk of abandonment, manslaughter or murder, while the recorded death rate for illegitimate births was significantly higher than the death rate for all infants (Jones, 1894: 62). Infant mortality rates for babies under one year remained high from 1838 to 1870 (155 and 154,

respectively, per 1,000 births) after which it began to fall (149 between 1871 and 1880; 141 between 1881 and 1890) (Jones, 1894: 7). Generally, however, class and geographical differences in the infant mortality rate revealed that it was lower in rural areas and amongst the middle classes and worst in the industrial cities and mining counties, with Manchester and Liverpool having the highest infant mortality rates of 117.3 and 132.0 per 1,000 children under five years, respectively, from 1851 to 1860 (BMJ, 21/3/1868, p.276).

The greatest difference between 'urban and rural areas [was] density of population' and the concomitant spread of infectious disease as a result of 'close aggregation' and poor sanitation (Jones, 1894: 45–46). As a medical doctor, Jones (1894: 53–57) was convinced that the high population density in cities was the cause of 'a waste of child life' during the nineteenth century, since it gave rise to not only poor sanitation and living conditions but also endemic drunkenness. He found that infant mortality rates were associated with high rates of drunkenness, which led to maternal alcoholism and malnutrition. Infant mortality was also associated with high rates of employment of women in industrial areas, and was highest in those English towns which had over 15% of women workers, probably because of a lack of breast milk and improper feeding, since the types of food chosen as substitutes were 'utterly inappropriate'. As might be expected in these social conditions, death rates in the 0 to 1 year age group were considerably higher compared to all other ages, as seen in the following table which records the infant mortality rates for children between 1871 and 1880 (Table 3.1).

Most infant and child deaths were due to diseases, such as whooping cough, smallpox, scarlet fever, measles, bronchitis, pneumonia, infantile diarrhoea and congenital syphilis, as well as lack of breast milk, maternal alcoholism or maternal malnutrition during pregnancy (Jones,

Table 3.1 Average infant mortality rates, 0–5 years per 1,000 living, 1871–1880³

Age (years)	Males	Females
0–1	197.4	157.3
1–2	68.3	63.6
2–3	27.9	27.5
3–4	18.1	17.9
4–5	13.3	12.9
Over 65	169.1	158.8

1894: 12, 54). Another danger to the lives of infants came in the form of opiate-based elixirs, which were readily available from local chemists to put infants to sleep and to stop hungry babies from crying. Their use, which was 'very insidious...and not confined to baby-farms, or peculiar to persons with criminal intentions' (PMG, 24/9/70, p.10), was common among families, resulting in many deliberate and accidental infant deaths (Cossins, 2013). In addition, wet nurses were used widely (and sanctioned by doctors) not only by the poor but 'by royalty and the nobility and gentry, and [their use] is resorted to from one end of the country to the other' (BMJ, 27/5/1871, p.570). Some doctors, however, considered wet nursing to be the cause of the 'destruction of infant life' because it amounted to mothers 'shirking... their maternal duty' (BMJ, 27/5/1871, p.570).

The above statistics show that the economic climate of the time fostered high infant mortality, with working-class women's labour market exploitation affecting their vulnerability to sexual exploitation. If 'a shift from relative self-sufficiency toward market-oriented production by all or most household members' during the Industrial Revolution (De Vries, 1994: 262) necessarily involved a reduction in the generation of home-based income by women, it also had a considerable impact on married women's capacities for childrearing and on infant mortality.

But by 1850, the social movement of women into paid work had reversed. With the introduction of 'a breadwinner's wage' for men through union agitation (Honeyman, 2000: 140), an increase in men's wages saw a corresponding decrease in women's wages, the movement of women and children back into the home and restricted work opportunities for women. As a result of the increase in the number of 'breadwinner-homemaker household[s]' during the first half of the nineteenth century, by 1850 'capitalist patriarchy' was the norm—its achievement of a 'substantial withdrawal from the paid labor force of wives and children' was only 'made possible by rising adult male wages' (De Vries, 1994: 262–263). With the clear distinction between men's work and women's work, the female body attracted particular opprobrium when women transgressed the new social and economic boundaries.

However, not all households conformed to the new norm: '[m]any...remained too poor to act on this strategy and must have resented... the new models of female propriety' (De Vries, 1994: 263) while marriage rates remained low. Adoption of unwanted babies for a fee was the perfect solution for the newly marginalised working-class woman whose husband earned little or no income. As the feminists of

the Committee for Amending the Law in Points Wherein it is Injurious to Women observed at the time:

[n]o state can be really prosperous...with well-fed, well-clothed, well-housed, well-taught, well-conducted citizens, whilst thousands of men earn only 12 to 15 shillings a week and the...average wages of all the women of the manual labour classes amount to but 8s 10d.

(CALPWIW, 1871b: 39)⁴

Without a welfare-system for the adoption and care of orphaned, abandoned or unwanted children, fostering and childcare was generally carried out by older women who were paid small sums to babysit the children of working-class women, particularly in the manufacturing towns (CALPWIW, 1871b). Girls under the age of 19 years were particularly vulnerable to seduction in London, resulting in a high illegitimacy rate in this age group (CALPWIW, 1871b), with female servants dominating the statistics for illegitimate births, although the fathers of their children were more likely to be fellow servants and tradesmen than middle-class employers (Rose, 1986: 18–19).

Although abortions, which were illegal under the Offences Against the Person Act 1861 (24 & 25 Vict., c.100) (see Table 3.3 below), were available via a network of midwives, with discreet advertisements being placed in local newspapers, thousands of women did not choose this option because of the notoriously high death rates and the high cost, with some abortionists charging £50 (Carmichael, 1996: 292).

These social and legal conditions meant that under-age girls and working-class women who gave birth outside marriage were doubly vulnerable, disadvantaged by poverty and stigmatised by their 'lax' moral standards, since conceptions of immorality were class-based. Low marriage rates together with no state regulated adoption scheme and lack of effective and affordable abortion meant that economically vulnerable, unmarried, pregnant women and girls had only two options—infanticide or baby-farming. The combination of shame and poverty ensured an ongoing market for the farming of babies (Swain, 2005: 158).

Despite the economic conditions which conspired against infant life, infanticide was perceived to be a shameful embarrassment for England rather than a symptom of social distress, since it was considered to symbolise 'the rudest barbarism', being characteristic of a society which has 'fall[en] to pieces by the vices of civilization', producing 'a foul current of life, running like a pestilential sewer beneath the smooth surface of

society' (*The Saturday Review*, 5/8/1865, p.162). The *Pall Mall Gazette* (30/4/1866, p.9) was also embarrassed about England's infanticide rate, since it was 'exceedingly unpleasant to find ourselves stigmatized in foreign newspapers...as a "nation of infanticides"' with a Papal report concluding that '13,000 children are yearly murdered by their mothers in heretical England'. Nonetheless, nineteenth-century society recognised two different types of infanticide—that committed by the (pitiful and destitute) unmarried mother and that committed by the (avaricious) baby-farmer. Condemnation depended on whether she was a woman who was unable to afford to keep her child or who accepted children for a fee.

The fact that baby-farming in nineteenth-century Britain was *the* moral issue of the mid-nineteenth century is supported by several primary sources, which show that baby-farming vexed a group of middle-class doctors associated with the BMJ who investigated and wrote about the issue and lobbied politicians from 1861 to 1872. Eventually baby-farming vexed feminists, other middle-class women, newspaper editors and parliamentarians. The campaign around baby-farming exemplified the moral regulation surrounding women's lives in circumstances where working-class women had to engage in underground and criminal activities in order to deal with the stigma of illegitimacy, a social problem that governments refused to address. Whether or not this moral issue transformed into a moral panic as that term is understood today is the task for this chapter.

The relationship between illegitimacy, the economy and infanticide: Examining the conditions for a moral panic

With the age of consent set at 12 years and under-age prostitution widespread throughout Europe and Britain (Cossins, 2000: 6–15), Victorian Britain 'was a morally predatory society' (Henriques, 1967: 128), such that illegitimacy remained a fact of life. Yet illegitimacy was a moral transgression roundly condemned by the Church and society (Levene et al., 2005; Kilday, 2013), as one newspaper of the time made clear:

For her aberration from the path of virtue, woman is branded with an ineffaceable stigma. She is pronounced infamous. Respectable matrons avoid her as they would a pestilence.

(*Reynolds's Newspaper*, 6/8/1865, p.1)

One influential doctor considered that because an illegitimate child's birth was a 'disgrace', '[a]s regards risks of existence, the illegitimate are more like animals low in the scale of creation, than ordinary human beings' (Tyler Smith, *BMJ*, 12/1/67, p.21). Indeed, an illegitimate child represented the failure of moral regulation of the female body and evidence of the apparent free will of unmarried women outside established social norms, rather than the vulnerability of single women, while 'the artful destroyer' of the woman's reputation was still accepted into mainstream society (*Reynolds's Newspaper*, 6/8/1965, p.1).

The values associated with the female body represented the all-pervasive moral regulation that governed women's lives during the nineteenth century. Social disciplinary power operated in unobvious ways on unmarried mothers who sought help, since the charitable organisations that provided live-in assistance focused 'on the moral reform of the mother' (Levene et al., 2005: 12–13). For example, the only foundling hospital in London required unmarried mothers to admit their moral transgressions, to plead a previous good character of 'virtue, sobriety, and honesty' and to confess their seduction and abandonment. In this way, 'the hospital was both contributing to the formulation and propagation of the discourse of seduction and abandonment, and using this discourse to justify the continued existence of the hospital and its new policy of moral reform' (Williams, 2005: 97–98).

The stigma of illegitimacy and working-class 'depravity' was embodied in community forms of moral surveillance, such as social ostracism or loss of work, either working in tandem or even replacing the coercive punishments of the state given the lax policing of infanticide and baby-farming. It is debatable whether or not unmarried mothers *themselves* viewed their 'sexual transgressions' in the moralistic terms that were common in the nineteenth century. Some have argued that unmarried cohabitation was common among the working classes, as was the production of several children outside marriage (Carmichael, 1996: 285; Nutt, 2005: 115–121). On the other hand, Williams (2005: 96) has documented the feelings of shame of some unmarried mothers who were forced to petition for assistance to the Foundling Hospital in London:

your Petitioner has been undone; by departing from the path of Virtue; by which means every avenue of relief [*sic*]... From her former friends seems at present to be entirely Shut up added to this calamity her Undoer is Callous to every Sense of feeling both to her and her Unfortunate offspring.

This may have been the language that would convince the hospital into accepting a woman's child, since it only admitted infants whose mothers' petitions conformed to the stereotype of 'respectable' seduction and abandonment. Nonetheless, shame 'was probably the most commonly stated motive amongst women charged with infanticide' (Kilday, 2013: 144), while late eighteenth-century accounts reveal how young domestic servants hid their pregnancies to avoid certain ruination (Hunter, 1783). There were many unmarried women who 'deliberately left [their] place of service so that [their] employers did not find out or deliberately did not tell [their] relatives', all of which were 'the practical signs of shame'. Many employers refused to accept a female servant back into their household after the birth of an illegitimate child both as a form of punishment and also because they did not wish to be associated with the stigma (Williams, 2005: 96–97). For those who worked in the country's biggest metropolis, dismissal meant homelessness or a spell in a local workhouse, since only two of London's lying-in hospitals accepted unmarried mothers, while London's only Foundling Hospital accepted fewer than 50 children per year (Behlmer, 1979: 421).

Even more problematic was the fact that the nineteenth century was characterised by a 'surplus [of women] by some 4–5%' (Rose, 1986: 17). This saw an excess of 500,000–600,000 adult women in the first half of the century (Henriques, 1967: 128), so that in the early 1850s nearly half the women in England and Wales aged 20 to 40 were either spinsters or widowed (Rose, 1986: 17). The oversupply of women had major social and economic repercussions, and was exacerbated by low marriage rates due to men's reluctance to marry if they did not earn enough to support a family. For the 50–60,000 single women who became pregnant every year, it amounted to 'a material and social disaster' since they were unlikely to marry or be supported by the father (Levene et al., 2005: 27).

Despite the reality of pregnancy for single women, in the early part of the nineteenth century there was considerable concern about unmarried women contriving to become pregnant and using the Poor Laws (discussed later) to derive an income, placing greater burdens on local parishes. Women were characterised as either deserving or undeserving, and it was the undeserving who were subject to greater degrees of moral regulation through limiting their ability to seek financial support under the Poor Laws, one of the earliest moral-based strategies to control the licentious and 'depraved' body of women. Ironically, the Victorian 'wisdom' which sought to reform these laws appears to have caused an increase in infanticide in the first half of the nineteenth century because

of unmarried fathers' impunity from providing financial support (Tyler Smith, 1867: 23). Despite the economic vulnerability of working-class women and the susceptibility of their infants to disease, more concern was expressed about *deliberate* infanticide than poverty and preventable infant deaths. Doctors at the time considered that 70–75% of illegitimate babies died in the care of baby-farmers (Curgenven, 1867; BMJ, 2/3/1867, p.233), even though this death rate was similar to that for infants born in workhouses and foundling hospitals. Between 1861 and 1870, the infant mortality rate in foundling hospitals reflected the national average (159 per 1,000) (Jones, 1894: 57), while in workhouses 'not more than ten per cent...live to complete the first year of life' (Tyler Smith, 1867: 22). Indeed, the alarm surrounding baby-farmers was not reflected in the recorded statistics, since violent causes of death only accounted for a tiny proportion of all infant deaths.

In every decade of the nineteenth century in England and Wales the vast majority of deaths occurred in the 0–1 year age group, followed by the 1–3 year age group. For example, in 1838–1839, an average of 218 per 1,000 under the age of one died (Registrar-General, 1841: 34–35), followed by an average of 131.1 per 1,000 in the 1–3 year age group. Although these figures ballooned to 735 per 1,000 for 0–5 year olds for the years 1845–1854, the Registrar-General (1856: xvi) noted that:

the mortality under 10 years of age in 1854 exceeded the average rate at that age during [the past] ten years; at other ages the difference was not considerable; but this average embraces the two cholera epidemic years (1849 and 1854); and upon comparing the rates in 1854 at different ages with the rates in 1845 and 1850, it will be seen that the mortality was raised at nearly all ages by the epidemic.

(Registrar-General, 1856: xviii)

Curgenven (1867) reported that of the 112,935 infant deaths recorded in 1864, only 1,730 (1.5%) were attributed to violent causes, which included both accidental and deliberate violence such as suffocation, poison, neglect, starvation and drowning. Of these, 192 (0.2%) were recorded as homicides (see also BMJ, 21/3/1868, p.276). This tiny percentage represented a mortality rate of 1.2 per 1,000 for children aged 0–5 years for 1871–1880 (Jones, 1894: 36), although infants under the age of one were more likely to suffer a violent death, such as accidental suffocation from overlaying or homicide than any other age group, with a mortality rate of 2.6 per 1,000.

Table 3.2 Child deaths from homicide according to age in England and Wales, 1863–1887⁵

Age (years)	Deaths
< 1	3,225 (61.0%)
1–2	106 (2.0%)
2–3	70 (1.3%)
3–4	54 (1.0%)
4–5	40 (0.8%)
> 5	1,789 (33.9%)
Total	5,284

Behlmer (1979: 422) calculated that the 203 coronial verdicts of wilful murder of infants under the age of one in 1864 represented a murder rate of 27.4 per 100,000 infants, greater than any previous or later historical period. Because this murder rate was only based on bodies found and reported to police, the true rate will never be known.

Death from violence was highest in the industrial cities (such as Liverpool and Birmingham) compared with country areas. Crucially, a high death rate from violence was not associated with ‘a high rate of infant mortality from all causes’ (Jones, 1894: 37–38), suggesting that violence-related deaths were associated with different social conditions and causes. For the period 1863–1887, the number of deaths from homicide for children in England and Wales is set out in Table 3.2, which shows that those under the age of one constituted 61% of all child homicide victims (Jones, 1894: 43). While infant mortality was a significant social problem, infant deaths from homicide received a disproportionate response at all levels of the community, government and the media, as discussed in the next section.

Infanticide: Violation of the ‘moral sentiments of the country’

The official figures for infanticide were an under-representation of its true extent since it was rare for the police to apprehend and prosecute those who murdered infants. When they did, juries were reluctant

to convict for a crime punishable by death but not perceived to be accompanied by malice:

That a mother should be capable of killing her infant is a fact that even the strong intellect of man cannot compass, and we consequently rarely find a jury that returns a verdict of willful murder.

(Safford, 1866: 224)

The reluctance of juries to convict was associated with the fact that, as Table 3.3 shows, the law punished reproductive crimes severely, with infanticide attracting the death penalty in England and Wales. Concealment of the birth of an infant found dead attracted a penalty of two years and anyone who aided such concealment was also liable to two years' imprisonment. Abandonment of a child and endangering their life attracted a penalty of three years. Anyone encouraging the murder of, or conspiring to murder, an infant was liable to three to ten years' imprisonment. Even worse, procurement of an abortion attracted life imprisonment.

Even though reproductive crimes were rarely prosecuted, they were the most commonly recorded crimes committed by women. Located in the home and burdened with the day-to-day realities of multiple births and childrearing, it is no surprise that women's criminality in the nineteenth century was mostly associated with children and pregnancy. In fact, during the mid- to late nineteenth century the ratio of men and women charged or convicted of a crime was approximately 6–7:1 (Knelman, 1998: 15), except for murder. The most common crime committed by women was murder compared with all other crimes, the most common victim being a child (Hartman, 1977; Emmerichs, 1993), while in some years women committed murder at higher rates than men. At the time, most murder victims of men were strangers, wives or acquaintances (Emmerichs, 1993: 100).⁶

In 1862, Mayhew and Binney (1862: 459) reported the 'large and increasing proportion of females annually charged with murder'. For the years 1835–1839, the ratio of females to males accused of murder was 42:100; by 1847 it was 89.4:100; by 1849 it was 100:100, and in 1851 it had risen to an extraordinary 124.2:100. These figures were compared with the ratio of females to males for other crimes, such as offences against property with violence (6.3:100), without violence (26.4:100) and offences against the currency (23.1:100).

Table 3.3 Reproductive offences in England and Wales, 1860s

Offence	Relevant law	Penalty
Infanticide	<p>No separate offence of infanticide at common law. The act of killing a child was charged as murder or manslaughter.</p> <p>The Offences Against the Person Act 1803 reversed the presumption under the 1624 Act that a mother had murdered her child unless proved to the contrary. From 1803 the prosecution had to prove the elements of the offence of murder beyond reasonable doubt.</p>	<p>Murder: death penalty (Offences Against the Person Act, 1861, s.1).</p> <p>Manslaughter: three to ten years' penal servitude, or maximum of two years' imprisonment with or without hard labour</p>
Conspiracy to murder an infant	<p>Offences Against the Person Act 1861, s 4: All Persons who shall conspire, confederate, and agree to murder any Person ... and whosoever shall solicit, encourage, persuade, or endeavour to persuade, or shall propose to any Person, to murder any other Person ... shall be guilty of a Misdemeanor.</p>	<p>Three to ten years' penal servitude, or maximum of two years' imprisonment with or without hard labour</p>
Concealing the birth of a child; alternative verdict to murder	<p>Offences Against the Person Act 1861, s 60: If any Woman shall be delivered of a Child, every Person who shall, by any secret Disposition of the dead Body of the said Child, whether such Child died before, at, or after its Birth, endeavour to conceal the Birth thereof, shall be guilty of a Misdemeanor. ... [I]f any Person tried for the Murder of any Child shall be acquitted thereof, it shall be lawful for the Jury ... to find, in case it shall so appear in Evidence, that the Child had recently been born, and that such Person did, by some secret Disposition of the dead Body of such Child, endeavour to conceal the Birth thereof, and thereupon the Court may pass such Sentence as if such Person had been convicted upon an Indictment for the Concealment of the Birth.</p>	<p>Maximum of two years' imprisonment, with or without hard labour</p>

Exposing children whereby life is endangered

Offences Against the Person Act 1861, s 27:

Whosoever shall **unlawfully abandon or expose** any Child, being under the Age of Two Years, whereby the Life of such Child shall be endangered, or the Health of such Child shall have been or shall be likely to be permanently injured, shall be guilty of a Misdemeanor.

Penal servitude for three years or maximum two years' imprisonment with or without hard labour

Procuring an abortion

Offences Against the Person Act 1861, s 58:

Every Woman, being with Child, who:

- **with Intent to procure her own Miscarriage**, shall unlawfully administer to herself any Poison or other noxious Thing, or shall unlawfully use any Instrument or other Means whatsoever with the like Intent; and whosoever,
- **with Intent to procure the Miscarriage of any Woman**, whether she be or be not with Child, shall unlawfully administer to her or cause to be taken by her any Poison or other noxious Thing, or shall unlawfully use any Instrument or other Means whatsoever with the like Intent shall be guilty of Felony.

Penal servitude for life or any term not less than three years or maximum of two years' imprisonment with or without hard labour and with or without solitary confinement

A study by Hartman (1977) found that the number of women tried for murder 'twice exceeded those of men' between 1855 and 1874 (Hartman, 1977: 5, cited in Emmerichs, 1993: 99). Emmerichs (1993) also found that between 1845 and 1900, the murder rate for women exceeded that of men in the years 1850 and 1855, while the average rate of murder by women was 74% of the rate of murder of men.

In relation to homicide victims, Anderson (1990: 282) found that 91% of women convicted of murder between 1856 and 1875 had killed children. Children were the victims in 44% of murder prosecutions and 20% of manslaughter prosecutions, although only 59 defendants (or 4% of those charged with these offences) were indicted before the London Central Criminal Court.

While it has been said that homicide statistics represent the true rate of murders committed at any particular time (Stone, 1983; Sharpe, 1985), nineteenth-century statistics on homicide captured but a tiny percentage of the infanticide rate and 'only hint at the dimensions' of child-murder during this time (Anderson, 1990: 282). A study of women's methods of killing also suggests that infanticide was a deliberate act, rather than a passive or accidental crime (Kilday, 2013: 97–98). Although infanticide was the most common crime committed by women (Emmerichs, 1993), the true rate of murder by women in the nineteenth century is unknown, since infanticide occurred in the home where an infant's cause of death and body could be easily concealed, or, if discovered in public, was usually impossible to identify. Indeed, at the time it was acknowledged that the police investigated but a few infanticide cases and only those with aggravating circumstances (Select Committee on Protection of Infant Life, 1871, reprint 1908).

As a result, it is likely that, in England and Wales, women's actual murder rate exceeded the official murder rate for men during much of the nineteenth century. By looking at the number of women convicted for concealment of birth, which was an alternative charge to murder (see Chapter 4), Emmerichs (1993: 100) concluded that 'if the English courts had tried all the women who were suspected of murder... the [murder] trials of women would, throughout the [nineteenth] century, have always exceeded those of men'. But murder was difficult to prove. For example, in 1875, the year with the largest numbers of murder trials involving women, 34 out of the 54 women tried (63%) were charged with the murder of their own children. Twenty-nine of these were unmarried mothers. Only 5 out of 54 (9.3%) were convicted of the original charge (Emmerichs, 1993: 103), 11 were acquitted of all charges and 21 were convicted of a lesser charge, such as manslaughter or concealment of birth. In fact, conviction rates for concealment of birth

averaged 73%, compared to conviction rates for murder or manslaughter (37%) (Emmerichs, 1993: 105).

Women were more likely to be convicted of the lesser crimes of manslaughter or concealment of birth even when juries were faced with evidence of murder (Rose, 1986: 59; Conley, 1991: 110–111; Emmerichs, 1993: 103), since both attracted much less severe penalties. These options allowed juries to avoid capital punishment for a crime that was understood to be caused by poverty and shame, with homicidal mothers being the subject of pity and mercy (Royal Commission on Capital Punishment, 1866; Smith, 1981). Judges were also influenced by prevailing public and editorial views expressed in the newspapers about certain crimes, as well as juries' recommendations for mercy, with an eye and ear to public commentary should they get it wrong. But this degree of public sympathy was to change with trials involving baby-farmers who killed for money.

Anderson's (1990: 292) study of criminal trials before the Central Criminal Court from 1856 to 1875 also found that concealment of birth was the most common verdict of juries in trials where women had been charged with the murder of new-born infants, with 23 out of 35 defendants (65.7%) convicted of this lesser crime. Four defendants were acquitted while only eight were convicted of murder. Where convictions for concealment were obtained, usually through a guilty plea, 70% of defendants were sentenced to less than one month's imprisonment (Anderson, 1990: 294).

These data support the view that was widespread at the time that the chance of a woman being convicted for murder was low. Even lower was the chance of being *tried* for murder. Out of the 464 infant death cases known to the London Metropolitan Police between 1859 and 1860, only 14 cases (3%) went to trial (Rose, 1986: 77), six defendants were acquitted, six were convicted of manslaughter or concealment and one was convicted of murder and sentenced to death. This one conviction for murder amounted to 0.2% of 464 cases. By comparison, '[t]he mean rate of conviction for men tried for murder [or manslaughter]... was 73%' from 1845 to 1900 with the lowest rate being 48% and the highest 88%. During the same period, the mean rate of conviction for women tried for murder or manslaughter was 37%, with the lowest being 11% and the highest 64% (Emmerichs, 1993: 100).

The relatively low conviction rate for child-murder was aided by a lack of evidence, the separate existence rule (discussed below) and judicial and juror sympathy for women who killed their own children. The low conviction rate suggests that juries accepted that infanticide was an inevitable by-product of illegitimacy, particularly since '[t]he great

majority of women charged with concealment of birth were young, unmarried women (mostly servants), aged 19 to 23 years' (Emmerichs, 1993: 105).

Interestingly, the data from Emmerichs' (1993: 106) study show that the greatest number of convictions of women for murder, concealment, manslaughter, abortion and abandonment occurred during 1870–1875. This period coincides with the climax of the campaign against baby-farming and the most infamous murder trial involving baby-farming up to that time—that of Margaret Waters, the first baby-farmer executed for child-murder in the UK (discussed later). It also coincides with the increased publicity surrounding baby-farming in the press and increased police investigations of infanticide, at least in the Greater London area.

Compared to the five years before, in 1875 trials for murder involving female defendants nearly doubled. Compared to 20 years before (with no data for five or ten years before), convictions for murder more than doubled for the years 1870–1875 while conviction rates for abortion more than trebled, suggesting that juries had been influenced by the extensive publicity surrounding infanticide and baby-farming during the 1860s. In the decades that followed the Margaret Waters trial, conviction rates for all crimes associated with infant deaths gradually dropped off every decade up to 1900 (Emmerichs, 1993).

In fact, in the mid- to late nineteenth century, it is possible that women were society's first serial killers as economic conditions worsened, baby-farming increased and parental investment in burial clubs took off. The Harveian Society reported that in some Northern English localities 'infants and young children are entered in burial clubs, and, in the event of family misfortune, want of work, or pecuniary difficulty, the infant is allowed to die' and money obtained from the club (Tyler Smith, 1867: 22). Nonetheless, infanticide was not seen as a threat to society or to men, as two newspapers recognised at the time:

We do not admit it to ourselves, but our horror at a murderer [of a man] is very much derived from the feeling that . . . he would serve us as he served his victim. This is not the case in child murder.

(Pall Mall Gazette, 10/8/1865, p.37)

One reason why infanticide has been so lightly regarded is that it is a crime of which no man can . . . possibly be a victim.

(Spectator, cited in Knelman, 1998: 154; no reference given)

Others believed it was impossible for poverty to ever lead to infanticide, since 'in no civilized country . . . has such a thing ever been heard of as

a mother's killing her child in order to save the expense of feeding it' (Poor Law Commissioners, 1834: [1.7.8]).

Faced with the fact that, for the 16-year period 1849–1864, there had only been 39 convictions for the murder of children (34 involved illegitimate children) with no executions since 1849, the Royal Commission on Capital Punishment (1866: xxiii-xxvii) conceded that the prosecution of child-murder was most unsatisfactory, with juries making decisions contrary to the law because the law 'violates the moral sentiments of the country'.

Since the lack of convictions indicated that child-murder was only being punished as concealment of birth, Lords Cranworth and Osborne, Sir Fitzroy Kelly and Fitzjames Stephen believed that infanticide committed by an unmarried mother should not be treated as murder since it was 'not a crime calculated to create terror in society' and was entirely different from other cases of murder. Similarly, Walpole thought that infanticide committed soon after birth by unmarried mothers should no longer be murder since the mother's condition after birth took away 'the character of deliberation', while Fitzjames Stephen believed that an infanticidal mother was suffering from 'temporary insanity'.

The emerging 'science' around mental disorders meant that by the mid- to late Victorian period, physicians had convinced the legal fraternity that infanticide was evidence of a mother's mental illness (Wiener, 1990: 269; Eigen, 1995). As documented by the leading psychiatrist of the time, Maudsley (1871), women were biologically prone to insanity as a result of their reproductive organs, with puerperal (or post-childbirth) mania being widely accepted by juries during the mid-Victorian period as a complete defence to a charge of child-murder (Anderson, 1990: 298).

While 'infanticide was the antithesis of nature' (Smith, 1981: 144) and resulted in the severest legal approach to its punishment (the death penalty), juries and judges recognised the susceptibility of women to their natures, which resulted in calls for mercy: '[t]here is no crime that meets with so much sympathy, often of the most-ill judged kind' (Ryan, 1862: 4). For unmarried women accused of infanticide, this sympathy was a benefit rather than an insult:

[t]heir distress of mind and body deprives them of all judgment [when] they are delivered by themselves... and sometimes destroying their offspring without being conscious of what they are doing.

(Alison, 1832: 159)

An insanity plea meant that even if there were signs of violence on a child's body, the prosecution had great difficulty proving deliberate infliction of harm when a woman's mind was believed to be disordered from childbirth. Together with the separate existence rule (discussed below), which required evidence of infliction of harm after the child had fully emerged from the birth canal, in the face of an insanity plea most juries had little option but to acquit, or alternatively convict for concealment of birth, while judges often commuted a death sentence to life imprisonment on the grounds of insanity. While this degree of leniency meant few women were convicted of infanticide, it did not apply to baby-farmers.

From 1856 to 1875, 44% of women who were tried for the murder of an infant were acquitted on the grounds of insanity, a plea that was more commonly accepted in infanticide cases compared to other trials (Anderson, 1990: 295, 298). Sometimes the insanity defence was accepted by juries without medical evidence, but when presented with evidence of the woman's poverty and distress, acceptance of the defence amounted to a 'humanitarian' response on their part (Smith, 1981: 149).

The prosecution of infanticide was made more difficult because of the presumption of death-at-birth rule. In order 'to provide against the danger of erroneous accusations, the law humanely presumes that every new-born child has been born dead, until the contrary appears from medical or other evidence' (Taylor, 1858: 421). The prosecution had to be certain that a child survived its birth and that violence was done to it when it was living and separate from the mother.

When the burden of proof shifted to the prosecution in 1803 to prove intention on the part of the mother to kill her infant,⁷ the Crown was faced with the medical difficulty of proving that an infant had died outside the birth canal and after it had taken its first breath (Taylor, 1858), something almost impossible to prove (Capital Punishment Commission, 1866; Wynter, 1866). Mothers and midwives could escape murder charges if an infant was killed *during* birth but before 'its body [was] entirely in the world' (Taylor, 1858: 421). Wynter (1866: 609) believed that it was common for a woman to 'commit murder in the face of the world, and defy judge and jury to do their worst' on the grounds that 'it could not be proved that the infant was fully born at the time'. Proof of intention to kill was also impossible to determine when an infant's injuries could have resulted from childbirth, and judges frequently used these circumstances to direct juries to acquit (Wynter, 1866; Anderson, 1990: 293).

Faced with all these obstacles to prosecuting infanticide, and because acquittals for infanticide were commonplace, several Commissioners believed there should be an 'intermediate offence between murder and concealment of birth', something the Commission on Capital Punishment later recommended. Couched in medicine's essentialist descriptions of the female body, the Commissioners capitulated to the prevailing view that infanticide was a desperate though justifiable act when no other options were available. Infants' lives could not be protected from the economic and moral realities of nineteenth-century society.

The Poor Laws: A moral panic in the making?

These economic and moral realities were no better demonstrated than in relation to Parliament's punitive approach to securing financial support for unwed mothers. By examining the social context in which illegitimacy occurred and the legal framework governing welfare relief we can better understand the impact of the values associated with the female body and how that body came to represent the moral failings of nineteenth-century society.

The fear of social disorder as a result of unmarried motherhood and illegitimacy (Hoffer and Hull, 1981; Underdown, 1985; Lake, 1993; Oldridge, 2002; Levene et al., 2005) suggests that unmarried motherhood represented both an economic and social quandary, since if a mother and child did not have a male breadwinner local parishes were forced to provide financial support, while the institution of marriage and male authority were threatened by uncontained female lust.

The values associated with the lustful female body meant that the 'consistent and ruthlessly enforced policy of the state' in relation to unmarried mothers was 'the negative policy of resisting liability for their support' (Pinchbeck and Hewitt, 1973: 582). The fact that the Poor Laws concerned the illegitimate children of poor women emphasises not only 'the invidious status accorded by English society to its bastards' (Pinchbeck and Hewitt, 1973: 583) but the status of women who did not behave according to middle-class standards. Legally, bastards had few rights. They were unable to inherit and could not have heirs since they were regarded as *filius nullius*—son of no one 'for he has no father' and no ancestor 'from whom an inheritable blood can be derived' (Blackstone, 1765: 459). Socially, bastards were 'an affront to morality' and the institution of marriage (Pinchbeck and Hewitt, 1973: 583), although the affront was committed by the unmarried woman, not the father of her child.

In this legal and social landscape, parishes and charities eschewed financial responsibility for bastards, while welfare policy in the form of the bastardy clauses under the Poor Laws placed responsibility on the mother's shoulders, humiliating her and stigmatising the child (Pinchbeck and Hewitt, 1973: 583).

The first type of 'welfare' available to unmarried mothers was embodied in the Poor Laws of 1733 (Henriques, 1967: 104), although previous Acts punished the crime of producing a bastard.⁸ Upon a complaint by an unmarried mother, the parish Poor Law authorities could issue a summons against the named father, who would then be required to attend the next sitting of the Court of Petty Sessions where a magistrate would determine the weekly maintenance he was liable to pay. Rather than being a true form of welfare, however, the aim of the Poor Laws was 'to indemnify the parish against the cost of maintaining the infant' (Henriques, 1967: 105) and to privatise the financial burden of raising illegitimate children.

Amendments to the Poor Laws in 1834 reflected the new nineteenth-century morality, with a shift in the privatisation of maintaining illegitimate children onto mothers who were obliged to earn enough to support their children. Like the entrenched gender division of labour that arose out of the Industrial Revolution, the new Poor Laws instituted a gender division of reproduction outside marriage, with provisions that gave all the benefits of sex to men and all the burdens to women.

The Poor Law Commissioners Report of 1834 had 'proved' that the existing Poor Laws encouraged licentiousness because parish relief was far too readily available for illegitimate children and their mothers: '[t]o the woman, therefore, a single illegitimate child is seldom any expense, and two or three are a source of positive profit' (Poor Law Commissioners, 1834: [1.7.8]).

The Commissioners supported the views of various local authorities who gave damning evidence against unmarried mothers, such as a Justice of the Peace who considered that 'the certainty' with which unmarried mothers could obtain parish relief 'tends to remove those checks to irregular intercourse', with women using the parish relief 'as a sort of pension to herself' (Poor Law Commissioners, 1834: [1.7.10]). One parish overseer had several women in his six parishes who had multiple children and lived more comfortably 'than most families in the neighbourhood', while a vestry clerk was also certain that 'illicit intercourse' originated with women for the sole purpose of obtaining parish relief once a child is born (Poor Law Commissioners, 1834: [1.7.13]). This placed unmarried mothers in a better financial position

than married women: '[a] respectable widow would actually receive less for her children, than a prostitute for the offspring of promiscuous concubinage' (Poor Law Commissioners, 1834: [1.7.21]). One woman with five illegitimate children was said to be in receipt of the grand sum of 18s a week for 'the produce of successful bastardy adventures' (Poor Law Commissioners, 1834: [1.7.18]), which meant that parish relief for these women was nothing more than 'an encouragement to vice' (Poor Law Commissioners, 1834: [1.7.11]).

As a result of the extensive evidence about conniving and comfortable women living off parish relief, women were seen as the cause of bastardy, such that the remedy 'to be effectual, must act chiefly with reference to her' (The Commissioners, 1834: [1.7.27]). The Poor Law Commissioners concluded that the laws with 'respect to bastardy appear to be pre-eminently unwise' (The Commissioners, 1834: [1.7.30]), echoing Malthusian beliefs that 'intercourse without contract' was to be condemned in a woman rather than a man because 'the women had no resources to maintain her own children, because her offence was more conspicuous, and the inconvenience to society greater' (Henriques, 1967: 109).

Parliament embraced the Commissioners' recommendations in the hope that the financial burden and social disgrace of illegitimacy would curtail illicit sex. In other words, the new Poor Laws of 1834⁹ were designed to condemn, punish and control public immorality by focusing on the body of woman, 'to restore virtue' and encourage 'thrifty, industrious workers' (Haller, 1989: 1). The bastardy clauses (69–76) within the new Poor Law Act dealt with the moral issue of illegitimacy by shifting the sole responsibility of raising bastards onto unmarried mothers and making it extremely difficult to sue fathers for maintenance. Orders for affiliation, as they were known, would now be heard in a higher court (the county Quarter Sessions), which only convened four times a year and had to be initiated by a parish overseer or guardian of the woman seeking support. Her evidence would no longer be accepted unless it was corroborated by another witness, creating a voyeuristic move for the courts into servants' quarters, cheap rooms, back lanes, stables and parks, where illicit sex blossomed but where few Peeping Tom witnesses were likely to be found. The new laws also prevented parishes from providing outdoor relief to unmarried mothers, so that destitute pregnant women had no option but to enter the dreaded parish workhouses since they were, in effect, barred from respectable employment: 'by far the largest single category of children in the workhouses... was illegitimate' (Pinchbeck and Hewitt, 1973: 595).

After another commission of inquiry ten years later, amendments to the bastardy clauses¹⁰ in 1844 returned affiliation proceedings to the more frequent Petty Sessions. Despite this concession, these amendments shifted the responsibility for commencing proceedings onto the unmarried mother independently of the Poor Law authorities. Instead of the parish, she had to pay all the costs associated with commencement and service, as well as face the humiliation of producing corroborative evidence and appearing in court as an unmarried mother (Rose, 1986: 29). All of this for a paltry £1 per week for the first six weeks after the child's birth and 2s 6d a week until the child turned 13, an inadequate amount for a child's keep (Pinchbeck and Hewitt, 1973: 598), as discussed in Chapter 1. An application for maintenance had to be made within 12 months of the birth by the mother, and if a father managed to avoid service of the summons for 12 months he was no longer liable. If a father's payments fell into arrears, or he moved localities, the unmarried mother had to follow and sue him, incurring more costs. In any case, the most she could obtain was 13 weeks' payment in arrears.

From 1845 to 1859, out of 157,485 summonses issued under the 1844 Act, 107,776 (68.4%) resulted in court orders, although with 600,000 official illegitimate (and more than 800,000 unofficial) births occurring during this period (Rose, 1986: 30), the amended laws did not produce anything approaching fairness and equity. Even where summonses were issued, low-waged, unpropertied men were not worth pursuing, while many absconded to evade service, failed to attend court if served or disobeyed the bastardy orders made against them. Indeed, the Poor Law Commissioners interpreted the reduction in bastardy orders by 90% as evidence of the success of the bastardy clauses (Henriques, 1967: 116).

While the new Poor Laws were designed to encourage single women to guard their virginity or face financial and social ruin, the harshness and inequity of the bastardy clauses led to a 'steady stream of petitions' to the House of Commons which testified to the fact that the laws had become 'indirectly an incentive to infanticide' (Tyler Smith, 1867: 24). *The Times* summed up the situation when it observed that 'the murder of children has ceased to be murder in England. It is... thought [of] as little as braining a process-server, or shooting an in-coming tenant in Ireland' (26/6/1847, p.5).

The increase in infanticide during the 1840s was exacerbated by an economic depression, with the hardships experienced by unmarried women becoming 'a running theme' over the decades (Rose, 1986: 36). With women solely responsible for managing the sexual advances of men, whether forced or welcome, the lack of consequences for men

encouraged an increase in the seduction of women and girls, as the Bishop of Exeter warned: 'You will release men...from all temporal restraints on their licentiousness' (cited in Rose, 1986: 27), while 'the father is...allowed to escape' for abandoning his child but abandonment by the mother was a crime (Tyler Smith, 1867: 23). Many desperate women may have wondered at the social experiment being played with their lives:

Can anything be more unfair than the enactment which allows a mother only two-and- sixpence a week towards the support of her bastard child, obtainable often with great difficulty from the putative father...? It is simply monstrous that the man, who forfeits no social position by his complicity in the crime which ruins the woman, should escape thus unscathed;... the law should force him to contribute towards the support of the child according to his means, and not according to a fixed sum to be levied upon high and low alike. If the Poor Law authorities were empowered to enforce such an equitable payment, it would very probably act as a cooler upon the licentiousness of the man, and it most certainly would deprive the woman of one of the strongest incentives to destroy her child.

(Wynter, 1866: 612)

It is no surprise that the economic hardship experienced by unmarried mothers as a result of the Poor Laws resulted in a much higher mortality rate of illegitimate children compared with those born within marriage (Levene, 2005: 34; Reid, 2005: 168)¹¹ and fuelled the growth of baby-farming—with a babe in arms, an unmarried mother was trapped by the twin gateholders of law and morality. The thin space in between was occupied by the baby-farmer, holding out a helping hand. Ironically, the high infant mortality rate and the fatalism associated with infant deaths provided a smokescreen for the underground activities of baby-farmers. Rather than confronting poverty, the sexual vulnerability of women and the stigma of illegitimacy, governments of the day chose to morally regulate the female body under the Poor Laws, which meant that the licentious (sexed) female body underpinned the crisis surrounding infanticide and baby-farming during the 1860s.

Baby-farming: A moral panic?

In the nineteenth century, 'baby-farming' was a pejorative term that lumped all working-class women involved in childcare and childbirth

into the same criminal class. Any woman who took in a child for a fee was captured by the term, even though most such arrangements were temporary or short-term and beneficial to both mother and child, in that they allowed working-class women to earn an income or top up the low income of their husbands. Indeed:

[n]o respectable woman... would have called herself a baby farmer. 'Baby farming' was an accusation, not a profession. In normal usage, the term conflated the criminal acts of willful murderers with the daily labor of honest nurses.

(Homrighaus, 2010: 2)

Called 'she-butchers' in the eighteenth century, the newly named baby-farmers of the nineteenth century had attracted little attention from a society that was anxious about 'the dangers of over-breeding', particularly by the poor, but was uninterested in confronting the moral values that stigmatised illegitimate birth as well as the reasons for maternal poverty (Swain, 2005: 152).

In documenting the emergence and development of baby-farming as a moral issue in mid-nineteenth-century England and Wales, this chapter will investigate whether the social and political responses to baby-farming in the 1860s were proportional to the threat posed by baby-farmers, or whether they amounted to a moral panic of its time. In other words, was the nineteenth-century moral campaign about infanticide a proportionate response to a disturbing and largely hidden crime or an exaggeration in order to justify greater regulation of working-class women? Crucially, what role did the female body play in the emergence and development of this particular moral crisis? These are important historical and theoretical questions, since others have claimed that infanticide in earlier centuries gave rise to a moral panic without any engagement with the extensive moral panic literature, the historical limitations of the moral panic concept and an understanding of necessary elements in the creation of a moral panic (see, for example, Kilday, 2013: 31, 112, 119). As discussed in Chapter 2, these questions also allow us to consider the analytical utility of the moral panic concept for understanding historical events. More importantly the investigation of baby-farming allows for a consideration of the sexed body as the missing theoretical foundation for a moral panic analysis.

One of the key observations from the literature discussed in Chapter 2 is that moral panics appear to arise, not against a particular activity per se but against the people involved in the activity (Young,

2009). If there was a moral panic in relation to infanticide in the mid-nineteenth century, it was one that concerned the women involved in out-of-home care, not the mothers who committed infanticide (as claimed by Kilday, 2013: 121), since the history of the prosecution of infanticidal women, discussed above, shows that judges and juries viewed them with sympathy and sought to ameliorate the harshness of the criminal law.

The processes which describe the creation of a moral panic have been transported into many other historical periods to explain a variety of social threats and responses, such as gin drinking in the eighteenth century (Critchler, 2011), street violence in the nineteenth century (Sindall, 1990), and witch-hunts in medieval Europe (Larner, 1981; Currie, 1986). These transportations invite another question—how valid is the use of a twentieth-century concept for interpreting past historical events and different political, economic and social conditions? This is an important question since many analyses of moral panics rely on one case study, such that, from an empirical point of view, they amount to no more than anecdotal evidence for the propositions they seek to prove. Because the moral panic concept is reductionist, it may not capture the historical complexity of a moral crusade, its many actors and their different ideological agenda.

Hunt (1997) warns that some historical analyses of moral panics rely on generalisations about ‘deep-seated cultural causes’ such as religious anxieties, fear of the unknown or a sense of dislocation without looking for local and particular causes: ‘[a]s a result, moral panics can appear strangely divorced from reality’ (Hunt, 1997: 633). In criticising Goode and Ben-Yehuda (1994), who consider that moral panics are timeless, with all societies being subject to them, Hunt (1997: 634) cautions against taking such a ‘determinist view of human behaviour’. In reviewing historical threats and responses, it is important not to divorce them from their immediate social, political or economic context.

For the reasons discussed in Chapter 2, this analysis is situated within a moral regulation framework and will consider the social utility of Cohen’s processual model in order to discern whether the moral campaign about baby-farming amounted to the first moral panic concerning dangers to children. If the periodic reactions to this social problem were moral panics, they were not activated at grass-roots level since, during the nineteenth century, infanticide was a well-hidden crime usually only discovered by chance, and was not experienced or viewed as a threat to adults (Mayhew, 2005).

It is also necessary to examine baby-farming within the structural relations of power of the time, since the moral concern surrounding infanticide had a particular sexed focus—the dangerous female body. The fear generated by some commentators about murderous midwives and baby-farmers appeared to be aimed not at reducing the incidence of infanticide but at reducing the involvement of women in childbirth and childcare. Baby-farming was an invisible crime, largely committed by women, which occurred within the home of a nurse or midwife. As a result, the governmental response was quite different compared with the types of visible crimes that have generated moral panics around the criminal behaviours of men, such as public drinking, mugging, drug-dealing and gang-related violence.

The other reason for considering the social utility of Cohen's model is his and others' recognition that the media is essential in the making of a moral panic (Hall et al., 1978; Critcher, 2003; Garland, 2008; Young, 2009). The conditions for a moral panic certainly existed when a group of doctors associated with the *BMJ* (moral entrepreneurs) sought and found the ear of government and a receptive press. This was at a time when a lull in warfare after the Crimean War and the Indian Mutiny resulted in newspapers becoming 'more receptive to domestic' issues (Behlmer, 1979: 406), especially those involving the sensational claims of respectable doctors about women, the lower classes and child-murder. In fact, the moral issues associated with baby-farming and infanticide in nineteenth-century Britain were solely fostered through the media—at first through the *BMJ*, whose circulation figures increased during the period it campaigned against baby-farming, and then through a number of London broadsides (that is, news posters sold as a single sheet) and newspapers. As a group of moral entrepreneurs, the doctors undertook surreptitious investigations to uncover the extent of infanticide and then used the media in a deliberate strategy to elicit not only public concern but also to garner government action.

This analysis also focuses on the processes of social construction of the female body at the same time as analysing the state's response to an area of life where the government had never previously intervened—women's involvement in childbirth and childcare. But how and why did moral concern emerge in relation to the underground practices of infanticide and baby-farming which, aside from a few prosecutions each year, had been left undisturbed for decades, if not centuries? Why was baby-farming perceived to be so widespread that it threatened the moral order as a whole?

Emergence of the threat: The ‘massacre of the innocents’ and the making of a moral panic

As described in Chapter 2, the first criterion of Cohen’s processual model is the emergence of a particular threat. But discerning when infanticide, a crime that had been practised throughout the generations, emerged or was transformed into a threat that captured the public conscience requires some detective work, since it was a very gradual process.

Throughout the 1860s a number of people and organisations campaigned in relation to high infant mortality rates, such as the National Society and Asylum for the Prevention of Infanticide, the Health Society and the Social Science Association, the Coroner for Central Middlesex, Dr Lankester, and the Medical Officer of Health for the Borough of Liverpool, Dr Trench. On their own these people and groups lacked ‘political force’ (Behlmer, 1982: 19), even though stories about baby-dropping were a regular daily or weekly feature of London’s newspapers during the decade. That there was genuine concern about infanticide cannot be denied, since *The Times* (29/4/1862) printed a list of statistics on the epidemic of abandoned, dead babies found on London’s streets, commenting that ‘infancy in London has to creep into life in the midst of foes’, while Dr Lankester, the coroner for the District of Central Middlesex, said he held nearly one inquest per day on the body of a new-born infant (BMJ, 20/9/1862, p.311).

In East Middlesex the number of coronial inquiries in relation to suspicious deaths of infants more than doubled from 66 in 1859 to 170 in 1860 (Rose, 1986: 64), while the chief commissioner of the Metropolitan Police reported a 15.2% increase in the number of infanticide cases (Behlmer, 1979: 404–405), which led to central London being described as ‘infamous as seats of such massacres of the innocents’ (BMJ, 30/3/1861, p.341).

Lankester was deeply concerned about infant mortality rates as a result of the increasing number of infants’ bodies found on London streets. Frustrated with the leniency of juries, whom he considered ‘delivered verdicts against the conclusions of common sense and reason’ (Lankester, 1866: 218),¹² he presented several papers on the topic of infanticide which were reported in *The Times* along with his many coronial reports. At the same time, he attributed the causes of infanticide to mothers who had abandoned their ‘sacred duty’ to protect their offspring, so that even neglect of an infant amounted to wilful murder (Lankester, 1866: 216, 218).

As one of the first medically trained coroners in England, Lankester's medical knowledge saw his jurisdiction return 5.6% of the national child-murder verdicts in 1862, and an amazing 24% in 1863 (Behlmer, 1979: 423). Believing that child-murder was 'rampant' and that 'our indifference... [might] be paving the way to... a disposition to destroy [infant life] whenever it stands in the way' of maternal 'selfishness' (Lankester, 1866: 216), Lankester predicted that if the true rate of infanticide in his jurisdiction (based on his estimates of all babies' deaths) were applied to the whole country, there would be at least 1,000 infant murders a year in England and Wales, an accurate estimate according to Behlmer (1979: 425). For Lankester, 'the suspected destruction of 1,000 infant lives annually... [was] a foul blot... on our boasted morality and civilisation' (Lankester, 1866: 221). Worse still, 31% of all Lankester's inquests into infant deaths involved illegitimate children, even though they formed less than 5% of the total number of births (Lankester, 1871: 141).

Lankester believed that most baby-dropped infants had been murdered and estimated that if the murder verdicts from his Central Middlesex Coroner's Court were extrapolated to the rest of England and Wales, the minimum number of infanticides would have been 1,420 for 1866 instead of the official figure of 166 (Lankester, 1868: 206). However, this estimate did not take into account the fact that infanticide appeared to be concentrated in the city and suburbs of London. Indeed, baby-dropping attracted far more attention in the wealthy West End parishes, where servants were not able to easily conceal their 'offspring o'shame' (Anonymous, 1871), compared to women in the 'slums', where high rates of infant mortality 'did not arouse suspicion and there were few doctors to inspect the dead children' (Rose, 1986: 66).

Despite these worrying statistics, it was not until an organised campaign by a group of London doctors that infanticide became a public and ultimately a government concern. The doctors' campaign against infanticide and working-class women began in 1861 and persisted until they achieved the first British reform in relation to child welfare in 1872. Dr Ernest Hart began the doctors' campaign against baby-farming as editor of the *BMJ* by publishing 13 articles under titles such as 'Baby-Farming and Baby-Murder', where he warned readers that infanticide and 'barbarism' were on the increase:

[o]ne of the characters not uncommonly laid down as characteristic of a barbarous nature is the fact of infanticide being one of its ordinary practices. We are... accustomed to read with horror of this

practice as carried out in China; and yet it appears that here, in this very centre of civilised life, infanticide is a thing of daily occurrence. (BMJ, 20/9/1862, p.311)

It appears the term 'baby-farming' was first used in 1867 by Hart when he documented an inquest into the death of the fourth child of a working-class woman who, unable to suckle her children, had put each one into the care of a 'nurse'. Although all four children died whilst in the nurse's care, the jury decided that the latest child's death was due to natural causes (BMJ, 19/10/1867, p.343). But Hart had his doubts. Over time, Hart's many articles in the BMJ attracted the attention of the mainstream media, who adopted his terminology and exaggerated language and brought the term 'baby-farming' into popular usage.

The BMJ recognised that the medical profession was powerless to 'remedy the evil' of child-murder (BMJ, 19/1/1871, p.68), but by appealing to doctors to 'arrest this blot on the social life of our country' (BMJ, 20/9/1862, p.311), the BMJ declared there was a 'fatal influence' behind infanticide—that is, the system of wet nursing in which the medical profession played 'a very responsible part' because it recommended wet nursing to both aristocratic women and working mothers (BMJ, 19/1/1861, p.68). Rather than identifying other causes, the BMJ declared that wet nursing led inexorably to child-murder and suggested that the medical profession ought to take 'the high grounds of morality' on the issue.

Several letters from doctors to the BMJ agreed with Hart that the use of wet nurses ('almost invariably fallen women') was a 'highly improper' 'moral laxity' and 'an incentive to crime' which always results in the death of the child (BMJ, 2/2/1861, pp.128–129). This amounted to the first attempt to link the (immoral) female body with infanticide.

The one sympathetic letter in the BMJ, by Dr Acton, a campaigner against prostitution and venereal diseases, believed that young women were 'more sinned against than sinning' and repudiated the link between wet nursing and infanticide. Acton thought that 'shame, starvation, and a recklessness of consequences', as well as the Bastardy Laws, led mothers, not wet-nurses, to commit infanticide (BMJ, 16/2/1861, p.184), since fathers could not be made responsible and since – as previously mentioned – in the whole of London there was only one foundling hospital.

Generally, however, Hart tended to publish letters from doctors whose views matched his own, since he refused to 'open the columns of the Journal' to alternative discussions (BMJ, 22/10/1870, p.443). As a

result, various letters concurred with Hart's views that wet nursing was merely a way of supplying baby-farms and promoting infanticide by immoral women (BMJ, 3/6/1871, p.598). Absent from the BMJ debates were the voices of women, such as that of Mrs Maine who supervised the Infants' Home in London and found that unmarried mothers were 'overwhelmed with shame and despair. Forsaken, homeless, friendless, starving... they were often, in the truest sense, insane' with thoughts of infanticide common (Safford, 1868: 210). Absent also were facts about the link between high population density and high infant mortality rates since Hart's focus was on baby-farming and wet nursing, both contributors to the high death rate among infants in urban areas but not the ultimate cause.

Fallen women were also said to be responsible for the 846 babies 'officially recorded as hanged, strangled, poisoned, and suffocated' in 1861 (BMJ, 2/2/1861, p.128). Another doctor agreed that wet nursing was 'one of the most pernicious habits and evils of the present day' and in most circumstances was 'morally as well as medically unjustifiable' (BMJ, 2/2/1861, p.129). Other contributors to the BMJ echoed Dr Hart's concerns about rising illegitimacy, with one suggesting that all unmarried pregnant women should be registered and another recommending capital punishment for mothers who committed infanticide (BMJ, 11/10/1862, p.396).

The concern about infanticide grew with the establishment of a special committee of doctors of the influential Harveian Society of London, which made a number of recommendations for laws governing infanticide and 'the preventable causes of illegitimacy' (*Medical Press and Circular*, 13/6/1866, pp.627–630). Its establishment was followed up by a provocative lecture given by Dr Brendon Curgenvin to the National Association for the Promotion of Social Science (NAPSS) in 1867 on infant mortality and baby-farming, called 'The Waste of Infant Life', in which he revealed that the mortality rate for 0–5-year-olds among 'educated' and 'well-to-do' families was 11%, compared with 35–55% in urban working-class families and 60–90% for illegitimate children (Curgenvin, 1867). Curgenvin believed that unmarried mothers and baby-farmers entered into a conspiracy to bring about the unwanted child's death:

[i]n numerous instances it is the mother's or nurse's desire that the child should die, and the desire is the father to the deed; whether it be executed directly or indirectly, by violence, by withholding

sustenance or by neglect, the effect is the same, and the deed is equally murder.

(Curgenven, 1869: 222)

Another doctor also blamed mothers for infant deaths, preaching that only doctors could 'reform the morals and habits of the parents throughout the land' (Husband, 1865: 507) to prevent the habit of working mothers leaving their babies with nurses whose use of opium to quieten crying babies contributed to infanticide. Indeed, Husband was only concerned with the infant mortality of boys, since he saw these deaths as the deprivation of future fighting men for the country. He believed that the feebleness of those who survived unnatural motherhood was threatening 'the manhood of the nation' (Husband, 1865: 499–502), not an uncommon view at the time, since Hart also spoke of children as 'infant citizen[s] of the State' (SCILP, Minutes of Evidence, p.13). While women were slaves to the nation's need for men (Husband, 1865: 506–507), few single women would have understood both the centrality of their role to reproduction on behalf of the State, and the shameful attached to their role at one and the same time.

Curgenven continued his campaign by presenting another paper to the Social Science Association ('On Baby-Farming and the Registration of Nurses') in which he asserted, using official figures, that two-thirds of the nearly 45,000 illegitimate babies born in England and Wales per year were put out with carers, most of whom were 'ignorant and unscrupulous women' (Curgenven, 1869: 6, 9). The BMJ also continued its attack on the character of working-class women involved in birthing and adoption, describing them as 'unblushing', 'sly' (BMJ, 8/2/1869, p.128), 'brazen-faced', 'smirking' and 'canny' with an eye for 'siller' (silver) (BMJ, 22/2/1868, p.175). Constructing them as immodest, shameless, immoral and impure, the social conditions in which working-class women sought solutions to unwanted pregnancies were able to be ignored.

The BMJ became the vehicle for the Harveian Society's campaign against working-class women by publicising its recommendations along with worrying statistics and anecdotes, such as that of Dr Tyler Smith who, in 25 years of practice, could not remember any child who lived after being put out for dry nursing (BMJ, 21/12/1867, p.570). Readers were also informed of 'burial clubs' in the North of England in which the insured child was allowed to die when a family met financial difficulties; and of 'baby-gangers', children as young as three years of age, whose

duties were to keep baby-farmed infants quiet during the day and night (BMJ, 11/1/1868, p.33).

The discovery of a folk devil

Despite the many reports, debates and papers presented on the topic of infanticide in the early 1860s, they were not enough to attract the attention of government. The BMJ doctors' campaign appeared to have fallen on deaf ears until, that is, the sensational trials of two baby-farmers. Coincidentally, the first trial occurred at a time when the BMJ doctors needed a folk devil, a woman who could carry the burden of the doctors' allegations about working-class women. The 1865 trial of 45-year-old Charlotte Winsor focused media attention on the horrors of baby-farming for the first time, with no pity for her ghastly deeds, since unlike infanticidal mothers she had no insanity excuse to rely on.

Dubbed 'The Torquay Murderess', Winsor was described as someone who 'took orders for murder as other women take orders for washing' (*The Spectator* (London), 5/8/1865) for a 'sliding scale of murder prices' (*Reynolds's Newspaper*, 6/8/1865, p.1). After a baby wrapped in newspaper was found by the roadside in Torquay on 15 February 1865 near Winsor's cottage, both Winsor and the child's mother, Mary Harris, a farm servant, were charged with murder. No doubt Winsor's reputation as a thrice-married woman with an unsavoury reputation—'notorious as the keeper of an infamous house [and] an exceptionally base woman', not being 'an average specimen of the wives of agricultural labourers' (PMG, 12/9/1865, p.381)—contributed to sensational descriptions of her as 'a devil...in human form' (Hart, 1870: 67) and a 'vile hag' (Greenwood, 1869: 29). *Reynolds's Newspaper* (6/8/1865, p.1) opined under the heading 'Infant Murder, and Female Degradation' that:

It is not a pleasant subject for reflection that... the murder of infant children should have grown into a regular profession. The most self-satisfied Englishman will have some difficulty in extracting food for his pride from the fact that, in this matter of child murder, England is at the head of the civilized world.

When Winsor's first trial in March 1865 resulted in a hung jury, with eight in favour of acquitting her, murder charges against Harris were dropped after she was persuaded to confess that she had accepted Winsor's special offer to 'put away' bastards for a fee of £5. Turned Crown witness, Harris testified in Winsor's second trial that Winsor had

told her she had 'put away' three other babies for a fee by smothering or placing a finger under the jugular vein. Harris gave evidence that her own baby was placed between 'the bed ticks' (mattresses) of Winsor's bed until his cries could no longer be heard, while Harris remained in the next room (*Daily News*, 31/7/1865).

While Harris's accomplice evidence 'created the greatest sensation in a very crowded court' (*Lloyd's Newspaper*, 6/8/1865, p.5), Harris's knowledge that Winsor was a murderess undermined her story that she had wanted her child to live. Yet with no requirement for corroboration of an accomplice's evidence, Winsor was convicted of murder and sentenced to death. Her sentence was later commuted to life in prison, where she died 30 years later.

Winsor was depicted in a range of newspapers and broadsides as callous, diabolical and perverted in nature. Described as 'Moloch's Daughter' (*Western Times*, 4/8/1865, p.5),¹³ Winsor was a 'miserable-looking hag', 'a miserable witch... residing among us who for money had made a trade of child murder' and an 'accommodating female fiend' who perpetrated the most 'horrible and hellish crime that can be committed by a human being' (*Reynolds's Newspaper*, 6/8/1865, p.1). As 'a systematic murderer of babies' (PMG, 2/8/1865, p.1705) and a 'wholesale murderess', her home was a 'den of blood', with Winsor and Harris entering into a 'diabolical bargain' to slaughter Harris's child (*Daily News*, 1/8/1865). 'This horrible hag' and 'wretched old woman' with 'very devilish ingenuity' made Harris an accomplice by ensuring she was present when her child was murdered (*The Saturday Review*, 5/8/1865, p.161), but was a woman with no regrets except that Harris had 'split' upon her' by turning Queen's evidence (*The Times*, 12/8/1865, p.9).

Even before Winsor's conviction, Harris's 'story of a murder', as it was described by the PMG (29/7/1865, p.1672), was 'more terrible in its details, more significant of the depths of human wickedness, than anything we have read for many a year', although newspapers reassured the public that 'The Trade of Murder' was only prevalent amongst 'the lower orders', especially 'the female element'. The Winsor case reopened 'the subject of female depravity', revealing infanticide in a new form but 'in ten-fold horror and atrocity' (*The Era*, 6/8/1865, p.9). Indeed, mothers like Harris were comparatively 'pure and virtuous' when compared with 'such fiends in woman's form' as Winsor, 'this fell butcher in petticoats, murdering... with as little compunction... as if killing rabbits or poultry' (*The Era*, 6/8/1865, p.9).

One letter writer thought that infanticide was 'the great crime of England', although the PMG resented the imputation that they were 'a

nation of murderers', preferring to cast Winsor as the aberrant individual (PMG, 4/8/1865, p.1735). But the *Daily News* (1/8/1865) considered that the Winsor case 'may well terrify those who boast of our civilization... because we are unwilling to believe that such things are compatible with human nature'. Stung by the callousness of 'such unimaginable barbarity', the newspaper thought it was the 'most hideous' aspect of the case, along with Winsor's 'bargaining time after time for the price of blood'. At a loss as to how to prevent such crimes in the future, the *Daily News* hoped that Christian charity and the 'sacredness of life' would be a bulwark against 'the motives of poverty'. But other views realised that infanticide was 'the effect of a cause which society declines to deal with' and reflected on the collective blame that everyone shared: 'this most horrible narrative... ought to have aroused society from the moral torpor of self-complacency in which it now slumbers' because Winsor's crimes were the 'natural results of... the stupid mock-modesty and spurious delicacy which prevails in this country' (*Reynolds's Newspaper*, 6/8/1865, p.1).

The Winsor trial also gave rise to sardonic accounts of baby-murder by the press:

Nothing is easier than to kill a baby....What need of strangulation by tape or suffocation between feather beds? Deprive a child of the breast, feed it on [sour] gruel and pap...; if the restlessness... of the little wretch trouble you, give a little gin or sleeping stuff, and then in a very few weeks the child will die a respectable death of 'diarrhoea', or 'fits' or 'atrophy'... and instead of being hanged as a murderess, you may snuffle out your thanks that 'the Lord has taken it', and may look out for another... to 'bring up by hand,' as the refined art of child slaughter is facetiously known.

(*Daily News*, 12/8/1865)

Others remarked that Winsor was a 'benefactor to society' who saved the 'base-born' from their future 'inevitable years of misery' (*The Saturday Review*, 5/8/1865, p.161) while questions about working-class women were aired, with the middle-class female body representing the implied standard for all:

All women do not go astray. What are the influences which keep certain classes virtuous, and how far are these capable of extension to the classes who generally fall victims [to seduction]?

(*Daily News*, 12/8/1865)

When letter writers raised the issue of paternal responsibility, the PMG declared that making fathers responsible was absurd because:

[i]t is always useless to punish legally what is not condemned socially. . . . We are accustomed to look for the . . . virtues of chastity and modesty in women, but it is useless to deny that from men they are not *demande*d; and it would be scarcely fair suddenly to bring a man's conduct . . . [within the law] who had been educated in the social idea.

(10/8/1865, p.37; emphasis in original)

While some thought that Winsor's case of 'cold-blooded atrocity' was an 'odious stain and infamy on England' (*The Era*, 6/8/1865, p.9), the PMG recognised the indifference of Englishmen to infanticide until 'some very atrocious murderer' is convicted (10/8/1865, p.37) and people clamour for reforms. Otherwise, indifference prevailed because:

a tacit but over-ruling opinion exists that [infanticide] is not murder. Juries show this by refusing to convict, and Home Secretaries by perfect contentment that child murderers should go unchanged. This is so well known that women kill their infants with a strong feeling of security that . . . their punishment will be inconsiderable. . . . That to murder a man is atrocious . . . is obvious to everybody; but it is not so easy to . . . blame . . . [the] one who kills an infant with no position in the world and scarcely any hold upon it.

(PMG, 10/8/1865, p.37)

Until infanticide was taken seriously, 'things will just go on . . . every generation adding hundreds of unchanged murderers to the population' (PMG, 10/8/1865, p.37). Yet the obvious solution to illegitimacy—government-run foundling hospitals—were condemned because they induced 'married persons to neglect their children, and are standing rewards for incontinence and vice' (*Daily News*, 12/8/1865), indicating that British society was willing to accept infanticide as the 'greater evil' (*Reynolds's Newspaper*, 6/8/1865, p.1).

In this context, it was no surprise that, to Winsor, 'the life of a child' was not at all valued, since it was the view in England that the death of an infant mattered 'so little' (PMG, 10/8/1865, p.37), revealing the lack of 'moral panic' aroused when a child was murdered. Some thought that it was normal in rural England for unmarried mothers (the 'Medea of low life') 'who love neither wisely nor well . . . [to] have a sort of right,

or at least under a necessity, to murder what they can make no money of', while 'the professional child-murderer is as much a recognized element of society as the wise woman' (*The Saturday Review*, 5/8/1865, pp.161–162). But *The Era* had no mercy for women like Winsor:

these social Thugs who disgrace the country and outrage our common nature, must be exterminated by the strong and unflinching hand of the law, and if ever death was demanded . . . it is in the case of the infamous wretch . . .

(Winsor, 6/8/1865, p.9)

A broadside entitled 'Horrid Child Murderer'¹⁴ shows how media sensationalism incited readers' emotional reactions by composing a ballad as if it was written by Winsor herself:

I am a wretched murderess
 In sorrow I bewail,
 For killing little children
 I am confined in gaol.
 . . .
 I was in Torquay, in Devonshire—
 The place I ne'er shall see again,—
 Where I children slew for wholesale,
 For lucre and for gain.
 If a female chanced to have a child,
 With her I did agree,
 To murder it immediately—
 She paid to me a fee.
 Some I used to poison,
 Some I smothered, some I drowned,
 I would kill a child for anyone,
 Who lay me down a pound.
 . . .
 The child of Mary Harris,
 I cruelly did slay;
 The boy I placed between two bed-ticks,
 And took his life away!
 The mother seemed contented,
 Her dead infant child to see;
 Although I did the murder,
 She was quite as bad as me.
 . . .

I in distress, must now confess,
I guilty am of crimes;
A number of young infants,
I have murdered in my time.
For the deeds I have committed,
Sure no one will pity me,
I thought no more of murder,
Than sitting down to tea.

By 1865, emergence of a threat to the English/Welsh way of life coalesced around Charlotte Winsor and her infamous deeds. She was the perfect folk devil on whom the problem of infanticide could be focused. There was now fertile ground for a moral panic to grow but more was required.

Fertile ground for a moral panic

Since media exaggeration and identification of a folk devil is the second criterion in Cohen's processual model, media involvement is necessary for the creation of a moral panic (Critchler, 2003; Goode and Ben-Yehuda, 2009; Cohen, 2011a). The above descriptions of Winsor illustrate that at the time of the BMJ doctors' campaign against infanticide there was an active media presence that performed a moral regulatory function in relation to the female body. Winsor's crimes were not just reported, Winsor herself became a media construct based on the nineteenth-century values associated with the female body.

In order to understand the portrayal of female criminality in the nineteenth century, in particular 'the emergence of women as the first serial killers of modern society' (Knelman, 1998: xi), knowledge of the development of the print media is essential. With the spread of the printing press, which by the early sixteenth century was producing millions of books throughout Western Europe (Febvre and Martin, 1976), came the development of tangible sites where the sexed female body first emerged to become the subject of social and legal policy initiatives to control women's sexuality and reproduction. In the nineteenth century, broadsides and daily newspapers used the narrative device, that is, the tools of classic storytelling, to create cultural representations about women who killed. Explanatory theories depended on attributes that proved a murderess was evil or mad.

The nineteenth-century media portrayal of women who killed (always referred to as 'murderesses') involved stories that were replete with

men's expectations of women's behaviour and understandings of their criminal lives. Murderesses depicted in the press and in fiction had a heightened sexuality (Knelman, 1998), representing the danger and wickedness lurking within the female body, in contrast with the repressed sexuality of the ideal Victorian woman. As Zedner (1991: 88) has observed, '[a]lmost any expression of sexual desire by a woman could be interpreted as pathological and clinically described as nymphomania'.

As discussed in the next section, interpretations of women's criminality centred on the sexed female body, with men struggling to understand the 'subversive aggression' (Knelman, 1998: xii) of those whose proper place was subordinate to them. In other words, the nineteenth-century media perpetuated the view of murderesses as 'the other'—those women who resided on the other side of a moral boundary set by reference to the virtuous female body.

Crime sold well. Accounts of murder trials were quickly published and widely distributed since editors realised there was 'mileage to be wrung out' of sensational murders (Stratmann, 2011: 10). Accounts of crime could also be purchased in the form of fiction known as penny dreadfuls, criminal biographies, dying speeches, ballads, last letters, pamphlets of the lives and trials of particular murderers, chaplains' accounts, witness accounts of executions, confessions, miniature books, the Sunday newspapers, the daily penny and half-penny newspapers.

With an increase in poverty from the 1840s, 'newspapers tended to cover crime from the comfortable distance that righteousness affords, passing judgement as though criminal tendencies in the deprived were surprising' (Knelman, 1998: 5) and not a product of social and economic upheaval or government apathy.

The nineteenth-century press titillated readers with images of how low a woman could fall. Compared to male murderers, murderesses were a combination of out-of-control emotions, innate wickedness and depravity. Because of the apparent rarity of crimes committed by women, particularly murder (Emmerichs, 1993), their occurrence excited the media in ways that men's crimes did not. Descriptions of Charlotte Winsor show that the body of woman represented all that was base and depraved about the human condition. These representations were achieved through sensationalising murder trials involving women, which were an unusual treat for the public in the early nineteenth century:

broadsides, with their crude sketches and verses, depicted the murderess as a cold, unnatural, ignorant, coarse, defeminised

creature. By the 1830s, newspapers were filling her out, enlarging upon details.

(Knelman, 1998: 13)

While broadsides, in particular, provided cheap entertainment for the masses, they always told a moral tale by warning readers about 'bad company', injustice, dishonesty, the 'Demon Drink' and the consequences of leading an immoral life, all of which had a civilising and regulatory influence: 'unlawful violence had to be shown in its crudest reality to deter people from it' (Chassaigne, 1999: 34). Murders allowed stories of sin, repentance and retribution to be told. Often evidence from a trial or an inquest would be quoted verbatim, which gave the reader the experience of 'listening' to the witnesses, while gory details added to the entertainment value (Chassaigne, 1999: 26).

In fact, sensational trials were the means by which the press and the public reaffirmed their shared cultural values (Hariman, 1993: vii), bonding together against the 'the other' who had transgressed those cultural norms. With only the crude instrument of the criminal law to control people's behaviour, the media was part of the everyday moral regulation that seeped into social conscience. Murder trials were a moral litmus test, since newspaper editors used a particular case to eulogise about the state of the nation, or in relation to murderesses, the state of womanhood and to propose solutions to cleanse society of the particular vice. One broadside in particular, *Baby Farmers, Mothers Beware* (Anonymous, 1871; Chassaigne, 1999: 42–43), played an educational role in the wake of a second, sensational baby-farmer's trial by warning mothers about how they should behave.

Broadsides exploited murder as one of the Victorian public's deepest fears by featuring a descriptive and sensational title, a 'savage and brutal' narrative about a murder, murderer or execution, an emotional ballad in verse and all 'decorated with a woodcut depicting a crime or an execution' (Chassaigne, 1999: 24, 27, 29). Murder and execution broadsides were so popular they sometimes sold more than a million copies (Anderson, 1991: 25), since they were widely circulated by vendors on the streets and posted in inns and coffee houses.

Ballads provided moralising commentary using traditional Christian themes—sometimes they began by addressing their readers as 'Good Christians', then revealed that sinners will be caught and punished and ought to repent. While broadsides were directed at both the working and middle classes, the language used to describe murders was predictably excessive. Broadsides met their readers' expectations with stock words and phrases—brains were always 'scattered' or 'protruding'; blood

was always 'crimson gore' or 'dye'; murderers were 'wicked', 'cruel' or 'wretched' with stone-like hearts; while victims were 'innocent', 'poor', 'pretty' or 'respected' (Chassaing, 1999: 25, 30–31). Another reason for the success of broadsides was their plausibility, in that they depicted contemporary crimes and revealed how the courts meted out justice, although the occasional fabrication of crime stories showed how news had become a 'commodity' to be sold to the public (Knelman, 1998: 36).

While the press claimed criminals as public property for dissection and judgement, condemnation and ridicule (Chassaing, 1999), murderesses were scrutinised for their unnatural behaviour. The moralising function of broadsides contrasted murderesses' 'unwomanly' behaviour with the socially acceptable roles of wife and mother. Poisoning, strangling, dismemberment, suffocation, knifing and cunning were not within the bounds of acceptable feminine behaviour. Indeed, the trial of a murderess provided opportunities for warnings about the danger that always lurked amongst unsuspecting communities, as one broadside counselled in relation to a female poisoner:

[i]n the dark catalogue of human crimes there are none perhaps of deeper dye.... Against the midnight plunderer and assassin we are in some measure guarded by our prudence and ingenuity, and locks, and bolts, ... but when a man's enemies are those of his own house – when the wife of his bosom deliberately imagines and compasses his death – no human prudence, ingenuity, or foresight will be found sufficient to render abortive her diabolical machinations.

(cited in Knelman, 1998: 33)

The 'midnight plunderer and assassin' was a man who could be guarded against. But the real evil was Woman, the archetypal figure against whom nothing could protect a man. The use of the term 'murderess' also connoted much more than the term 'murderer'. As documented by Knelman (1998), murderesses were described in broadsides and newspapers alike as possessing all the qualities of the devil: fiendish, depraved, vile, base, wicked, remorseless, diabolical, unnatural. Sometimes associated with 'glamour', murderess evoked cunning, deceit and utter 'villainy'. Other moralising broadside tales warned readers of Satan's temptations:

Behold a wretched married woman,
The mother of a family,
For the murder of her husband,

Doomed to die upon a tree;

...

For a paltry sum of money,
She did her lawful husband slay,
And for no other cause but lucre,
Did she take his life away

...

Wicked, base, deceitful wife,
Barbarous and cruel mother,
Doomed to die in prime of life.

...

Males and females, take a warning,
By Sarah Chesham's dreadful fate,
Ponder well, night, noon and morning,
Before, alas! it is too late.
Let not even Satan tempt you,
To desert from virtues way,
And think upon that wretched woman,
Who did for gain her husband slay.¹⁵

By the 1860s, the daily and weekly newspapers such as the *Daily Telegraph*, *Lloyd's Weekly Newspaper*, the *Illustrated London News*, the *News of the World*, the *Daily Express*, the *Daily News*, and even *The Times*, *The Standard* and the *Weekly Times* represented a new breed of media that gradually supplanted broadsides but copied their approach to crime. Daily newspapers proliferated owing to a repeal of stamp duty on paper in 1855¹⁶ which opened the door to cheap, mass production with a reduction in the sale price of newspapers to one penny. In addition, improved technology in the form of the steam press, the invention of the telegraph, which assisted communication, improved distribution of newspapers via the railways, and the increasing literacy of the working classes from about the 1830s (Knelman, 1998: 32, 37) saw newspapers overtake broadsides as the reading material of the masses.

As a result, this 'new, aggressive, circulation-hungry journalism' continued to feed the demanding public a diet of crime (Altick, 1970: 66), with murder by women being a favourite delicacy. Illustrations, provocative sketches and bold headlines were all adopted from the broadside tradition (Stratmann, 2011). Crime reporters were known as 'penny-a-liners' since they were paid a penny per line. The more sensational their stories, the more likely they were to be published. In fact, their 'artistry' was the stuff of moral panics: embellishment, exaggeration and

hyperbole combined to not only condemn an accused before trial but also to arouse horror, fear and anger. Editors of newspapers often followed suit with in-depth analyses of the guilt of the accused and the rightness or wrongness of the verdict, setting themselves up as judges of the justice system, with various examples of editorial pressure resulting in a reprieve or retrial (Knelman, 1998: 41–42).

By the time of the Winsor and Waters trials in 1865 and 1871, respectively, the public was well used to its diet of crime. These trials arose in a fertile context, nurtured by a long history of crime narratives in broadsides and newspapers and savoured by a public voyeuristically obsessed with murderesses. The newspapers were well placed to play out the drama of the baby-farming narrative that had been carefully constructed by the BMJ over many years.

The aftermath of the Winsor trial

The broadside and newspaper accounts of Winsor's trial show that she was a well-constructed folk devil onto whom the social problem of infanticide could be focused. This absolved men generally and the government in particular from any responsibility in relation to desperate mothers such as Mary Harris, who had initially paid a wet-nurse three shillings a week to nurse her son until the father of her child, a local farmer with whom she had had a seven year affair and another child, ceased the payments. Winsor was her last resort.

While infanticide by unmarried mothers was explained by reference to the emotional instability of women after birth, it could not explain the *rational* act of accepting money for adoption and death (Knelman, 1998). The Winsor trial reinforced and extended the cultural labelling of women, creating a more diabolical sexed female body. Forever more, the female body would be associated with a particular type of 'Satanic' bargain—the obtaining of 'blood money' for the commission of child-murder, the most 'depraved' act known to nineteenth-century society (*The Era*, 6/8/1865, p.9).

But there was no moral panic. Although a social threat emerged, a folk devil was identified and condemned in the strongest of moral terms (accompanied by media exaggeration, distortion and symbolisation) and a group of moral entrepreneurs highlighted the moral issues (Cohen's first three criteria), there was no governmental response and the media lost interest quickly. The reaction to Winsor's trial was underwhelming in relation to a significant social problem that had no apparent answers.

Although the newspapers were replete with descriptions of Winsor as the callous murderess and a perusal of newspaper ads meant that anyone could see how frequently children were bought and sold, there was little concrete information about how widespread baby-murder was by women like Winsor. In this vacuum, the BMJ doctors made no headway with the government in relation to the numerous reforms they sought to control baby-farming. In fact, 'Hart would later recall that the baby-farming question "went to sleep"' until 1870 when the next baby-farming case appeared (Behlmer, 1982: 28).

In the wake of Winsor's trial, attempts to keep the issue of infanticide alive continued, but in a largely piecemeal fashion until the 'rediscovery' of baby-farming by the BMJ doctors. In the year of Winsor's trial, 1865, Dr Lankester, the Coroner for Central Middlesex, made the alarming declaration in his second annual report that there were at least 12,000 women in London who had committed infanticide. His estimate was based on irrational guesswork—the fact that there were 150 baby-dropped infants discovered in the city annually; that for every one discovered there was at least one undiscovered, giving a total of 300 babies and infanticidal mothers. In his experience the average age of the mothers was 20 years, and at that age life expectancy was another 40 years. Lankester multiplied 300 by 40 to arrive at his dubious figure of 'twelve thousand murderesses living in our midst' (Wynter, 1866: 607).

Wynter (1866: 607–608) reminded readers that every year Lankester's estimate of murderesses was increasing, particularly from 'the lowest class, from which our unnatural mothers are recruited'. Added to the figure of 12,000 were the babies born alive but declared to be still-born, with babies regularly dying on washing days in 'tubs of water'. In addition, midwives, 'wickedly inclined... know well how easy it is to produce a still birth, or, in the horrible language of the craft, a "quiet one"' (Wynter, 1866: 607–608), while baby-farmers like Winsor continued their trade of systematic murder unabated.

In 1869, a 'sociologist' devoted a chapter of his book to 'the modern and murderous institution known as "baby farming"'. Greenwood (1869: 22–23) recognised that the real extent of baby-farming was unknown, with only occasional criminal court cases raising social awareness of the bargains struck for 'blood money'. Winsor's case, in particular, was described as 'a most atrocious child murder... exhibited in all its nauseating nakedness'. All of England's fathers and mothers were 'horrified' by the 'scandalous traffic in baby flesh and blood' and 'revolting revelations' and by comparison they were rendered 'virtuous' by the 'tender feelings' they suffered from 'the harrowing story'. But

Greenwood (1869: 23) recognised the ebb and flow of what we would now call moral panics:

[c]onsidering what our sufferings were (and... they must have been truly awful) we recovered with a speed little short of miraculous. Barely was the trial of the murderess concluded... than our fierce indignation subsided from its bubbling and boiling, and quickly settled down to calm and ordinary temperature. Nay it is hardly too much to say that our over-wrought sympathies... fell so cold and flat that little short of a second edition of Herod's massacre might be required to raise them again.

Greenwood believed that this was 'the unhappy fate that attends nearly all our great social grievances' and, together with the law's 'sluggardly' response, it merely encouraged baby-farmers to continue their trade. Nothing would change 'unless the law steps in to our aid'. While it vigilantly regulates the keeping of animals 'it takes no heed of the cries of its persecuted babes and sucklings. ... Would it not be possible ... to issue licences to baby-keepers as they are at present issued to cow-keepers?' (Greenwood, 1869: 23, 43).

The moral entrepreneurs persist

The form of moral regulation described by Greenwood was exactly what the BMJ doctors had in mind as they continued their moral campaign after Winsor's trial. Midwives attended the vast majority of working-class births since doctors were an expensive service reserved for the well-off. Self-trained, a midwife was of the same class as her clients and had been delivering babies in the same locality for years. Not surprisingly, '[m]oves by doctors ... to have midwives registered and compulsorily qualified had a strong element of self-interest', particularly since cheap midwifery services were an 'economic threat' to doctors (Rose, 1986: 85).

It was only in the previous decade that the Medical Act of 1858 had established a register of doctors with recognised qualifications from particular training hospitals and placed 'the seal of social responsibility on the profession' (Rose, 1986: 41). The doctors' activism coincided with a desire for increased social status in a society where medicine had 'all too recent associations with the occupations of artisan and shopkeeper' (Peterson, 1978: 196). Although the practice of medicine in the mid-nineteenth century was a hit and miss profession, with many symptoms

misdiagnosed and many medical diagnoses and prescriptions causing more harm than good to England's children, Hart and his doctors saw working-class women as the biggest threat to infant welfare.

After Winsor's trial, Hart and his colleagues were the powerful group of moral entrepreneurs who had the organisational skills to turn baby-farming into a moral panic, as well as the political motivation to do so. As a member of the influential Harveian Society, which had been founded to increase the knowledge and status of medicine (Behlmer, 1982: 245; footnote 21), Curgenven suggested that the society establish an Infanticide Committee, and it was his 'strenuous exertions' which made the committee a success (Tyler Smith, 1867: 21).¹⁷ The Harveian Society doctors became the key investigators of the moral crisis around baby-farming while the BMJ became the vehicle for promoting the committee's 20 recommendations, which called for compulsory registration of all births, increased penalties for infanticide, supervision of paid carers of illegitimate children and amendments to the Poor Laws to allow mothers to recover increased sums for the maintenance of their children. When the committee decided to seek an interview with the Home Secretary in the hope that the government would adopt their recommendations, this move reflected the status and reach of these moral entrepreneurs.

Soon after Winsor's conviction, on 28 January 1867, 45 members of the Harveian Society met the Home Secretary to urge reform in relation to the out-of-home care of illegitimate babies (*The Times*, 29/1/1867, p.8). However, the society's 'timing was poor' since Secretary Walpole had other things on his mind, including his own amendments to the laws governing homicide and infanticide. In their eagerness to promote themselves, it appears the committee had overestimated the prevalence of illegitimacy, a mistake that undermined its credibility (Behlmer, 1982: 24).

However, Hart and Curgenven refused to give up when the Home Secretary declined to assist with 'difficult' legislation for the registration and licensing of midwives and baby-farmers. Instead, the BMJ doctors continued their campaign, this time using novel methods to attract the government's attention.

Curgenven delivered a paper on 18 March 1867 to the Health Department of the Social Science Association (HDSSA) about the waste of infant life, during which he expressed the radical view that the government should take responsibility for the welfare of infants. He questioned why the state provided for the 'feeble-minded' despite their lives being 'valueless', while 'helpless infants', whose lives 'may be of value', were

ignored (Curgenven, 1867: 1). This speech brought more support the doctors' way, with the HDSSA unanimously supporting Curgenven's visionary suggestions that maternity funds be established in every factory, out of which a woman would be paid her weekly wage for two months after birth and day nurseries be established for working women (Behlmer, 1982: 25). The association also supported Curgenven's view that baby-farmers should be registered, licensed and placed under supervision.

Another prong of attack by the Harveian Society arose when Dr Hart became the editor of the *BMJ* at the end of 1866. Using his novel term 'baby-farming' (*BMJ*, 19/10/1867, p.343), he was the first to link it with infant mortality so that, in the pages of the *BMJ*, baby-farming became synonymous with murder. Through his exposé of baby-farming, Hart used the pejorative meaning of the term to turn public condemnation into parliamentary support for legislative change in order to control the activities of working-class women, accusing midwives of engaging in commercial infanticide.

Hart's articles in the *BMJ* told stories of the wretched homes, living conditions and unpleasant appearances of baby-farmers, painting an unflattering picture of poverty but with no corresponding understanding of how that poverty arose. Obsessed with how baby-farming could be stopped, Hart's articles reflected middle-class worries and prejudices, including the distaste of his doctors-turned-investigators for the impoverished, mostly female, baby-farmers. The doctors' own professional and class superiority peppered the articles, although the language of sexing was prominent in constructing the female body as inferior, immoral and debased. The national crisis around infant mortality was turned into a debate about the good and evil values associated with the female body, while male doctors represented all that was in opposition—professional, responsible, rational, trustworthy, safe and heroic.

The relationship between the moral entrepreneurs and the media: A tale of good and evil

A tale of good and evil was something the well-connected doctors of the *BMJ* had the power to loudly proclaim, so much so that the influence of the *BMJ* saw articles on professional child adoption and baby-farming start to appear in the up-market newspapers (*PMG*, 25/9/1867, 31/1/1868; *The Times*, 17/12/1867). At the same time as the media became the peddlers of a moral campaign around baby-farming, the upmarket dailies recognised that newspapers were implicated in the

deadly trade in babies, since it was through the London daily papers that baby-farmers advertised for babies for a fee, and desperate mothers advertised for kind, motherly persons to look after their children.

The *Pall Mall Gazette* (PMG) took aim at the downmarket newspapers, such as the *Daily Telegraph*, which accepted advertisements from baby-farmers, 'deliberately profit[ing] by the promotion of one of the most infamous kinds of traffic ever invented'. These profits, the 'product of vice and cruelty', were 'an encouragement to crime' and a trade that 'runs into the destruction of human life' (PMG, 31/1/1868, p.421), 'tempt[ing] women eager to have done with their children'. They were even accused of complicity in murder, since these journals 'traded on the depravity of selfishness' of mothers and baby-farmers (*The Times*, 24/9/1870). This upmarket newspaper campaign eventually saw these and other dailies ceasing their publication of such advertisements, although they were still published in weekly newspapers (Knelman, 1998: 168).

To prove its point, the PMG undertook its own experiment, placing an advertisement in the *Daily Telegraph* and receiving a 'heap' of letters in reply, such as:

Madam,—Seeing your advertisement in this morning's *Telegraph*, desiring a male infant to adopt, . . . a very handsome boy, of good parents and blue eyes, and very healthy, now nearly a month old; can be entirely given up and every explanation afforded you in the matter.

Perhaps encouraged by the PMG's surreptitious activities, Hart decided similar radical action was required. He too advertised for a nurse to look after a child for a premium of £5, and received 333 replies within a week and several personal applications (BMJ, 28/3/1868, p.301). Posing as fathers of illegitimate children, Hart and his colleagues arranged to meet several of their correspondents to investigate the extent of baby-farming in London, and discovered that abortion, childbirth and adoption were practised by women largely independently of the medical profession.

To prove his case, Hart used the BMJ as a 'potent propaganda tool' (Behlmer, 1982: 27) to publish the details of his and his colleagues' activities and to establish that women engaged in baby-farming with the intention that the adopted children would die. The number of articles published by the BMJ on this particular social policy meant that it pushed the medical profession into new areas, giving doctors a platform for placing themselves as 'experts' in the fields of crime, public

health and public morality. Not only did the doctors of the BMJ become the moral entrepreneurs who railed against the moral threats undermining British society, they became the sole experts (Cohen's fourth criterion) on the topic of childbirth and infant care, with their claims about the causes of infant mortality influencing both the government and media reports. By demonising working-class women as unfit to deal with childbirth, the medical profession was ready to move in.

In opposition to these medical experts was the more enlightened view expressed by philanthropic, upper-class women that 'working-class mothers' debased character, lack of education, and miserable standard of living all conspired against infant life' (Homrighaus, 2001: 352). While female philanthropists recommended privately run crèches or foundling hospitals for the children of the poor, the BMJ rejected ' "their perilous philanthropy" as impractical and dangerously ill advised' because these solutions would spread disease and immorality by encouraging 'illicit connexion' and abandonment of children borne out of wedlock. Others believed that foundling hospitals 'deliberately commit[ed] vicarious murder' since their mortality rate was 'frightful, ranging from 40 to 90%' (Wynter, 1866: 610), while the London Foundling Hospital 'experiment' had cost the government £500,000 in its first three years because of its 'indiscriminate' admission of infants (Tyler Smith, 1867: 23).

Most of all, the BMJ objected to the intrusion of women into the domain occupied by doctors because they were not 'sufficiently skilled' to deal with the problem of infanticide (Homrighaus, 2001: 352). The class and sex battle between the doctors and upper-class women saw the medicos win the public relations war, the dismissal of more enlightened solutions to illegitimacy and infanticide, and the ongoing demonisation of working-class women.

Hart also took aim at the Home Secretary's lack of interest in the problem, describing the government's 'apathy' and 'attitude of indifference' by stating bluntly that were it not for this indifference he and other doctors would not have been forced to 'flagrantly' and single-handedly inquire into and expose 'the [immoral and felonious] details of the system of baby-farming and baby-murder'. From the 333 letters received in response to his advertisement, Hart was able to conclude that many people offered 'facilities... for the disposal of children' at £10 per head and that many women sought these facilities, creating 'a very brisk business'. Others were willing to adopt for half the price, leaving it to their skills in the 'management of infants for its rapid "disposal"' (BMJ, 28/3/1868, p.301).

As a result of their bold investigations and their coverage by the BMJ, the BMJ doctors captured the attention of the wider media for a moral campaign on baby-farming, the essential ingredient in any moral panic. Such was Hart's influence that the media adopted his language in constructing a 'dichotomy between "natural" motherhood and bad anti-mothers' (Arnot, 1994: 280). In an article that used the same title as the BMJ, 'Baby-farming and Baby-Murder', *The Times* (22/2/1868) repeated the global claims that had been made by Hart about all the women who earned a living from midwifery, lying-in houses and baby-farming by declaring they were involved in 'a criminal trade equally dangerous to the morality and the health of the community and constituting a felonious offence'.

Hart began a four-part series of lengthy articles entitled 'Baby-Farming and Baby-Murder', which reported 'certain visits' he and other doctors (including Curgenvin, Wiltshire and Baker) had made to the letter writers to discern all they could about baby-farming in London (BMJ, 8/2/1868, p.127). Dr Wiltshire also obtained information from local authorities about the areas that had reported an unusual number of infant deaths (Rose, 1986: 79).

That Hart was looking for evidence to implicate baby-farmers is clear. He reported that the problem of infanticide was a symptom of the criminality of the working classes, in particular working-class women, who were intent on destroying infant lives. In the style of a crime writer, Hart described 'the criminal act of getting rid of baby—[o]ur experience shows... that in many of these suburban cottages, where nurse... and board, and a pianoforte, figure in the advertisement, there are uglier instruments in the cupboard' (BMJ, 8/2/1868, p.127). Many of the houses visited dealt with all matters to do with pregnancy, including abortion, confinement and adoption, all of which provided handsome incomes. Some residences were disarmingly 'prettily furnished' with 'excellent linen' and 'scrupulously clean' while others were cheap, dirty and dingy.

With suitable hyperbole and close attention to detail, Hart told his readers that baby-farmed babies wore 'grimy-looking napkins' and 'bore that peculiar expression... which badly attended children generally acquire'—'wretched', 'miserable', 'afraid to cry', 'dirty and ill-cared for' (BMJ, 28/3/1868, p.301). As well as telling several stories about baby-farmers' rooms full of dirty and sick children, he informed readers about the baby-farmer who fed her babies four to five times a day on 'bread-and-water sop, with a little sugar and butter; sago sometimes... but no milk'. Although not recognised by Hart, this suggested that in the

absence of breast milk, underfeeding and poverty were the causes of this baby-farmer's eight illegitimate infant deaths (BMJ, 8/8/1868, p.143), rather than any deliberate intent to kill. What Hart failed to investigate were the conditions of poverty in which baby-farmers lived—tiny, cramped rooms, poor hygiene, worn-out clothing, women too old to go out charing and husbands out of work—so that families became totally dependent on the income from baby-farming.

The BMJ doctors confirmed the knowledge that 'London was a large emporium for baby-farming, and that...women without children... came to London... [and] returned with a baby in order to secure their husband's affection' (*The Times*, 13/8/70, p.5). The doctors discovered midwives who carried out 'mock confinements', where an arrangement would be made with an infertile woman to go without her stays and make herself look pregnant. Then at a suitable time the woman would feign labour and call the midwife, who would arrive with an 'adopted' infant (drugged to keep it quiet), as well as 'a great bottle of bullock's blood' and placenta to 'make as much mess as she likes' (BMJ, 22/10/1870, p.443).

Doctors were also involved in the underground trade of 'getting rid of baby', which offered to receive ladies 'temporarily indisposed' with no questions asked and anonymity guaranteed. Hart reported that in one establishment the doctor was paid the huge sum of 50 guineas, while the nurse charged 20 guineas, for an abortion. This involvement of the medical profession, however, was eventually lost in Hart's demonisation of nurses and midwives, as Hart closed down all discussion in the BMJ on alternative explanations for infant mortality (BMJ, 22/10/1870, p.443).

Hart also tantalised his readers with the fact that his band of investigating doctors had 'not groped into the darker mysteries of the more infamous quarters in London... to drag to light the hidden crimes of those who shun the day' (BMJ, 22/2/1868, p.175), resigned to the fact that every 'great city' will never be free of its criminal class. Referring to women rather than doctors, Hart was only concerned with those 'unblushing and brazen-faced' who advertised their services in the newspapers who knew that so few women survived an abortion that the better option was to give birth; and 'by neglecting it... it could then appear as if it were still-born or died [during] birth' (BMJ, 22/2/1868, p.175). Other midwives were prepared to find adopting couples for a large fee.

With each new article, Hart's revelations were designed to shock. His third article on baby-farming and baby-murder began dramatically:

A shudder and loathing come over us when we look back at the matter-of-fact details... on Baby-farming and its allied trades... Can such things be in the midst of us?

(BMJ, 29/2/1868, p.197)

Hart proceeded to name all the types of women involved in the business of childbirth and threw them into the same, shameful basket:

much would be effected by simply classing together in one shameful category the two classes of offenders—by showing that Mrs.—with the diploma, whose advertisements are clothed in the most guarded language, is on the same level as Mother Brownrigg... a good friend of *soi-disantes* [so-called] virgins.

(BMJ, 29/2/1868, p.197)

Thus, the abortionist was lumped together with the experienced midwife who provided a much-needed service to pregnant women. Hart and his colleagues wanted to stamp out the 'nefarious trade' of abortion as well as adoption on the grounds that 'in an aristocratic country' with a need for 'hereditary purity', 'babes seeking parents should not be so readily introduced to parents seeking babes' (BMJ, 29/2/1868, p.197).

Hart sought readers' emotional reactions with more descriptions of a baby-farm in Marylebone, described as a 'plantation' enclosed in 'four sombre walls' with little air and light that 'feebly struggles to enter through the little window', while the 'fire in the grate sympathises, and looks doleful'. The one room was a 'wash-house, kitchen, sitting-room, lavatory, bed-room, baby-farm, and hospital' with 'three clothes baskets containing three little bastard olive-branches'. The smell of the overcrowded room was 'never to be forgotten' (BMJ, 19/9/1868, p.315). With none of the fathers (a banker, an Army officer and a man who escaped to America) paying for their babies' care, the infants were doomed to die in a baby-farm in which 12 out of 18 previous baby-farmed children had died. Hart's stories made it easy for readers to conclude that most infant mortality was due to the nefarious activities of baby-farmers (BMJ, 28/3/1868, p.302), with the descriptions of baby-farmers' houses challenging middle-class sensibilities and reinforcing the view that the poor were racially inferior.

Hart declared that he had placed the evidence of his and the other doctors' inquiries about abortion and baby-farming in the hands of the police and politicians, although the Home Secretary 'decline[d] to take any initiative, leaving the responsibility with the police' (BMJ,

21/3/1868, p.276). Not to be put off, Hart pressed forward with his campaign by investigating infant mortality in London. He reported the latest official figures for infant mortality as 67 per 1,000 children up to five years of age, while in the first year of life, infant mortality was more than double at 165 per 1,000. In the first month of life it was 571 per 1,000.

While many believed these high mortality rates were inevitable, Hart thought that because infant mortality was much higher in the cities than in rural districts (out of 37 districts with excessive child death rates, 32 were metropolitan, most in and around London), there was an excess of deaths due to 'preventable causes' (BMJ, 21/3/1868, p.276) listed in Table 3.4.

As Table 3.4 shows, almost two-thirds (65.4%) of children who died in London in 1865 were under one year old. However, many of the diseases listed are actually symptoms of cholera, other waterborne diseases and congenital syphilis, or the result of non-pasteurised milk and poverty, something that Hart partly recognised: 'there is... no doubt

Table 3.4 Diseases causing child deaths in London in 1865¹⁸

Cause	All children	Under 1 Year (% of all children)
Diarrhoea	3,611	2,519 (69.8%)
Want of breast milk	410	409 (99.8%)
Thrush	220	213 (96.8%)
<i>Tabes mesenterica</i> ¹⁹	1,263	614 (48.6%)
Convulsions	2,810	2,132 (75.9%)
Premature birth	1,115	1,115 (100%)
Teething	841	423 (50.3%)
Atrophy and debility	3,540	2,603 (73.5%)
Accident or negligence	2,236	460 (20.6%)
Murder or manslaughter	132	99 (75.0%)
Total	16,178	10,587 (65.4%)

great negligence on the part of parents, great ignorance of the conditions on which health depends, and great privation among the masses of the poor' (BMJ, 21/3/1868, p.276).

Compared with other causes, only 132 children (0.82%) officially died from murder or manslaughter in 1865, although this figure was an underestimation given the secrecy surrounding child deaths. In any case, 75% of victims were under the age of one year, demonstrating the disproportionate vulnerability of infants to murder or manslaughter.

Although Hart knew that baby-farmed children often suffered from incurable diseases, such as the three baby-farmed children he witnessed in Marylebone, one with congenital syphilis and two with scarlet fever (BMJ, 19/9/1868, p.315), he used more and more data to shift the blame of infant mortality onto baby-farmers, despite the fact that the causes of death listed in Table 3.4 suggested otherwise. One professor who kept figures for 40 years reported that the mortality of infants under 13 months nursed by their mothers was 20 per 100; for babies farmed out, the mortality was 87 per 100. Hart concluded that these 'very eloquent figures' explained 'the enormous massacre of the innocents in this country' (BMJ, 4/4/1868, p.333).

Perhaps it was the BMJ's 'indifferent success' (4/4/1868, p.333) in bringing the issue to the attention of politicians that encouraged Hart to look to baby-farmers as the cause and to find more and more lurid examples to push his campaign forward, although sometimes he conceded that even 'where there is not any design to deprive the children of life, they are yet squeezed out of existence' (BMJ, 19/9/1868, p.315). It appears that this campaign had an effect on the public, with the readership of the BMJ increasing from 2,500 to 20,500 after 1867, as the main focus of the journal switched from medical issues to social reform (Bartrip, 1990: 71).

The threat re-emerges

Although Hart published more sensational stories about baby-farmers during 1869 (BMJ, 25/9/1869, 2/10/1869), which conveyed the view that working-class women threatened the moral fibre of British society by committing infanticide as a business transaction, the tactics by Hart and his band of doctors were insufficient to persuade politicians to act.

Led to victory in November 1868 by William Gladstone, the new Liberal government failed to honour the former Conservative government's promise to consider regulating baby-farming, since the energies of the new government were occupied by the Irish problem and education

reform (BMJ, 18/6/1870, p.633). Police interest was also absent during this period, since the police had become 'blasé towards abandoned corpses' (Rose, 1986: 93), with their energies focused on protecting the lives of women from underground abortionists since death from haemorrhage or septicaemia was far too common. As the campaign against infanticide faltered between 1868 and 1870, a new threat emerged, one more shocking than that posed by Charlotte Winsor.

In June 1870, the arrest of two baby-farmers, Margaret Waters and her sister, Sarah Ellis, represented the turning point in the campaign against baby-farming. Hart increased his hyperbole, his cynicism on show as he described Waters' baby-farm as analogous to a flower-show:

[a] baby-show is well in season just now; and, with well-selected specimens of the budding flowrets of the nursery, it would prove little less attractive than Mr. Paul's roses at Sydenham. . . . Meantime, a little baby-show has been organised at the Lambeth Police Court . . . from the exclusive resources of one establishment . . . [with] ten little specimens of the farming process . . . displayed in the arms of the wives of policemen . . . all in a neglected condition, and very emaciated and dirty.

(BMJ, 18/6/1870, p.633)

Hart reminded readers that this case was 'precisely that which we fully investigated by a special inquiry two years ago' and was traced 'by the means which we then employed':

[w]ithout any of the advantages possessed by . . . the police, we were enabled rapidly to detect the system by which mock confinements, substitution of children, and abortion, are erected into a business in London, and to light upon baby-farms so ill-regulated and so murderous as to testify . . . to the necessity of . . . regulation.

(BMJ, 25/6/1870, p.657)

By November, Hart and another doctor were referring to Hart's investigations as the British Medical Journal Commission, as if it had been a formal commission of inquiry (BMJ, 5/11/1870, p.489). Hart was miffed that despite 'the careful inquiries' that he and other doctors had instituted in 1868 and the support of the President of the Privy Council, the Duke of Marlborough and a promise that remedies would be addressed in a bill,²⁰ nothing had happened (BMJ, 18/6/1870, p. 633), since the new Home Secretary had decided these were criminal offences already dealt with by the law (BMJ, 25/6/1870, p.657).

Hart reiterated his claim that abortionists, baby-farmers and midwives were all involved in the same murderous practices:

[t]here are three stages to this murderous business . . . The first is, 'getting rid of baby' when the mother is not too far gone; the second is, 'leaving baby' with a premium for entire adoption, which 'includes everything'; the third is, 'putting baby away', so as to avoid exposure by the registration of the death, and the expense of the burial. Very simple measures would suffice to break up this web of crime.

(BMJ, 18/6/1870, p.633)

Encouraged by the 'vivid' details of the Waters case, Hart predicted that legislators would now be stirred into action, later admitting in a letter to the PMG editor that he had latched onto the Waters case to stimulate 'practical action' by the government (PMG, 13/10/70, p.3). But first the legislators needed encouragement of another type. It came from the media who covered the case voraciously. An ad hoc police investigation became the seed for a putative moral panic that sprouted in a context that the moral entrepreneurs, the BMJ doctors, had been cultivating for several years.

A moral panic takes root: The Margaret Waters case

Originally charged with 'not providing proper food and nourishment for the illegitimate male child of Janet Tassie Cowen, whereby his life was endangered', Waters and her sister were eventually indicted for the murder of Baby Cowen, aged one month,²¹ when the baby died after being removed from Waters' home. The baby's grandfather, Mr Cowan, had answered an advertisement placed by the sisters in *Lloyd's Newspaper* on 1 May 1870 just before his pregnant teenage daughter was due to give birth. The baby was born on 14 May.

At Waters' trial, a clerk in the newspaper's advertising department testified that he had seen the sisters 'a great many times' every week for more than a year. He produced 27 handwritten advertisements that had been placed by them from January 1869 to June 1870. The advertisement for 1 May read:

ADOPTION—A respectable couple desire the entire charge of a child to bring up as their own. They are in a position to offer every comfort. Premium required, 4*l*. Letter only. Mrs Willis, P.O., Southampton Street, Camberwell.

Mr Cowan received the following reply to his letter:

Sir,

In reply to your letter, beg to say that we are not willing to give our address. In taking a child we wish to do so entirely, never to be claimed. We have been married many years, but are without family, and have determined upon bringing a little one up as our own. My constant care shall be for the child, and everything which will be for the child's comfort shall be strictly studied. Should you think more of this, and will write saying where and when I can see you and how I shall know you, we shall feel obliged. We have had several letters, so are anxious to decide which child we shall take.

Yours respectfully,
M. Willis.

Subterfuge and secrecy was the order of the day, since the two-day-old Baby Cowan was eventually exchanged on a railway platform, a public place that was so often used by baby-farmers that this type of transaction was referred to as 'railway station adoption' (Rose, 1986: 90). Masquerading as Mrs Willis, Waters promised to provide her address at a later date. Nonetheless, she told Mr Cowan she did not want money for the child, although he later pressed her to take £2 to purchase baby clothes.

In May 1870, a total of 18 infant bodies had been discovered in and around Brixton, although evidence to link abandoned babies with local baby-farmers was very difficult to come by. It was later suspected that Waters had been responsible for at least eight baby-dropped infants in the area, with the clothing on two babies later identified by Waters' servant, Ellen O'Connor (*Illustrated Police News*, 25/6/70, p.2). Because of this increase in baby-dropped infants, Sergeant Relf from the Metropolitan Police had orders to investigate local baby-farmers. He began by watching the home of a local midwife, which led him to Mr Cowan, who admitted to adopting a child with a Mrs Willis who had advertised in *Lloyd's Newspaper*. Relf replied to another one of Waters' advertisements in *Lloyd's Newspaper* on 5 June 1870. After receiving the same type of reply as Mr Cowan from a couple who were 'comfortably off', Relf met Waters' sister, Sarah Ellis, and surreptitiously followed her home to 4 Frederick Terrace, Brixton.

When Relf entered Waters' 'house of horrors' on 11 June accompanied by Mr Cowan and Mrs Cowan's landlady, Mrs Guerra, he found a house that 'smelt very offensively' with 'hardly any furniture in it'.

Searching the house, Relf found 11 children. Five infants were 'all huddled together' under an old black shawl on a sofa. All were 'quiet, and all appeared to be asleep from some cause'. Although dressed, they were 'very dirty indeed, saturated with wet, and smelt very offensively... two of the infants appeared to be dying... [and] to be all void of any feeling, ... unconscious, in a state of stupor'. One of these babies was the child of Sarah Ellis.

As he continued his search, Relf discovered six toddlers playing in the yard, all of whom were in a better condition than the five infants on the sofa. Their healthier condition was, said Waters, because she received weekly payments for their care, although she admitted that all her baby-farmed children were illegitimate. Waters seemed to realise she had been neglecting the infants since, when Relf left to find a doctor to attend the five infants, she placed feeding bottles with teats by their sides and dressed them in clean clothes.

While Cowan was able to identify his grandson from amongst the five infants, he told the court that 'it was nearly dead'. Although the child had been healthy when he was adopted, in the space of four weeks he had been reduced to skin and bones. Mrs Guerra gave graphic testimony that the child was 'in a most emaciated condition':

[i]t had scarcely a bit of flesh on its bones, and the only thing I should have known it by was the hair; it was not crying or making any noise... it appeared to be dying almost; it could not make any noise, it was much too weak... it was scarcely human, it looked more like a monkey than a child—when it was born it was a very fine fat baby, and when I saw it there it was a shadow.

When Cowan accused Waters of starving his grandson, she countered, 'Pray don't say a thing as that, for I have taken every possible care of the child, it has been very ill' and said that it had been suffering from the thrush and diarrhoea. She had called a doctor to attend the child, whom she said she had adopted to bring up 'entirely as her own'.

A local wet nurse, called in to assist the police to remove some of the babies to the Lambeth Workhouse, gave evidence that indicated that Waters' five babies were affected by opium:

[t]he other child that was given to me was about three weeks old—it was... in a sleep that it was impossible to wake it from the whole time it was under my care, ... from about 10 o'clock... till 4 or 5 o'clock in the afternoon... it did not cry at all.

Contrary to later newspaper reports, both the wet nurse and the doctor of Lambeth Workhouse said that Waters' older children were undrugged and healthy. But when it came to Baby Cowan, the wet nurse's evidence was damning:

it was very dirty ... I could not get it clean up to the day of its death—it was dirty at the bottom, the thighs, and underneath its arms, and behind its ears was very bad—it did not look as if it had ever been washed ... and when I came to wash him he was very sore—the child was very thin, his bones were coming through—it could not cry or make the noise of a child of that age.

Despite her best efforts to save him, Baby Cowan died in her care:

I gave it the breast every ten minutes or quarter of an hour ... it took the breast very eagerly, and ... got on well for three or four days and then fell off ... into the same state of stupor or insensibility [as when it was received]—Dr Puckle attended it every day ... and I followed his directions ... and everything that could be was done for it. ... Dr Puckle gave me some stuff to stop the diarrhoea ... it did not stop altogether, it got a little better, and then it went off.

Dr Puckle, the Medical Officer of Health for Lambeth, gave evidence that when he examined Baby Cowan at Waters' house:

it was very much emaciated, extremely wasted ... the bones almost protruding through the skin, and it had that aged appearance in the face which made it difficult to form an opinion of its age ... the eyes were closed, the limbs hung down, and it appeared in a very profound stupor—I raised the eyelids, and found the pupils very much contracted, not in a natural state. ... [M]y opinion is that the child was in a state of narcotism, arising from ... some narcotic poison—[such as] laudanum.

Puckle testified that the day before the Cowan baby died, 'it became in an insensible state, with convulsions'. No doubt this assessment sealed Waters' fate, particularly since Puckle told the court he had found a small phial in the kitchen which contained laudanum, also known as tincture of opium. In fact, Puckle admitted that 'if an opiate had been administered to check the diarrhoea, I *should* not be surprised to find a child in a state of emaciation'.

Many doctors at the time prescribed narcotics for diarrhoea, which Waters claimed was the case with Dr Harris who attended her house on occasions. Puckle himself prescribed opium to stop Baby Cowan's diarrhoea while the baby was in the care of the wet nurse. But the inconsistency in Puckle's evidence would not have been enough to save Waters, since the jury also heard that the four other infants found in her house were also in a state of narcotism and eventually died in Lambeth Workhouse, suffering emaciation and diarrhoea, evidence which produced an aura of guilt around Waters and her sister.

Dr Harris gave evidence that he regularly visited Waters' house to attend to the children, including Baby Cowan. He thought that cow's milk 'was disagreeing with the child; it will disagree with a good many children, even when diluted', which was commonly thought to reduce its effects. Unfortunately no one in 1870 realised that Dr Harris's prescription of black oxide of mercury for Baby Cowan's diarrhoea was the likely cause of death. A mixture of liquid mercury and mercuric oxide, black oxide of mercury can be fatal if swallowed or inhaled, although its effects are not immediate. It is classified as a highly toxic, hazardous material today and requires protective clothing and special breathing apparatus for anyone dealing with it.²² Dr Harris also prescribed podophyllum, a 'highly poisonous [herb] when taken by mouth'.²³ Since it acts as a laxative, podophyllum would only have worsened Baby Cowan's diarrhoea. Together with the effects of black oxide of mercury, the baby had no chance. While the medical men of the time were practising in a fog of ignorance, Waters wore the blame. Nonetheless, the graphic details of her case invited the BMJ doctors and newspapers to name and shame her as a 'female fiend', setting her up as the focus of a moral panic surrounding infanticide. For example, Dr Pope, who performed the autopsy on Baby Cowan, decided that the cause of death was:

severe congestion of the brain, and emaciation—I considered the peculiar congestion of the brain to be due to the administration of a narcotic, and the emaciation to a want of proper and sufficient food.²⁴

This was a damning indictment of Waters' childcare, although it seems she was merely doing what her doctor had recommended—using laudanum and diluting the baby's cow's milk. London's contaminated water probably meant all five infants found in Waters' house were suffering from cholera or dysentery, severe diarrhoeal diseases to which

babies were particularly vulnerable. In fact, at the inquest into Baby Cowan's death evidence had been given that he was suffering from 'English cholera' (*Illustrated Police News*, 2/7/70, p.3).

At the time, doctors' diagnoses were not able to be verified by pathology results or blood testing, and often amounted to guesswork rather than scientifically based decisions. Indeed, 'nineteenth-century physicians frequently erred, because many diseases shared similar symptoms and physical findings with other conditions' (Saxbe, 1999: 49). For example, the commonly used nineteenth-century term 'congestion of the brain' was used interchangeably with the term 'brain fever', which can be caused by meningitis (bacterial, viral or resulting from congenital syphilis), viral encephalitis or acute polio infection (Saxbe, 1999), rather than Dr Pope's diagnosis of narcotism. At the time, there were dozens of causes of congestion of the brain documented in the medical literature which did not nominate narcotism as a cause.²⁵ It is most likely that Waters did not cause Baby Cowan's death (which occurred 13 days after his removal) and was wrongly convicted of murder. His death was probably due to a combination of the effects of cholera and mercuric oxide and podophyllum poisoning.

Even so, there was a strange, alternative medical view given by Dr Pope that unmarried mothers in the family way 'and suffering from the usual shame and anxiety' affected their children's development in the womb. When asked how they might be affected, Dr Pope replied:

[c]hildren are often born with large heads and crooked limbs, and emaciated, and sometimes one limb or other is distorted, and sometimes the body itself—illegitimate children are often born so, perhaps more commonly than in matrimony.

He also agreed with Dr Harris that cow's milk 'will produce diarrhoea—diarrhoea if continued would of itself produce emaciation in . . . a child, however healthy—if continued for a fortnight it might account for the emaciation I found in this child'. Pope also confirmed that children brought up by hand frequently suffer from thrush, diarrhoea and emaciation due to improper nourishment, not as the result of deliberate neglect but due to the inability to keep cow's milk fresh and doctors' recommendations that cow's milk should be watered down and sweetened with sugar. Indeed, it was thought that one diluted bottle every 24 hours was sufficient for hand-reared children (*BMJ*, 3/6/1871, p.598). Without great care and skill, said Pope, it was easy for a hand-reared child to waste away. During cross-examination, and contrary to his earlier

evidence, Dr Pope was forced to admit that ‘congestion of the brain . . . is a very common occurrence with children, and it may result even from advanced thrush, and from prolonged diarrhoea; it *may* occur entirely unconnected with the use of any narcotic’.

As a result, the jury in Waters’ trial had two or three alternatives to choose from in relation to Baby Cowan’s cause of death, although the above medical evidence ought to have been sufficient to raise a reasonable doubt that Waters had committed the act causing death. At the end of the prosecution’s case, the Lord Chief Baron decided there was insufficient evidence against Sarah Ellis to support the charge of murder and directed the jury to make a finding of not guilty. Instead, Ellis pleaded guilty to conspiracy to obtaining money by false pretences and was sentenced to 18 months in gaol with hard labour.

When the defence case opened, Waters’ servant girl, 14-year-old Ellen O’Connor, gave evidence that demonstrated Waters’ care for her baby-farmed children and confirmed what a milkman had told the court—that regular deliveries of milk were made to the house. Ellen thought that:

the children had plenty of food—we used to have three pints of milk every day from the milkman—there was milk-shop opposite, I used to go there for milk three or four times a week . . . I remember Cowen’s [*sic*] child coming to the house—when it was awake it took its food readily . . . and Mrs. Ellis used to give the little boy Cowen a drop of *titty* . . . [But] the child was not washed very often—Mrs. Waters said it was too ill to be washed.

Waters was fonder of the Cowan child than any of the others and feared he would become even sicker if he was regularly washed. Nonetheless, Ellen was surprised at how silent the babies were: ‘they very seldom woke’ and ‘did not remain awake long’. As soon as she ‘put the bottle in their mouths . . . that stopped them’. Inadvertently, Ellen also described a baby-farmer’s house in action: secret door knocks, Waters’ various aliases, babies removed to the kitchen and kept quiet when visitors came, new babies arriving, babies taken away suddenly by people arriving during the day and at night by Waters, and a house that received six letters a day.

The only other witness for the defence was Dr Pickstock, who said he was often called by Waters to treat the babies in her care, assuring the court that he ‘never saw anything in her conduct but uniform

kindness and motherly solicitude', although she was 'quite a nuisance' with her demands on his time. If he was not able to attend to the children 'she would send for other doctors directly', suggesting that Waters was obsessed with the health of her babies and making it unlikely that she would pay for doctors out of her limited income if she intended to murder the children.

But these witnesses and the inconsistencies in the medical evidence were not enough to save Waters. After only an hour's deliberation, the jury found her guilty of murder. When asked 'why sentence of death should not be passed', Waters replied: 'the case ha[s] been very much exaggerated against [me] and the children were not nearly in so bad a state as has been reported'. She had done all she could to save Baby Cowan but he had kept getting worse from the moment she adopted him. She admitted to making false representations to parents, but as for the crime of murder: 'As I stand... on the brink of death and eternity, I am innocent of that crime, and I never contemplated it', since the baby had been adopted to give to a childless couple (IPN, 1/10/70, p.3).

After the jury returned their verdict, the court directed that Sergeant Relf should receive a reward of £20. Relf was now a hero while Waters was a convicted murderer. Although a campaign was later mounted for her reprieve after the revelation that the Home Secretary, Henry Bruce, knew the jury's verdict of murder had not been unanimous (*South London Press*, 29/10/1870), Bruce ignored the many petitions seeking a reprieve of her death sentence. Waters, a newly discovered folk devil, was executed on 11 October 1870.

The moral panic takes off: The baby-farming narrative

Since there was a question over how Waters could be guilty of the murder of a child who died two weeks after being taken out of her care, did a moral panic about baby-farming overtake the facts of the case? Did the doctors who gave evidence in her case choose to ignore the evidence that few knew how to properly feed children in the absence of breast milk? Even 20 years later it was 'common knowledge' by doctors that infants were fed on inappropriate substitutes because of maternal ignorance (Jones, 1894: 57).

The Waters trial was a high point in the campaign surrounding baby-farming at the end of a decade of concern by the BMJ doctors. It is clear that these moral entrepreneurs promoted the 'evils' of baby-farming, but what was their relationship to the media during the trial? And how did the media report the trial? The above summary of Waters' trial is

essential to placing the newspapers' skewed reports in context, given that the medical evidence at the time suggested there was more than a reasonable doubt about Baby Cowan's cause of death.

The activism described below certainly amounted to a moral *campaign* but did it develop into a moral *panic*? The evidence for a moral panic surrounding baby-farming was the depiction of Waters as the unnatural woman who killed babies for money, an image that had been crafted five years before in relation to the Winsor trial. As discussed previously, crime stories sold so well that several newspapers in the 1840s and 1850s were established to exploit the crime and scandal formula of the nineteenth-century broadsides.

Like Winsor, Waters symbolised malevolent womanhood, and constructions of her took the female body into new territory. Perhaps the political landscape also conspired against Waters as the *Illustrated Police News* (IPN) suggested: 'appeals for mercy which, in a time when Europe was not convulsed [by the Franco-Prussian war] might have been more scrupulously weighed, have been hastily thrust aside' (15/10/1870, p.3).

Undoubtedly infanticide was a significant child welfare issue at the time, as many investigations and reports attested (Greenwood, 1869; BMJ, 11/1/1868, p.33; 25/1/1868, p.84), although infant mortality—due to high population densities in large towns and cities and their associated social conditions—was the real moral issue, as was the precariousness of the lives of women like Waters, forced to live off 'shame money' from the parents of illegitimate children.

This narrative attempts to identify why, in a city full of baby-farmers, Waters became the folk devil who, according to her confession, had to pay for society's sins. This 15-page handwritten document—described in *The Times* (7/10/70, p.9) as 'extraordinary revelations'—revealed how far a woman could fall financially without the protective income of a husband. A middle-class couple, Waters and her husband were financially well off, living in Newfoundland, when on a visit to Scotland in 1864 Mr Waters died. Left with £300, his widow rented a house in London and purchased a number of sewing machines to make items of clothing for city workers. After a year, her business failed and she was left with only £50 of her original capital. In order to gain an income she let rooms in her rented house to lodgers. When a female lodger, the mistress of a city solicitor, gave birth to two children in the house, Waters was paid to nurse them. This was her introduction to dry nursing. As her money ran low, she commenced baby-farming full time by advertising for children in the daily newspapers. Usually paid £10 for a child, she passed the infants onto wet nurses who advertised in the local newspapers, paying

each of them a fortnight's wages before disappearing. Finding herself even more penniless, Waters borrowed £28 from a moneylender, giving him a bill of sale over her furniture. When she was unable to keep up the repayments as well as pay her rent, she changed addresses at night to avoid the moneylender; despite this, he found her each time she moved. Waters' need to borrow money was corroborated by the moneylender, who approached the magistrate when he heard about Waters' case, seeking advice about how to recover Waters' furniture since the police were in possession of Waters' house and belongings (*The Times*, 21/6/70, p.10).

Although Waters had previously paid an undertaker to bury any children who died, it was only when she became destitute that she resorted to leaving babies in the streets if they passed away. Her other method of disposal—paying sixpence to a random child in the street to hold her baby because she was tired, then disappearing when the child went into a shop for lollies—suggests she was not involved in systematic murder but systematic subterfuge. Waters later pleaded that she had had no intention to kill Baby Cowan and had done all in her power to save the child, since his death 'was a great loss . . . from a pecuniary point of view' (*The Times*, 24/9/70, p.9).

Although Waters was a self-confessed financially stressed baby-farmer caught up in a deceptive and secretive life, the evidence suggests she was not involved in deliberate killings. Nonetheless, newspapers focused on the conditions of the children in her house and her admission that she had adopted 40 children in four years. None of the newspapers were interested in the true circumstances of Waters' desperate life:

a woman who shuts her eyes to the fact that children in whose death she has an interest die rapidly and habitually under a combination of narcotics and insufficient food comes too near a murderess to claim the benefit of nice distinctions.

(PMG, 13/10/1870, p.1)

When the media first became aware of Waters' arrest, the details of her case were too sensational for newspapers to resist:

It need scarcely be stated that the more the details of the proceedings are investigated the greater becomes the interest, horror, and disgust.

(IPN, 2/7/70, p.3)

In fact, Sergeant Relf's disclosures of 'a scene of cruelty' were:

a hideous spectacle... which must make us shudder at the capacities for cruelty concealed in human nature. For the sake of paltry and precarious gain... [Waters] made away helpless little creatures by... gradual torture'.

(*The Times*, 12/10/70, p.9)

When a coroner's inquiry found Waters guilty of manslaughter, she was guilty of much more in the eyes of the press:

'Manslaughter' appears a mild expression for the crime of a woman, divested of all the kindly nature of her sex, who... traded for some miserable gain in the lives of unprotected infants. The evidence... of Miss Cowan's child conclusively proves foul play.

(*The Times*, 4/7/1870, p.9)

The Times went on to describe Waters' behaviour as 'mercenary, calculating, cold-blooded cruelty', responsible for 'a scheme of organized villainy' (4/7/70, p.9). This editorial represented the tone of what was to come, as all the daily newspapers reported the case in minute detail over a three-month period. Since depictions of criminal women in the media were always extreme, the campaign against Waters ignored the facts of her life, constructing a monster out of a poverty-stricken woman and murders out of the common ailments facing children in out-of-home care.

The Illustrated Police News, a downmarket paper devoted exclusively to sensational crime stories with evocative drawings to match, described the events as 'The Extraordinary Baby-Farming Case' (25/6/70, p.2), and announced on the front page of another edition 'Baby-Farming—Portraits of the Victims', above dramatic drawings of five dead and emaciated babies, with two in a coffin. Portraits of Waters and Ellis appeared alongside. The IPN informed its readers:

We have given in our front page engravings of the poor little emaciated children who have died a lingering death from want of sufficient nutriment.... The portraits of the miserable little victims... form drawings made from the children themselves.

(9/7/70, p.2)

Tantalisingly, the IPN revealed that Ellis and Waters frequently changed addresses, and that 'it is a remarkable coincidence' that dead infants were found close to all their previous residences. The IPN (9/7/70, p.2)

fed readers' expectations of the criminal class by revealing that Waters and Ellis, although well educated,

are of a low type, having very narrow foreheads, large heavy lower jaws, and puffed flabby faces, giving them an exceedingly dull appearance.

Various descriptions of the sisters' adopted babies were even more alarming: seven 'drugged', 'emaciated' babies were found on a 'filthy' couch 'saturated with urine' (BMJ, 18/6/1870, p.633). Waters, who 'shamefully neglect[ed] them' and 'subject[ed] them to an inconceivable state of filth' (*The Times*, 12/10/70, p.11), was 'a monster, not a woman' (PMG, 24/9/70, p.2). She was part of a 'mercenary, calculating' pair and 'depraved' team for making money out of unwanted babies by engaging in 'ruthless and systematic murder' (PMG, 24/9/70, p.2; 12/10/70). The 'depravity displayed by these two women is horrible and inhuman' (*The Times*, 24/9/70, p.9). The sisters' advertisements in the newspapers as a 'respectable couple' seeking a child to bring up 'as their own' were 'shameless announcements' and the profits they made from their 'monstrous trade' were 'blood money' (*The Times*, 4 and 14/7/1870; 22/9/1870; *Daily News*, 7/7/1870; PMG, 21/6/1870; 24/9/70).

In fact, everything about the two sisters' activities was sensationalised to distinguish them from 'ordinary' murderers and to emphasise the depths of immorality to which they had fallen. So much so that Waters' crimes were 'one of the greatest iniquities of our day' and there was 'no moral doubt' that these 'wretched women' destroyed their children 'as secretly as possible' (*The Times*, 24/9/1870, p.9). Using the language of a moral panic, *The Times* spoke for all:

The outrage on every human...instinct...is frightful to contemplate.... But that women could perpetrate the slow murder of infants, could watch them from day to day sinking with glazed eyes from stupor into death, and all [for]...precarious gain, is the most ghastly instance afforded in our time of the wickedness of which human nature is capable.

(24/9/1870, p.9)

The Times continued its moral tirade in subsequent editorials: a 'murder in hot blood', deliberate revenge or even premeditated violence did not compare to the 'heinousness' of Waters' offence. The only way to understand 'such slow murder' on 'piteous little innocents' was that 'the deepest instincts' of Waters' heart had been deadened (12/10/1870,

p.9). When Waters was convicted and sentenced to death, the IPN announced:

Justice has been vindicated.... It was necessary for the protection of society that the system of baby murder, which has grown to such fearful proportions in London, should be put to an end.... The slow but certain death to which the helpless children... were condemned... filled everybody's mind with horror. The sin and the crime, the degradation and the cruelty, were too shocking and too inhuman to be passed over with the callous indifference which has almost made infanticide a venial offence.

(1/10/1870, p.2)

The Times was similarly moved: '[a] most just sentence has thus been executed' and the law has acted as 'a terror to evil-doers.... A more terrible case... has never occurred'. In fact, Waters' execution expiated the crimes of those parents who sold their children and the newspapers who printed Waters' ads: '[o]ne of the great uses of the law is to depict in true colours the real meaning of common offences'. Waters' sentence served as a moral warning against 'selfish and licentious men and women.... It is murder and nothing less.... The guilt of Margaret Waters was none the less heinous because others shared it' (12/10/70, p.9). Newspaper reports of the judge's sentencing remarks reinforced the rhetoric of justice, helpless infants and murderous women, even though Waters was only found guilty of the death of one child:

the strong arm of the law has vindicated the justice of the country and has taken up the cause of the poor helpless and innocent children who were so foully murdered.

(IPN, 15/10/70, p.2)

The IPN hoped that Waters' execution would not be lost on other baby-farmers and the parents of illegitimate children, since it was a warning that the police and the government had emerged from their 'previous apathy' regarding infanticide (22/10/70, p.2). The PMG was also scathing about public apathy, stating that baby-dropped infants were now so common that the public had grown used to the sight and the police did not find it necessary to investigate (21/6/70, p.10). The change in public perception came from the unique element of 'blood money'. As *The Post* observed, 'the only check' upon baby-farmers is 'the chance of the police unearthing some special enormity', such as the Waters case (quoted in PMG, 24/9/70, p.2).

Indeed, the IPN summed up why the case had attracted such moral censure. Though 'guilty of much that was wicked and detestable', Waters should have been found guilty of manslaughter not murder (22/10/70, p.3). 'Who can doubt' that if the jury had never heard evidence of the other baby-farmed children,

the woman would never have been convicted of murder?... [T]he connection between her treatment of the [child's] death was so problematical, that no jury... would have sent the prisoner on such insufficient and shaky evidence... but for the prejudice created by her calling.

(*Law Times* reprinted in IPN, 22/10/70, p.3)

With hints of a moral panic in the air, editorials surmised that Waters was convicted for 'her calling' since 'public feeling... demanded a victim was stirred, not by the murder of one child, but by the system' of baby-farming (*Law Times* reprinted in IPN, 22/10/70, p.3). Though her conviction was 'legally wrong' it was 'morally right', a view that vindicated the moral feelings generated by Waters' trial. This view was echoed by the PMG:

Juries, who pretty faithfully represent... the popular mind, have never regarded infanticide quite as murder... It seems however that juries are capable of distinguishing between unmarried mothers... and women who hire themselves for the purpose of extinguishing unwelcome little ones by... neglect and starvation, aided by a little poison.

(24/9/70, p.10)

The *Daily News* also had no mercy: '[s]he took them in order to get rid of them, farmed them to make money'. People like Waters were 'agents of infanticide' and 'one of the diseased products of civilization' (cited in PMG, 12/10/70, p.2). Although abolitionists for the death penalty pleaded for Waters' reprieve, public opinion, voiced through the media, favoured execution. While 'technically' Waters' crime was infanticide, 'it was child-murder' and '[h]ad this woman been spared, it would have been impossible to have hanged any future Waters' (*The Saturday Review*, 15/10/70, p.479). What distinguished Waters' crime from ordinary infanticide was that 'an unmarried mother kills to conceal a birth' while Waters had 'no guilt' to hide and shamelessly 'advertise[d] for victims'.

Waters' poverty also condemned her, since it was 'absurd' to think she could provide for a child for ten to 12 years, all for £4 or £5: '[h]er only chance of making a livelihood... was to get rid of them within a very few weeks', the motive for murder. Waters' plea that she had no intention to kill was interpreted as 'no sense of morality': '[s]he did not intend to destroy life, only she abstained from the use of the only means by which life can be preserved'. Waters' claim that she had 'a large clientele... always ready to adopt... any and every unknown bastard' was 'gross absurdity'. As to her excuse that 'if there were no cruel and unnatural parents there would be no baby-farmers', *The Saturday Review* countered that 'if there were no baby-farmers, there would be fewer cruel and unnatural parents'. With her execution, 'a blow has been struck at a hideous system of murder' (15/10/70, pp.479–480).

Analysis of the Waters trial

As discussed in Chapter 2, a social threat only has the potential to evolve into a moral panic if the mass media exaggerate and distort the threat, and create a folk devil onto whom society's fears can be projected (Cohen's second criterion). This was something that one upmarket newspaper recognised at the time: the 'penny dreadfuls' exaggerated the facts of Waters' case by hinting at 'disgrace and scandal' by the aristocracy with 'stories of handkerchiefs marked with coronets and aristocratic female names having been found among Margaret Waters' effects', as well as a 'wicked earl', all of which were pure inventions (PMG, 8/10/70, p.4). But the PMG created its own scandal when it reported a phrenologist's examination of a cast of Waters' brain, continuing the media's obsession with this 'wretched woman' after her execution:

The organization of this brain is of the meanest type, both intellectually and morally. . . . Combativeness, Destructiveness, Secretiveness, Acquisitiveness are in predominating force . . . [and her] ability and willingness to use the hands in works of industry, are poorly developed. . . . The moral region as a whole is miserably low. . . . The head is far too small [for her to be] as good a Christian as her fellows . . . and altogether much resembled the heads of some of the lower orders, who, being too idle and lazy to work . . . and determined to enjoy animal comforts, fill the gaols and workhouses.

(PMG, 15/10/70, p.4)

According to the phrenologist, Waters' 'nature was radically evil'.

Knelman's (1998: 167) analysis of murderesses during the Victorian period found that '[t]he public abuse' directed at baby-farmers was greater and more focused than the judgements made of other murderesses. It appeared that the types of murder committed by men—'a murder in hot blood, the deliberate gratification of revenge' or even premeditated violence—were excusable compared with infanticide, where '[t]he deepest instincts of a woman's heart must have been deadened and most ordinary feelings of human nature extinguished before such slow murder could be perpetrated upon piteous little innocents' (*The Times*, 12/10/1870, p.9). Waters was the classic folk devil, vividly described by several newspapers of the time as an 'unnatural' nurse who fell into 'cruelty and murderous neglect' (*Daily News*, 12/10/1870, p.5).

A broadside entitled *Baby Farmers, Mothers Beware* illustrates the ultimate moral tale represented by the Waters' case, although many of the facts were sacrificed in the moralising process. The ballad contrasted the 'social disgrace' of Waters' activities with natural motherhood, warning women of their expected role despite the shame of being 'led astray'. While the ballad was too coy to use the word 'murder', it was not at all hesitant in comparing the motherly care of animals and their young with brutal mothers whose children were slain. It is set out in full below to give its full emotional impact:

Oh, mothers, fond mothers your attention I pray.
 And listen awhile to a pitiful lay.
 It's about baby farming, a scandalous trade,
 And shocking disclosures have lately been made,
 Near Brixton, in Surrey, this system so base,
 Has at last! been discovered, a social disgrace.

Chorus

Then mothers, fond mothers, of your children take care,
 And against baby farming I pray you beware.
 What is baby farming, some mothers may say
 Tis a practice that takes a poor infant away
 From the care of its mother by a stranger instead,
 The poor little creature is foster'd and bred.
 It encourages vice and [?] I won't name,
 Tis a means to get rid of the offspring o'shame.
 Sometimes a young woman has been led astray,
 Sends the child of her guilt to be out of the way.
 She pays a few pounds, tis a bargain, and then
 She gives it up never to see it again,

While the indolent wife in luxury fed,
Pays a stranger to suckle her offspring instead
In a Terrace, at Brixton, two sisters did dwell
And of their sad doings the newspapers [do] tell.
How they tempted poor mothers their offspring to leave,
To their tender, care, but alas to deceive.
They starved them to death, for of late has been found.
The bodies of infants in the fields there around.
Poor children half-naked, their state we deplore,
Too weak for to stand, they laid on the floor
Unwashed and neglected by night and by day,
Till their dear little souls from life pass away
And what cared the nurse for the dead ones, [?]
The [?] of a child, why a saving would be.
Will the hen drive the chicken from under her wing,
And leave it to perish, the poor little thing,
Or will dumb brutes desert their offspring, ah! no,
What proofs of affection animals show,
Yes mothers alas their children will slay,
Or else pay another to put it away.²⁶

If there was a moral panic around baby-farming, it used the hyperbolic language, style, content and moral condemnation that characterised late nineteenth-century crime reporting and commentary, as the above ballad shows. Usually, the downmarket dailies instigate a moral panic (Crichter, 2003) and by the time it is in full swing the upmarket dailies join in. However, in 1870, all the downmarket daily newspapers carried the details of Waters' trial, her sentence and her execution, *as well as* the upmarket dailies. Each newspaper made choices about the moral tale they told using Waters' case. Of course, what was 'real' coincided with how women in nineteenth-century society were expected to behave, with the ideal Victorian woman looming large. It is through an analysis of the language of a moral panic that this becomes evident, since in the nineteenth century, through broadsides and editorial newspaper commentary, the press preached morality, thereby re-enculturating English men and women into the rules of behaviour expected for different sexes.

It is clear that the 'panic' was not solely instigated by the downmarket press, since from 1870 to 1871 *The Times* published 25 stories about Waters while the *Pall Mall Gazette* was in the forefront of the moral campaign against baby-farming, placing into the public domain

the concerns and discoveries of the BMJ doctors, as did *The Standard* (24/9/1870), which agreed that the Waters case establishes 'the necessity of legislating sternly for the custody of infant[s]'.

The moral concerns of the media were not displayed in big, black, bold headlines on page one, as we see today. Nor did the 1870 newspapers contain pages and pages of photos or interviews of grieving families, although broadsides published provocative sketches of coffins and dead babies. Without today's sophisticated print technology, which intensifies the drama of a moral panic, the newspapers of the 1870s relied on long tracts of editorial commentary, full of condemnatory, moral language to create the necessary folk devil and panic, while the broadsides openly preached morality tales. As the newspaper excerpts above show, resort to ideas of 'natural womanhood' was necessary since mothers kept the population turning over, providing workers for the economy, without remuneration. By comparison, Waters was unnaturally 'tempted' by baby-farming rather than an impecunious woman who was pursued by a moneylender. Her need to live was transformed into a temptation for the fiend within, her confession nothing more than 'heartless excuses' for her practice of 'ruthless and systematic murder' (*The Times*, 12/10/70, p.9). By contrast, this particular editorial comment occurred on the same page as the report of an inquest into the death of a 16-year-old girl who had died from 'destitution' and whose body was found in her family's unfurnished, rented room, 'dead on the floor... covered in rags and vermin, there being no bedding. The body was very much emaciated and unclean'. No inflammatory language complained about a child's death in these pitiful circumstances.

While each newspaper repeated the same details of the inquest, trial and execution, almost word for word, they differed in their editorial comments, although exaggeration and invention was the order of the day and laid fertile ground for a moral panic to evolve. The press went into overdrive because the Waters trial exposed four moral conundrums. In other words, the moral commentary surrounding Waters was heightened because of:

- (i) the number of children found in her house and the widely reported emaciated conditions of the youngest ones who all subsequently died;
- (ii) the unavoidable conclusion that morally debased parents were complicit in disposing of their children given how frequently and easily children were obtained by Waters;

- (iii) the complicity of the downmarket newspapers 'which traded on the depravity' of parents and baby-farmers by printing their advertisements (*The Times*, 24/9/70, p.9); and
- (iv) the undercurrent of illicit sex raised by the case.

The upmarket newspapers were in a position to take the moral concerns one step further by condemning their downmarket contemporaries:

It is a sad reflection that some of our most moral contemporaries—newspapers which shriek with virtue on every possible occasion—have knowingly aided and abetted in the systematic murder of little children, for the sake of a few shillings.

(PMG, 24/9/70, p.10)

The Times described Waters' advertisements as 'those shameless announcements' by newspapers which were 'lost to a sense of responsibilities and dignity'. In fact, baby-farming was 'this vile trade' which was 'worked in complicity with other discreditable services to the immorality of the day' (*The Times*, 4/7/70, p.9). To *The Saturday Review*, those newspapers were 'the pests of society and the disgrace of journalism... [as] accessories to Waters' crime' (15/10/70, p.480). Commenting on Waters' advertisements which appeared in the 'low-brow' *Lloyd's Newspaper*, *The Saturday Review* sniffed that they were 'an offer and promise of infanticide' which 'appear[ed]... in a worthless, but highly popular, weekly newspaper, much read by servant-girls and pot-boys' (18/6/70, p.793). In a letter to the PMG, Hart's comments were even harsher:

It is hard to acquit our people and our Legislature of so much complicity in the offence... and of so much tacit acquiescence in... baby slaughter as is involved in the refusal to deal with the plainly murderous trade of unregulated baby farming.

(PMG, 13/10/70, p.3)

Upmarket newspapers also focused on public immorality, since baby-farming was 'the result of... modern barbarism' which is associated with 'the institution of love-children'; that is, the practice of free and easy sex in the towns and cities, in particular 'the young lady who loves not wisely but too well' (*The Saturday Review*, 18/6/70, p.793). Similarly, *The Times* believed that Waters' 'cruelty and her terrible doom are... the natural result of a wide-spread immorality... [those who] have given way to the most devouring of human passions... [and] overwhelmed by a

fear of shame... have acquiesced in the murderous treatment of their innocent offspring' (24/9/70, p.9).

While the moral lesson was expressed in childlike ballads in broadsides, the upmarket papers presented their moral lesson in stern, religious language. For example, *The Times* was well pleased with the execution of Waters, commenting that:

[t]he outrage on every human, not to say womanly instinct involved in such conduct is frightful to contemplate. A conviction for Murder will... strike terror into all who share the responsibility of these shocking barbarities and will teach the licentious and cruel that 'he that hateth his child is a murderer'.

(24/9/70, p.9)

All in all, media exaggeration about Waters was evident in the inflation of the extent to which baby-farming was implicated in overall infant mortality, in the making of false claims about Waters and baby-farmers generally and in the devotion of much more attention to baby-farmers than the endemic diseases which caused infant deaths. If nothing else, the media had successfully laid the groundwork for a moral panic.

As if to continue the moral lesson, after Waters' death the language used to describe her in some newspapers changed to reflect the soul's salvation and the penitence of the damned. In gaol, Waters 'conducted herself with a propriety befitting her awful position'. As she approached the gallows she was 'quite collected and composed' and on the scaffold 'her courage never forsook her for a moment', and with the noose around her neck 'she uttered a most fervent and touching... prayer for forgiveness'. Contrary to previous descriptions of her as 'a low type' with 'very narrow forehead, large heavy lower jaw', she was described after death as a widow, 'slim in figure, and a little below average height'. Her features were 'regular and somewhat pleasing in expression... a woman far above the average of her class in intelligence' (*The Times*, 12/10/70, p.11). The IPN devoted almost a page of sketches to Waters' execution, depicting the contrite woman on the scaffold, hands in prayer before a priest, and the 'last hours of the condemned' with Waters seated, distraught, her hands covering her face.

Only occasionally were insightful media voices evident. For example, the *Daily News* (24/9/1870) identified that 'infant slaughter' could not be prevented as long as 'the law continues to permit a man to seduce a woman' without it being a criminal offence and only a matter 'to be condoned by the payment of 2s 6d per week'. Some of the media (*The*

Times, 24/9/1870) also blamed the 'fallen' women and girls who became pregnant outside marriage and who, unnaturally, gave up their children to baby-farmers.

While Waters' activities are disturbing, particularly through twenty-first-century eyes, they were not unique but in fact far too common. Before her execution, several doctors, lawyers, religious ministers, members of the general public and even the foreman of Waters' jury wrote to the government and the Lord Chief Baron pleading for Waters to be spared, recognising the injustice of her conviction for the murder of a child who had died 13 days after being removed from her house. Yet the apparent moral panic whipped up by the newspapers determined Waters' fate.

But was it a fully fledged moral panic as that term is understood today? Arnot uses the term 'moral panic' to account for Waters' execution without interrogating the conditions that led to its creation, concluding that this 'moral panic' and consequent public opinion 'made her execution inevitable' since alternative views were 'drowned out by the frantic cacophony of vilification' (Arnot, 1994: 279–280). This was not the case. There were powerful views in opposition, as discussed below.

Opposition to the medical experts' claims: The moral/immoral female body made explicit

Criticism of the BMJ doctors' attempts to regulate baby-farming came from the awkwardly named Committee for Amending the Law in Points Wherein it is Injurious to Women (CALPWIW). Established by leading feminists Elizabeth Elmy, Josephine Butler and Lydia Becker, CALPWIW's overarching aim was to prevent Parliament passing 'over-hasty legislation' in response to complex social problems which would 'perpetuate evils graver... than those which it is proposed to remedy' (CALPWIW, 1871a: 3–4).

The opposition represented by CALPWIW challenged the doctors' campaign which, in the wake of the widely publicised Margaret Waters trial and execution, now went under the name of the Infant Life Protection Society (ILPS). Formed in October 1870, the ILPS drafted a bill for regulating those who took children under the age of six years into care for a fee for longer than one day, which was based on the reforms that had been championed by the BMJ since the 1860s.

The bill's strict registration system—whereby carers would be required to provide a character reference and register their homes with a local justice of the peace—and an inspection system—which would involve

monthly inspections and reports by the Poor Law Medical Officer—were opposed by the CALPWIW because of the broad impact they would have on unmarried mothers. Registration would place women ‘under the direct surveillance of the police’ and reinforce the rationale behind the Poor Laws, which held that unmarried mothers were solely responsible for the lives and deaths of their illegitimate children (CALPWIW, 1871a: 8). Worse still, the bill:

- (i) ‘confounds together’ the women who adopt a child outright (the baby-farmers) and those who merely share responsibility for a child’s care with its parents; and
- (ii) would merely legislate against the symptoms and would not address ‘the real and ultimate causes’ of infant mortality among ‘nurse-children’; rather than decreasing infanticide and infant mortality rate, the bill would increase both.

Opposition to the Infant Life Protection Bill was the first task of the CALPWIW, which lobbied for other ways to deal with the problem of ‘seduction and bastardy’ to reduce infanticide (CALPWIW, 1871a: 3–4): ‘we ask on which of the two sinners, the mature man or the immature girl... does the chief moral responsibility for [the child’s] life and welfare rest?’ (CALPWIW, 1871b: 19). As a result of CALPWIW’s intense lobbying and the publication of its lengthy 41-page pamphlet (*Infant Mortality: Its Causes and Remedies*), which included a thorough critique of the bill, the Home Secretary opposed the ILPS’s bill since he believed it was too broad in its scope and not viable on financial grounds.

The CALPWIW found that it was common in manufacturing towns for a mother to pay a neighbour to care for her children while she worked. In some districts in Lancashire and Yorkshire ‘almost every married woman works in the mills where, consequently, all children are left’ in the care of mostly older women, who used the extra income to supplement their meagre parish allowances. The committee predicted that if such nurses were subject to regulation, the licensing fee proposed by the bill would stop casual childcare altogether, leaving working-class children unattended in their homes. More than that, ‘we deny emphatically that the State has any right to dictate to [parents] the way in which [their childcare] responsibility be fulfilled’.

Unlike the BMJ doctors, the CALPWIW was not interested in demonising baby-farmers. Instead, it produced a provocative social treatise on the plight of women, noting that infanticide arose because ‘the condition of women is worse than that of men’ in relation to access

to adequate education, employment and rates of pay, irrespective of class: 'less money, less time, less thought, is bestowed upon the training of girls than upon that of boys'. As a result, ignorance and poverty were the underlying causes of infanticide and baby-farming, given that 'so limited are the branches of industry in which [women's labour] is employed'. Because of the oversupply of women's labour, 'those who have erred are almost necessarily driven by the pressure of want to rid themselves of children they cannot feed, by desertion or murder' (CALPWIW, 1871b: 14).

Rather than condemning the 'moral ignorance' of single mothers, the CALPWIW considered that working women and girls needed to be taught appropriate moral behaviour, as well as 'physical facts', since they were presently 'reared under circumstances fatal to the acquisition of any such knowledge [so that] [m]any girls are led astray without the faintest previous knowledge that the result of their weakness... make them mothers'. Even more provocatively, the committee laid the blame for single motherhood at the feet of men because of the far too common 'seduction of children and young girls', as they documented in the following table.

Although the figures in Table 3.5 are not representative of the extent to which girls were sexually abused in mid-nineteenth-century England, they show clear trends over the ten-year period 1861–1870. Girls under the age of 19 years were more vulnerable than those aged 19 or over by a factor of four to one (3,930 versus 917), while girls aged 16 years were the most likely to be 'seduced'. Even so, in the nineteenth century girls were still expected to act with decorum when they were sent out to work in factories or as domestic servants as children. If they were seduced, the fault was usually placed at their feet, not their seducers. Even the committee used language which embodied female blame, such as the need to shield girls 'from temptation... until experience has taught its lessons', to ensure that 'the danger of their yielding to it' was 'but small' with a girl's character either being 'unstained' or 'tarnished'. While the CALPWIW believed that if a girl or woman 'yield[ed] to her seducer' once she could plead ignorance and inexperience, if she yielded again to produce another illegitimate child this was 'so strong a presumption that the mother's nature is sensual and vicious' that society was justified in refusing her any aid. Indeed, to help such a woman would only encourage further promiscuity, since a second child was 'the result of a vicious temperament and corrupted mind' (CALPWIW, 1871b: 37).

Nonetheless, the committee was astute enough to realise that girls would remain vulnerable to 'seduction' as long as the law punishing

Table 3.5 The ages at which the women and girls received into the homes of the rescue society were first led astray²⁷

Years	Age	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	>19	Total
1861				1			4	1	11	11	36	64	78	81	60	41	85	473
1862				1		2	2	1	15	18	31	65	54	65	49	33	53	389
1863			1			2	10	3	29	26	47	63	63	48	37	24	63	416
1864					2	4	9	10	37	28	53	52	80	47	56	36	58	472
1865				1	3	5	16	11	61	46	61	59	94	63	58	25	44	547
1866				1	5	7	12	7	73	29	60	50	90	53	56	32	62	538
1867				4	3	8	14	11	68	35	53	57	58	70	42	34	56	513
1868				3	2	6	19	15	47	30	43	69	66	56	34	36	48	474
1869				3	1	9	17	12	31	29	41	60	78	64	37	30	59	471
1870				5	1	11	16	8	49	29	42	52	91	94	55	37	61	551
Total		4	1	19	17	54	119	79	421	281	467	591	752	641	484	328	589	4,844

sex offences remained lax: 'we shall be compelled to rank early seduction...as among the evils, which...admit of no cure'. As seen in Table 3.5, sexual abuse increased with age with a five-fold increase between the ages of 11 and 12 years from 79 to 421 since the age of consent was 12 years (unless the girl was an heiress). While it was a felony to seduce a child under the age of ten years, it was only a misdemeanour (with a lighter sentence) to seduce a child under 12. In fact the Rescue Society figures in Table 3.5 show a doubling of the number of girls being seduced from the ages of nine to ten (from 54 to 119), which coincided with the fact that at the age of ten seduction ceased to be a felony. Girls were most vulnerable to seduction from the age of 12 onwards, probably because men, 'knowing the law, deliberately wait to indulge their passions till...when they can do so with...total impunity' (CALPWIW, 1871b: 16, 18).

Instead of the Infant Life Protection Bill, the committee wanted the government to protect all girls, 'irrespective of wealth or poverty, up to the age of 17' by making seduction a felony, and up to the age of 19 by making seduction a misdemeanour:

we...oppose all legislation which does not rest upon this... indisputable truth, – that it is better to remove the causes and conditions of evils, than to control or soften their results.

(CALPWIW, 1871b: 18–19)

The committee agreed with many others that one of the causes of infant mortality was the Bastardy Clauses in the Poor Laws, which meant that 'under no circumstances' can a father be made to pay more than half a crown per week (2s 6d) after the child reached six weeks of age. If a woman was found to have neglected 'to maintain her bastard child, whereby such child becomes chargeable' to the parish, she would be declared 'an idle and disorderly person' or 'a Rogue and Vagabond' (CALPWIW, 1871b: 22), but not so the father. The clauses provided so many 'outs' for an unmarried father and so many burdens for an unmarried mother that neglect and/or abandonment of infants were inevitable.

The moral regulation inherent in the Bastardy Clauses and the lack of criminal laws to protect girls and women from 'seduction' caused the CALPWIW to declare:

looked at together...they give a terrible shock to our faith in the morality of English statesmanship; and when we turn from them to

the recent Acts for the cure of contagious disease [and control of prostitution]... we cannot resist the conviction that all these measures have sprung from the same poisonous root—... that vice is necessary to men, and being necessary, should go unpunished and unchecked [so that] the duty of Parliament... [was] limited to the discovery of means for obviating... the evils which it entails upon society.

(CALPWIW, 1871b: 23)

Because vice was 'necessary' for men, its burden had to be carried by the woman, in that the parliamentary 'means of obviating' the vice of men was through moral regulation of the female body. With these not so subtle references to the cultural values associated with the male body—men's need for sex and seduction was believed to be biologically determined (men were 'brutes' and 'unaccountable for their actions' (CALPWIW, 1871b: 24))—the committee identified the gender politics of the time; that is, the only way to control men's sexual passions was to control the female body, which bore the shame and sin of men's excesses.

The very act of unmarried sex absolved men of moral responsibility and burdened the woman, who was responsible for controlling men's sex urges by guarding her chastity and resisting seduction. If she did not, she bore all responsibility for her illegitimate offspring. But the CALPWIW knew that if 'men's vice' was controlled, the moral and financial burdens on women would lessen. As it was, the sin and shame associated with the female body through unmarried sex and illegitimacy justified the state's power to regulate unmarried mothers. Both the Bastardy Clauses and the Contagious Diseases Acts (for the control of venereal diseases in prostitutes in order to stop their spread amongst men) was an 'unconscious testimony' to the belief that 'women are really moral and therefore accountable beings' (CALPWIW, 1871b: 24).

Given that parliamentarians had a 'natural inclination to regard every question from an exclusively masculine point of view' (CALPWIW, 1871b: 23–24), the committee remonstrated Parliament for failing to tackle the causes of infant mortality: if it was serious in 'repressing the vice which is the parent of seduction and illegitimacy', it would have imposed 'severe penalties upon all who should seek to lead girls astray' and by giving a woman 'every facility' to locate and make the father of her child financially responsible. Immediate changes to 'the laws of seduction and bastardy would lead to an immediate diminution of infant mortality' (CALPWIW, 1871b: 24).

Through their opposition to the doctors' Infant Life Protection Bill, the feminists understood the BMJ doctors' strategy had been to remove infant mortality, infanticide and baby-farming from their broader social and economic context. CALPWIW sought to reinstate this context through listing the many causes of infanticide: poverty, mothers' lack of education and ignorance of disease and childrearing, the low age of consent and lack of criminal laws to prevent 'early seduction', lack of girls' moral education, the Bastardy Clauses, low wages for women and their under-employment, the vice of men, the 'unlimited nature' of men's conjugal rights,²⁸ the overwork of mothers during pregnancy leading to stillbirths and feeble children, and married women's early return to work. They believed that illegitimacy had very little to do with the high infant mortality rate since 'the proportion of deaths among legitimate, is as great as among illegitimate children' (CALPWIW, 1871b: 24). Indeed, for the children of married working-class women whose mothers had no choice but to work in the factories and cotton mills, infant mortality was considered to be inevitable (CALPWIW, 1871b: 28).

It was no use, said CALPWIW, for the medical men to say 'hand them over to nurses whom we will license and duly inspect' because women's wages averaged less than 9s a week and mothers could not maintain the nursing fee for any length of time. No amount of licensing and inspection could prevent disease and malnutrition (CALPWIW, 1871b: 25). The solution—make fathers support their illegitimate children.

Although the proposed reforms suggested by CALPWIW were radical and far-reaching in their scope, they were a comprehensive response to many endemic social problems, even if it was naive to assume that once the fathers of illegitimate children were compelled to do their duty, men would restrain their 'lawless self-indulgence' (CALPWIW, 1871b: 39). Unlike the BMJ doctors who sought only to blame women for the state of infant mortality in Britain, CALPWIW began with the principle of parental responsibility—in order 'to make men better... it is in principles, not in provisions... that regenerative force resides', with men equally 'responsible for the life, health, and education of an illegitimate child' (CALPWIW, 1871b: 31). From this principle, CALPWIW justified reforms that the BMJ doctors had not thought to link with infant mortality: raising the age of consent from 12 years; making it a felony for a man to seduce a girl under 17 years and a misdemeanour to seduce one under 19 years; reforms to the Poor Laws to make unmarried fathers liable for their offspring up to the age of 16 years;²⁹ criminal charges against the father if his illegitimate child died or suffered harm from starvation, desertion or neglect; and the removal

of maternal infanticide from the category of offences attracting capital punishment—all of which sought to alleviate the shame and responsibility placed on women (CALPWIW, 1871b: 31–33). Ahead of their time, the committee also recommended a doubling or trebling of working men's wages, compulsory education and reducing the number of children born.

Because the CALPWIW was less interested in assigning blame to women and more interested in discovering the true causes of infant mortality, it envisaged the moral regulatory role of the state quite differently from the BMJ doctors. By emphasising individual responsibility, the committee envisaged a limited role for the state where social duties could and should be met by the individual citizen. But as social progressives, the feminists considered that 'moral and legal responsibility must correspond' (CALPWIW, 1871b: 41), so that the sexual violation of a women's body attracted similar criminal charges as the violation of men's bodies, and fathers were punished for the neglect of their illegitimate children.

The politics of reform during a moral panic

By 2 July 1870, Hart was able to report that the main newspapers were calling for the regulation of baby-farmers, something he had been advocating for two years (BMJ, 2/7/1870, p.15), and revealing the new synchronicity between the moral entrepreneurs and the media as a result of the BMJ doctors' advocacy. Hart predicted that legislation would be forthcoming, since the Waters case 'will do more to insure future legislative redress than many long arrays of figures and ably urged arguments'. The Waters' case was perfect fodder for a moral panic because of the large numbers of children involved and the gruesome details of their existence. As discussed above, dirt, emaciation, drugged babies and subterfuge combined to create a national sensation. As Hart predicted, because the feelings and imagination aroused were more powerful than reason the case 'will long haunt the popular mind' (BMJ, 9/7/1870, p.44).

With a widely publicised case on which to beat his drum, Hart continued to write that the case 'lay bare . . . the system of legalised infanticide which is carried on under [the] title of baby-farming'. Without examining the details of Waters' difficulties, Hart considered that the Waters' case highlighted all the problems: '[t]he want of supervision—the farce called adoption, the facilities for the disposal of bodies, the absence of registration either of birth or death' (BMJ, 9/7/1870, p.44).

By October 1870, Hart was referring to the Waters' case as 'Baby-Slaughter', as 'an organised conspiracy against infant life' and an 'example [that] will strike terror' as he boldly pointed the finger at those who had the power to stop baby-farming altogether:

[i]t is difficult to acquit... our legislature of so much complicity... as is implied in a negligent disregard of the known conditions leading to it, and of so much tacit acquiescence... as is involved in the refusal to legally deal with the patently murderous trade of unregulated baby-farming.

(BMJ, 15/10/1870, p.415)

Hart worried that unless something was done, the Waters case would soon fade. Perhaps stirred by government inertia, he announced the establishment of the Infant Life Protection Society (ILPS), which was to be a doctors' only committee (BMJ, 22/10/1870, p.443). When the newly formed ILPS was granted a meeting with the Home Secretary, Mr Bruce, on 11 November 1870, the deputation, which included Hart, Curgenvén and an MP, Mr Charley, placed its four main objectives in a draft bill, including the registration and licensing of nurses and carers (BMJ, 12/11/1870, p.534). Lumping all child-carers into the same category, the bill did not discriminate between daily childcare for working mothers and childcare for unwanted children.

As a result of objections by the feminist CALPWIW, the government refused to accept the doctors' proposals without an inquiry. The influence of the CALPWIW saw the withdrawal of the doctors' bill by Mr Charley and the establishment of a Select Committee on the Protection of Infant Life in the House of Commons in May 1871, which was appointed to inquire into infant deaths as the result of baby-farming. Nonetheless, Hart had nothing to complain about. Not only was he satisfied with the 17 parliamentarians appointed to the new committee (BMJ, 13/5/1871, p.511), he was the first to give evidence, followed by all his medical colleagues.

Unfortunately for the feminists of CALPWIW, this inquiry gave the doctors' ILPS 'a national forum' (Behlmer, 1982: 36), since the newspapers reported the inquiry widely. The inquiry further entrenched the influence of the men whom the feminists had decried since the evidence of all the key players—Hart, Curgenvén, Wiltshire, Lankester and Relf—convinced the select committee of the role of private lying-in houses in supplying baby-farmers with children (Select Committee on the Protection of Infant Life, 1871: 229–234).

By July 1871, the select committee members had 'satisfied themselves that a great and criminal destruction of life goes on in great cities and... have evidence of it on a large scale in London, Edinburgh, Glasgow and Greenock' (BMJ, 22/7/1871, p.103). In terms of the endpoint of a moral panic, the BMJ doctors had successfully campaigned for a solution to the threat posed by baby-farmers such as Waters. Given the prominence of the doctors' evidence to the select committee, it is no surprise the committee made findings similar to that of the ILPS, since its terms were restricted to 'the very narrowest limits' (CALPWIW, 1871b: 41). Hart was hopeful that all the doctors' recommendations would be endorsed by the committee. But in March 1872, Hart described the new Infant Life Protection Bill as 'a tentative measure, and imperfect' and blamed two particular members of the select committee for watering it down. The select committee's report argued there should be no legislative interference in relation to innocent childcare situations, or intrusions into family life. In terms of reducing infant mortality, the committee was prepared to allow the state to regulate women but not to enter the sanctity of the English home, since married women came under the authority of their husbands who would resist state interference (Select Committee on the Protection of Infant Life, 1871: 24).

While Hart and the BMJ doctors got their wish for the compulsory registration of all births and deaths, private lying-in houses and houses in which persons took two or more infants under the age of one year to nurse for longer than one day for a fee, the select committee balked at the doctors' wish for an inspection scheme because it was too expensive to implement. Nonetheless, Hart proudly claimed paternity, since the bill was 'the legitimate offspring of the inquiry into the practice of baby-farming set on foot four years since by the editor of this Journal' (BMJ, 9/3/1872, p.272).

When the new Infant Life Protection Act came into force on 1 November 1872, it represented Britain's first state regulation of children in care. Local authorities were given the responsibility for registration and could refuse to register unsuitable residences where the applicant was not of good character. Inquests would now be compulsory if an infant died in a registered house unless a medical certificate was issued for its death. But punishment was mild: six months' imprisonment or a fine of £5 for failing to register, a risk that was worth taking for most baby-farmers.

Concluding remarks: A moral panic?

The discussion in this chapter illustrates that for a moral panic to arise, the construction of the body (sexed male or female) is indispensable

to its development and progression. In the years 1865 and 1871, the construction of the diabolical female body created a folk devil onto whom fear and loathing were projected in a social context where women were subject to strict moral regulation according to the moral values associated with femaleness. Arguably, the threat posed by baby-farmers represented the first moral panic in Britain in relation to children, being initiated by a group of moral entrepreneurs who were independent of government and 'consciously used the press as an instrument of propaganda' (Cricher, 2011: 260).

A quivering paradox, the nineteenth-century sexed female body was both the animal body (the forbidden) and the moral body (the aspiration), and the standard bearer for all moral conduct. She was all that was good and all that was bad and the scapegoat for many social ills. Why did the female body carry such a moral burden in nineteenth-century society? Part of the answer lies in the desire of an emerging middle class to distinguish itself from the working classes who were perceived to be morally debased, as discussed at the beginning of the chapter. But as the CALPWIW had perceptively recognised, women shouldered responsibility for the vice of men, whose uncontrollable urges led to the moral burden being carried by women with the only 'means of obviating' men's vice being the strict moral regulation of the female body. The sexed female body was a device for dealing with the consequences of extra-marital sex: as the defiled body, it was a warning to other women to protect their chastity or suffer social opprobrium.

Not only that, morality was inextricably tied up with fertility control, since the issue of contraception evoked 'fearful images of unrestrained female sexuality, indiscriminate debauchery, and the breakdown of...social order' (Nead, 1988: 7, 21) in a society that was dependent on male rights of inheritance for the distribution of wealth. With legal, sexual and social control over the female body, men had the power to interpret female behaviour and to construct a wish list of appropriate 'feminine' behaviours, something that was possible because of the economic dependence of women on men.

In Victorian England, sexing the female body involved scrutiny of every aspect of a woman's behaviour, appearance, clothing and demeanour. The processes of moral regulation and self-governance surrounding the female body meant careful monitoring of any conduct that was 'unwomanly'. The woman who killed was on display like an animal in a zoo when she appeared at her trial or execution. Waters' appearance and expressions were all commented upon, building a picture for the public of what criminal women looked like, as if beneath the demure Victorian dress of bonnet, veil, gloves and neck-to-ankle

dress lay the true beast. That there were significant social and economic advantages for men from women's lack of employment opportunities, property and political rights was not part of the cultural dialogue about why women committed infanticide. Nor were the punitive Poor Laws or the easy sexual access that men had to women's bodies, with an age of consent of 12 years.

The campaign around baby-farming had grown from a focus on infant mortality associated with wet nursing to an organised political movement by the BMJ doctors which linked all women involved in childcare and midwifery with baby-murder, views that were later adopted by the London media in their rush to sensationalise the Waters case. The endpoint of the doctors' campaign amounted to the novel recognition of society's obligations to children compared with the individual obligations of parents, giving rise to the first step towards the state protection of children and laying the foundation for Britain's welfare state (Pinchbeck and Hewitt, 1973; Homrighaus, 2001).

But it was not without a price, since this social awakening entailed a moral war against working-class women (Behlmer, 1982). The Victorian ideal of womanhood was directly challenged by a childcare system involving financial gain because it introduced the masculine pursuit of trade. The introduction of money perverted the '“natural” relationships between women and children' (Arnot, 1994: 282) in a society that did not place a monetary value on childcare and did not consider financial rewards were necessary for motherhood. For women like Waters, the money earned was 'blood-money', and the only explanation for the deaths of their adopted children was murder.

Working-class women in the nineteenth century were, in the words of Cohen (2011a: x), a suitable enemy who amounted to 'a soft target, easily denounced, with little power and . . . without access to the battlefields of cultural politics'. In the discussions about women, childcare and infanticide, which took place in men's professional publications such as the BMJ, *The Lancet* and the *Proceedings of the National Association for the Promotion of Social Science*,³⁰ and the upmarket newspapers, the female body was always associated with sexuality—good (virginal) wifehood and mothering, or sexual immorality. Women who were involved in out-of-home care were described by the BMJ doctors as seductive, sly, unblushing and brazen-faced, as if they were prostituting themselves for monetary gain. As discussed at the beginning of the chapter, a woman's reputation was always linked to her sexuality, with her 'essential nature' derived from the condition of being female, that is, virginal or licentious. By contrast, men's respectability did not rely on overt sexuality

but was derived from the association of the male body with public status and economic achievement.

The moral campaign surrounding baby-farming was unlike modern moral panics. It occurred in a context where the moral condemnation of the working classes was common in newspapers, reports, pamphlets and novels (see, for example, Tomalin, 1991; Knelman, 1998; Bartley, 2000). More specifically, crime was the standard fodder of newspapers and broadsides. If crime was the national diet, reports of murderesses were the toppings lavished on a hungry public.

While the BMJ doctors' campaign may at first glance appear to have been proportional to the social problems posed by high rates of illegitimacy, it was 'a mistake in reason' (Young, 2009: 14). The campaign did not recognise that this significant social problem arose from the moral and economic regulation of the female body and the lack of moral regulation of the male body so that, as a consequence, baby-farming was a social necessity.

The relaxed policing of infanticide, together with the frequency with which judges and juries excused the deaths of unwanted children, all point to the social and legal acceptance of the murder or manslaughter of illegitimate children. It was not until the campaign around baby-farming that regulation began, albeit with legislation that was difficult to enforce and with no financial solutions offered by the government. In fact, baby-farming was legally condoned because the legislation that was enacted to regulate baby-farmers did not prohibit the practice. As a result, the trade in babies and infanticide continued to be privatised, since governments relied on the work of women to deal with the social problem of illegitimacy, avoiding the development of effective state solutions. Limited employment opportunities ensured that working-class women would fill the vacuum created by a lack of state welfare to assist unmarried mothers who were literally left 'holding the baby' while fathers escaped financial and legal responsibility.

Infanticide was only a crime when it was found to have exceeded certain moral boundaries, but not a crime when it stayed within those boundaries. Those boundaries were drawn by reference to the female body—on one side were infanticidal mothers, whose behaviour was excused by sexed explanations which linked the female body with temporary insanity in the face of the economic reality posed by the unforgiving Poor Laws. On the other side were baby-farmers—'unnatural', 'monstrous', 'depraved' and 'Satanic' women who killed for blood-money.

With the female body marking the boundaries of morality and immorality, there was no media campaign against the actual causes of illegitimacy and infanticide: the sexual exploitation of women and children; the Poor Laws which prevented most unmarried mothers from suing for maintenance; endemic low wages for women; lack of government-regulated adoption; and the religious teachings that declared 'fallen women' to be sinners. No comparison was made with foundling hospitals and parish workhouses, which were also known to produce high infant mortality rates.

Because baby-farming and baby-murder represented a tiny proportion of the causes of infant mortality, the reaction to the triggering events—the arrests and convictions of Charlotte Winsor and Margaret Waters—was out of all proportion to the threats posed by these two women. As Hart himself admitted, the BMJ's response to the arrest of Waters was a deliberate move to foster a moral campaign and public condemnation of working-class women involved in childbirth and childcare.

The representations of women involved in the baby-farming trade were hyperbolic, melodramatic and irrational, since the horrors expressed about Waters and other baby-farmers did not spill over into suggestions for improving the working and living conditions of poor women and unmarried mothers. Instead, the Winsor and Waters cases, along with other stories of child neglect and death, created the necessary symbolism for the political agenda of the BMJ doctors and the newspapers which rallied to the doctors' calls for reform. The doctors' political power was enhanced through the construction of the working-class female body as a fundamental departure from the Victorian ideal of womanhood. The moral campaign against baby-farming created a discourse about working-class conditions, not from an economic perspective, but from a moral one that tied together the working-class female body with baby-farming, unnatural mothering and murder. Although the story about Waters' poverty and her attempts to preserve the lives of her sickly, adopted children were revealed in the courtroom, the discourse about her 'depravity' prevailed in the newspapers, the disseminators of what was the most sensational murder case and the greatest moral issue of its time. As observed by *The Times*, Waters' crimes were 'the most ghastly instance... of the wickedness of which human nature is capable' (24/9/1870, p.9).

If just over 98% of infant deaths during the nineteenth century were due to natural causes, was the concern about infanticide, working-class women and baby-farming an actual moral panic? Certainly not of the kind we have seen develop in the twentieth century given the diversity

and sophistication of the modern-day media and its obsessions with crime committed by men, but more than likely a moral panic of its time. The combination of the cultural values associated with the female body, which produced dichotomous representations of women, and the historical sensationalism associated with murderesses produced a 'wretched woman' so vile and depraved that she personified all that was evil. In that sense, no other threat or folk devil could have emerged in the nineteenth century to produce the extraordinary media reaction that characterised Waters' arrest, trial and execution.

All seven stages of Cohen's processual model (as revised by Critcher, 2003), which describe the conditions that give rise to a moral panic, appear to have been present: (i) the perceived threat represented by baby-farmers emerged with a focus on 'imminent danger', first in 1865 when Winsor was arrested, although the moral entrepreneurs made no headway at the time and had to wait until the threat re-emerged in 1870; (ii) when that threat did re-emerge, the media reported it in an exaggerated and distorted fashion, crafting a folk devil by focusing on the negative qualities associated with the female body and Waters' activities as the antithesis of womanly behaviour; (iii) a group of moral entrepreneurs, the BMJ doctors, was ever present to 'man the moral barricades', offering opinions, explanations and solutions; (iv) the doctors were also the 'socially accredited experts' who confirmed the extent and the dangers of baby-farming and eventually prevailed over the feminist opposition; (v) the moral entrepreneurs and the media spelt out 'ways of coping' in the form of regulation to control baby-farmers to prevent another case like Waters' from occurring; (vi) the moral panic dissipated once Waters was convicted and executed; and finally (vii) the moral panic's legacy, in the form of the Infant Protection Act, was enacted.

Nonetheless, this descriptive analysis does not explain the causal basis of the moral panic surrounding baby-farming, which is discussed in the section below.

With the coalescence of the moral panic around the Waters trial, the case cemented the influence of the medical profession, since the BMJ was able to claim that it had been the first to write about baby-farming and the first to investigate, without the aid of the police, the type of activities in which Waters was involved, as well as the first to make recommendations for social reform. Opposition by the CALPWIW recognised the role of the medical profession in protecting and extending its turf and the cultural tendency to 'punish women for problems created by men's sexual and social irresponsibility' (Shanley, 1989: 89–90). With the discovery of baby-farming as the new social evil, the BMJ

doctors took the high moral ground by posing as experts and saviours from depraved women. The demonising of working-class women, which reinforced their classed and sexed subservient position within English society, highlighted the importance of the all-male, medical profession and trumped the newly organised feminist opposition.³¹

Although it can be difficult to ascertain the beginning of a moral panic, particularly the point at which a moral campaign transforms into a panic, the denouement is more easily identified. In his study of various moral panics, Critcher (2003: 141) found that all ended with political involvement and legislative solutions. The institutionalisation of a moral panic around baby-farming, in the form of the Infant Life Protection Act, represented its endpoint—an example of moral regulation through the state's 'disciplinary expression of power' (Levene et al., 2005: 16). State intervention only applied to 'unnatural' women who took in children for a fee but did not apply to private family relationships for which there was no moral justification for state intrusion.

Where there is an endpoint in legislative form, 'paradoxically, much...of...[it] is symbolic' and merely represents a 'form of narrative closure' (Critcher, 2003: 141) to a complex moral story. Many moral panics have resulted in 'panic legislation' which is so poorly conceived and drafted that it is unlikely to solve or avert the moral crisis at which it is aimed (Jenkins, 1998: 6). This was the fate of the Infant Life Protection Act which was 'a resounding failure' (Behlmer, 1982: 38), since it extended the claimed expertise of the medical profession rather than working to save babies' lives, as the *Saturday Review* (3/9/1872) recognised when it described the Act as 'a poor little Bill...feebly introduced'.

While the BMJ doctors' campaign exposed the little-known practice of 'farming' unwanted babies and represented a moral victory for the medical profession, their failure to understand the moral and economic climate that prevented unmarried mothers from keeping their babies, meant that their proposed solution was a timid legislative attempt to control baby-farmers' practices which was rarely put into practice, such that baby-farming continued for decades to come. The BMJ doctors' grand objectives—of inspection of carers' homes, the banning of cash premiums and ads for adoption—did not manifest for some decades.³²

As a hasty attempt at regulation, the Act involved minimal financial expenditure by the government. Local authorities, which varied from boards of works to local councils and magistrates, were given the task to ensure that all baby-farmers with two or more infants under the age

of 12 months to nurse for longer than one day were registered. Arnot's (1994: 272) perusal of documents of the time shows that these authorities 'were notoriously erratic' in putting the Act into practice. Even with widespread advertising of the new requirements, the London Metropolitan Board of Works only managed to register 'five houses and... ten infants during the last two months of 1872' and the following year, ten houses and 23 children (Behlmer, 1982: 39). With no inspection of baby-farmers' premises, the problem of unwanted infants remained unaddressed, with evasion of the Act a fact of life.

Ironically, it is this Act which forms the backdrop to later twentieth-century cases of infanticide in England and Wales, since the 1872 Act represented the first tentative steps towards state child protection.³³ But the legacy of the moral panic surrounding baby-farming was much more profound. By demonising working-class women involved in childcare and childbirth, at the same time as ignoring working conditions, poverty, sexual abuse and the economic plight of unmarried mothers, the moral entrepreneurs placed responsibility for infant mortality and the future of the nation squarely at the feet of women who were accused of slaughtering the innocents. It also reinforced the impact of the Poor Laws, which placed the economic responsibility of illegitimate children on women, rather than men. In summary, the apparent moral panic around baby-farming justified greater state control over women and their bodies. Although there were differences in opinion between the doctors and the parliamentarians about the actual form of regulation, they all agreed that unnatural motherhood and evil women were responsible.

Concluding remarks: A causal theory

The discussion in Chapter 2 illustrated the limitations of the moral panic concept, including its lack of a theoretical grounding to explain the causal basis of a moral panic. At first glance, the descriptive analysis represented by Cohen's processual model reveals that the conditions for the instigation of a moral panic around baby-farming existed, but it is obvious that these conditions were not unique to 1865 or 1870, the years that Winsor and Waters were respectively arrested and tried. These conditions had existed for decades and continued to exist for decades afterwards. To apply Cohen's criteria without this historical recognition would mean, as critics have observed, that the processual model is merely an explanatory device which has no capacity to interrogate the causes of the moral panic it argues into existence. As such, this chapter

has sought to identify a causal basis for moral panics, which means it is necessary to ask what occurred that was unique to the years 1865 and 1870, compared to any other historical moment of the nineteenth century?

Before the arrest of Winsor, a group of moral entrepreneurs had already identified the social problems associated with the out-of-home care of infants, which they believed contributed to high rates of infant mortality. The BMJ doctors' selection of a particular group of working-class women (first wet nurses then midwives and baby-farmers) as responsible for *all* infant deaths in out-of-home care meant that this issue had been politicised long before Winsor and Waters were arrested. The cultural discourse for a moral panic was already well prepared.

Although a moral panic can only commence once a threat emerges, from 1861 onwards the BMJ doctors had decided the threat to infants was ever present in the form of (unnamed) baby-farmers. When Winsor arrived on the scene, followed by Waters, the vehicle for a moral panic appeared in the form of the sexed female body with its inherent dichotomous morality and potential for evil. These qualities were, as Gatens (1996: 13) has observed, 'manifestations of a historically based, culturally shared phantasy about... female biolog[y]', such that the sex of the body and the qualities imposed were 'not arbitrarily connected'. As such, Winsor and Waters embodied the personification of evil because of their femaleness, which obscured any other interpretation of their activities, with both being found guilty of murder by the doctors and the media long before being tried.

This study of baby-farming shows that more is required than the descriptive analysis represented by Cohen's seven-stage model, since the construction of a folk devil, the indispensable step in the development of a moral panic, is a product of cultural and historical sexing processes. Stories about the demon lurking in dark corners had been told by broadsides and newspapers for decades. That demon or folk devil was always sexed male or female, its characteristics derived from the negative values associated with the male or female body. Other attributes such as class and race also affected this process, creating intersectional bodies of danger and evil (Cossins, 2003). During the development of a moral panic, this sexing process, based on essentialist assumptions about maleness and femaleness, gives rise to symbolism, exaggeration and distortion to produce a culture of fear which may or may not result in a full-blown moral panic. Through this process, the baby-farmer was not a poor woman scraping an income but the personification of evil and depravity, threatening the moral order as a whole.

It is only through the construction of a folk devil that power relations between the moral entrepreneurs and the demonised are established. As a result of those complex power structures, a moral panic may or may not emerge. Dissenting voices, folk devil resistance and folk devil supporters can interrupt this process. But where resistance and dissent are non-existent, the power to tell a moral tale, to name and shame, means that the grounds for a moral panic have been laid.

By identifying the projection of 'symbolic dimension of harm' (Hier, 2002: 323) onto women who neglected or killed illegitimate children for economic gain, this chapter identified the processes of deviancy associated with the female body. These sexing processes reveal how a folk devil is selected and constructed within the historical and cultural context of the time. The construction of baby-farmers as the most depraved form of humanity in existence justified not only coercive measures through the criminal law but also reaffirmed the boundaries between good Christian souls and evil, as well as appealing to the public's psychic structures, which seek emotional security within 'the tribe' from dangerous outsiders, and accruing power to a few.

When the Waters case was reported, the images fed to the public of filthy and emaciated babies and depraved women drowned out the entrenched economic conditions associated with working-class life and infant mortality. Absent was the alternative story of a widow who had tried other avenues of employment and found herself pursued by a moneylender, who bought fresh milk daily for her children, sent for doctors to attend sick babies and paid for the burials of those who died until she could no longer afford to do so. Waters' choices reflect the sexed class structures of the time, with women's limited employment opportunities and their work receiving considerably less pay than men's. Baby-farming was a rational choice in the context of material under-privilege. While the BMJ and the media had found their 'female fiend', at the age of 35 years Waters was a woman ground down by poverty 'who had latched onto a way of keeping food in the cupboard in a society which offered her few options' (Arnot, 1994: 278).

The negative values associated with the female body contrasted with the culturally valorised male body, with Sergeant Relf becoming the heroic man who had rescued starving children from a 'house of horrors'. Not only was he paid a £20 reward when Waters was convicted, he was considered to be an expert, later being called to give evidence at the Select Committee on Protection of Infant Life (1871) where his opinions on baby-farming in England were sought, as well as 'his advice for framing the [new] Infant Life Protection Act, and his thoughts

about what motivated women to commit infanticide' (Homrighaus, 2001: 360).

Of course, the moral dualism between male and female bodies was not invented by the BMJ and the media, but they reinforced cultural suspicions about motherhood and women's capacities for good and evil while absolving men—doctors who practised abortion or wrote death certificates for apparent stillborns; the seducers of women and girls; politicians who ignored the vulnerability of women and girls to rape and poverty; employers who exploited female labour—from any moral responsibility. By doing so, the BMJ doctors became the 'experts' in relation to childcare and childbirth, and the moral entrepreneurs who would 'save' society from unnatural women, whose cultural power was boosted and affirmed through the denunciation of evil.

The success of the doctors' moral campaign and its transformation into a moral panic was founded on the construction of a sexed female body that was so profoundly evil and dangerous that it amounted to an exaggerated and a disproportional symbolic response to the threat to England's children from baby-farming, given that most infant mortality was due to disease, living conditions and lack of maternal milk substitutes. In other words, the transformation of the sexed female body into the personification of evil was the causal basis for this particular moral panic, with moral panics arising from the sexing processes associated with the body. This means that the sexed bodies approach provides the theoretical foundation for the initiation and development of a moral panic, since that approach seeks to identify the 'kinds of bodies' that are normalised in social discourses (Lacey, 1998: 107), such as the discourse of moral panic.

The moral campaign around baby-farming also needs to be understood in the context of nineteenth-century processes of moral regulation. Since the body was intrinsic to notions of womanhood, it is necessary to integrate the sexing process into the moral regulation framework in order to understand the perceived breakdown in control of women. Gendered relations of power determined men's ability to construct the boundaries of women's lives through various forms of regulation which contributed to notions of 'natural' womanly behaviour in the domestic sphere, at a time when women were making claims for autonomy, political participation and the right to speak out on issues affecting them (Jordan, 2007).

At the same time, various attempts at social welfare reform in Britain during the nineteenth century, such as the Poor Laws, were integral to maintaining moral regulation over the working classes, who were

considered to be morally deficient (Donajgrodzki, 1977), aimless, child-like and 'regarded as almost of another species' (Marcus, 1966: 147). As the discussion on moral regulation in Chapter 2 shows, the 'social order is maintained not only, or even mainly by legal systems, police forces and prisons, but is expressed through a wide range of social institutions' (Donajgrodzki, 1977: 9). A perusal of the *Proceedings of the National Association for the Promotion of Social Science*, for example, shows that control of the working classes and their living conditions was a regularly occurring feature of lectures sponsored by the association. Discipline, order and patronising philanthropy were the themes that characterised nineteenth-century ideas about working-class welfare and social policy. Even more startling through twenty-first century eyes was the dominant view that prostitutes and other fallen women belonged to a class so depraved that they were irredeemable (Jordan, 2007).

Since questions have been raised about the validity of the argument that social welfare policies concerning the poor in the nineteenth century were only ever about social control, it is necessary to recognise that this period was more complex than 'a hegemonic elite' and 'a manipulated [working-class] populace' (Wiener, 1978: 315, 320). The relationship between the middle-class elite and working-class women is epitomised by the sexed responses to those women whose livelihoods involved childbirth and childcare. The study of baby-farming represents the interplay of sex and class at a time when the problem of the working classes and the appropriate role of women was widely debated. Many of their crimes were located and confined to those spaces where birth, abortion and infanticide took place, the latter two being the only real solutions to the problem of illegitimacy given the lack of government support and limited charitable options.

The BMJ doctors perceived that everyday moral regulation over women's lives had been undermined by the activities of baby-farmers and that more rigorous control was necessary. The campaign against baby-farming was typified by efforts to contain the childcare activities of women when they spilled over into money-making. While these activities put the lives of infants at risk, foundling hospitals, the widespread practice of wet nursing and poverty placed infants at the same risk of death. CALPWIW's resistance to the BMJ doctors' proposals for reform was not only a defence of women's moral and economic role in the family 'which many nineteenth-century feminists regarded deeply as women's source of strength' but also 'a protest about the further legal enshrinement of the sexual double standard' (Arnot, 1994: 275).

If the death of baby-farmed children was the real aim of the Infant Life Protection Act, solutions which addressed the nexus between child welfare and women's poverty would have been sought. Arguably, it took a smouldering moral panic with flare-ups around two prominent court cases to justify greater social control over what had always been left to women—childbirth and childcare. The new moral regulation imposed on working-class women recognised that because abandoned children needed protection, women were the ones to be regulated at the same time as child welfare was regarded as a non-state responsibility. By focusing on particular qualities of the female body as the 'evil' to be eliminated, the state stopped short of imposing moral regulation on men to take responsibility for their illegitimate offspring.

While the Act signalled a new moral standard around children's welfare and may not have necessarily, in practice, have been 'an instrument of class domination' (Wiener, 1978: 318), it embodied the BMJ doctors' view of Victorian moral reform, which sought to impose higher moral standards in relation to childcare with no regard for the economic and living conditions that resulted in the baby trade. Although there was middle-class opposition to the Act which suggested a non-united front for this social reform, it was split along gender lines, since the middle-class feminists of the CALPWIW recognised the doctors' paternalism as the real threat to the autonomy of working-class women.

The other important legacy of the moral campaign around baby-farming was the radical view that government intervention into the private realm of the home was necessary to protect the lives of children, although it was limited to the homes of certain working-class women. Although government intervention was mild (registration rather than inspection of homes), the Infant Life Protection Act was later amended to include inspection. The baby-farming campaign meant that childcare arrangements were no longer impervious to moral regulation once the state took its first timid steps into the English home (Behlmer, 1982). In reality, this state interference was merely another string to the existing bow of the moral regulation of the lives of women, not men. And it was *particular* conceptions of the female body as tainted, immoral, abhorrent and evil that justified state interference. By focusing on the monetary gain associated with the trade in babies, moral entrepreneurs linked child welfare with the deviance of women's commercial businesses. The family, as a unit headed by a male breadwinner, was not under scrutiny and subject to regulation; rather it was working-class women who made a living out of childcare arrangements who were.

In summary, a moral panic surrounding infanticide only developed once the female body, sexed according to its negative attributes, emerged in a context where strict moral regulatory processes already governed the lives of working-class women, but were subverted by women's solutions to the immediacy of poverty and the problem of illegitimacy. Through the sexing process, male doctors accrued expertise and power, positing themselves (and the male body) as the experts and saviours in relation to the depravity represented by the sexed female body. When a failure in moral regulation became apparent as a result of the well-documented activities of Charlotte Winsor and Margaret Waters, more coercive control over the immoral female body was required to restore the imbalance within the moral order. A moral panic grew out of this perceived failure of moral regulation, fuelled by a combination of the political activities of the moral entrepreneurs and a media which was hungry to disseminate a newly discovered social evil: The baby-farmer.

Postscript

Baby-farming did not disappear after Waters' execution. The moral panic which coalesced around her arrest, trial and execution was ultimately futile in increasing moral regulation of the female body, since baby-farming and baby-dropping continued unabated, as the *South London Press* observed:

Baby farming is as lively as ever, and the only effect of what has been done has been to deal a blow at public confidence in our judicial system and those entrusted with its administration.

(29/10/1870)

Police investigations into baby-farming reduced after 1873, with the police file on the subject closing in 1877 as official indifference prevailed (Rose, 1986: 107). In 1890, the Reverend Mr Waugh's 19-page pamphlet described the horrific circumstances in which the National Society for the Prevention of Cruelty to Children found children in the homes of baby-farmers, described as places of 'slow and sure slaughter':

If a process could be invented, by which stories of the invisible and hateful things done to [illegitimate] children could be brought to light...the nation would not hesitate to pronounce them the darkest, most ghastly shame in the land. Yet [it is] the work of a

trade, doing a brisk business, known by the mild name of the “Baby Farm”. . . . While cannibal mothers, when an unwanted child is born, are said “to put it back again” in a meal, English mothers put their unwanted children back by a process of which the cannibal would be ashamed. . . . Whatever they might be to their own children—and a she-wolf is good to her cubs—to the children of others they are without the pale of humanity.

(Waugh, 1890: 700–702)

As a result, another Select Committee of the House of Commons heard more evidence on the problem of baby-farming, which resulted in the Infant Life Protection Act of 1890 (Jones, 1894: 64). This reappearance of baby-farming as a moral threat confirmed its ‘status as moral disturbance of [a] significant order’ (Young, 2009: 14). In fact, the undercover investigation conducted by the BMJ in the 1860s directly influenced journalistic investigations undertaken by *The Sun* in late 1895, when the threat of baby-farming again re-emerged (Rose, 1986: 79). The ‘Massacre of the Innocents’ exposé by the *Sun* newspaper in 1895 revealed the ongoing trade in babies and resulted in further amendments to the Infant Life Protection Act in 1897, so that baby-farmers taking in more than one child up to the age of five years were obliged to register with their local authority. Thirteen years later, in 1908, a parliamentary select committee collected advertisements from 386 individuals who had advertised child adoption services around the country over a two-week period (Rose, 1986: 165). With a wartime increase in the number of illegitimate births to nearly 42,000 in 1919 (Rose, 1986: 173), baby-dropping became as common as it had been in the mid-nineteenth century. Newspapers continued to refer to fiendish, wicked, diabolical, monstrous and inhuman women slaughtering innocents, as they had done decades before. Between 1900 and 1907 four more baby-farmers were convicted of murder: Ada Chard Williams was executed in 1900, Amelia Sach and her accomplice Annie Walters were both executed in 1903, while Leslie James (also known as Rhoda Willis) was the last baby-farmer to be executed in Britain.

Rose (1986: 175–176) considers that infanticide declined between the mid-nineteenth century and 1900 based on the number of inquests which returned murder verdicts, 150–200 per year in the 1860s, compared with 90–110 per year in the 1880s and 60–80 per year in the 1890s, but these declining inquests are probably a reflection of the decline in policing rather than a decline in infanticide. Nonetheless,

infants under the age of 12 months remained disproportionately vulnerable to murder: in the 1870s they represented 50% of all murder victims although they were less than 3% of the overall population. This proportion declined to 35% by 1900, but that figure 'held steady into the early 1920s' (Rose, 1986: 176) and declined to 28% in 1938, when infants constituted 2% of the population.

The prevalence of infanticide during the nineteenth century challenges both contemporary and historical beliefs in the motherhood myth and forces a rethink about the social significance of associating the female body with maternal love and the maternal instinct as immutable, unchanging, constant and ahistorical. At first glance, it appears that the image of the diabolical woman who killed for 'blood money' is merely a relic of nineteenth-century social history. But conceptions of the body, sexed male or female, do not necessarily have a cut-off point as we move from one century to the other. The link, if any, between nineteenth-century and twenty-first-century moral regulation of the female body can be identified by tracing the cultural significance of the sexed body over time. The rest of this book seeks to determine if the wicked murderess of the 1860s still has social currency today.

The question for the next chapter is whether or not nineteenth-century conceptions of the sexed female body created an aura of guilt in the investigation and prosecution of four multiple infanticide cases between 1998 and 2003. To what extent did the sexed female body influence how the evidence in those trials was assessed such that the presumption of innocence was transformed into a presumption of guilt?

4

The Moral Regulation of Infanticidal Mothers

PART 1: Introduction

The previous chapter revealed that the image of perfect motherhood has a history rooted in the social and economic oppression of women, while this chapter describes how women's sexuality and childbearing has been defined by various forms of moral regulation since at least the early seventeenth century. This moral regulatory framework is based on contradictory values whereby motherhood, as a social construct, is both a biological and a moral destiny because it comes 'naturally' to women. Images of the ideal mother populate Western culture in art, religion, television, fiction, film, poetry and folk stories, while women who have ambivalent feelings about motherhood have been the subject of myths that invoke the dark side of the sexed female body and images of the 'wicked' mother.

A woman who killed her child acted *against* her nature and *in accordance* with her nature since she was both innately protective and innately evil, as if everything, good and bad, about mothers is a biological pre-given. According to this paradox, all women have the potential to turn into the antithesis of the all-loving mother. In other words, motherhood is a political institution (Rich, 1979: 196) which is constructed according to prevailing social and political values.

As a form of moral regulation, the 'motherhood myth' (Forna, 1999: 1) drove the nineteenth-century perception and construction of baby-farmers since they were the unnatural, adoptive mothers who killed for a living. Infant deaths were a common feature of nineteenth- and early twentieth-century societies as a result of high infant mortality rates, as well as the proliferation of baby-farmers who purchased unwanted babies from unmarried mothers. Compared with today, such

deaths were rarely investigated unless they could be connected with 'unnatural' maternal or childcare practices. Through the moral panic analysis in Chapter 3, I explained how infanticide was perceived as the worst crime possible when committed by baby-farmers, while the infanticidal mother was often treated leniently by the law, even in the face of evidence of killing. Nineteenth-century juries and judges found ways around the harshness of the regulation of the criminal law, relying on various notions of insanity and/or poverty to excuse women accused of murdering their illegitimate offspring. In other words,

[t]he cumulative effect was a legally exculpatory attitude towards infanticidal women. A blind eye was turned in the first place, a charge of concealment of birth was brought in the second, the criminal law gave women the benefit of doubt about moment of birth in the third, and the Home Secretary ensured finally ... [that the death sentence was commuted to life imprisonment].

(Smith, 1981: 147)

In the 1990s and 2000s, four multiple infant death cases were prosecuted in Britain involving mothers whose babies had died from unexplained causes.¹ On the face of it, there appears to be little in common between infant deaths a century ago and infant deaths now. In the nineteenth century, police investigators and coroners were faced with considerable difficulties in determining the causes of death of abandoned and buried babies, so that most mothers and baby-farmers who committed infanticide were never traced, charged or prosecuted. Of those who were, circumstantial evidence played a large part in their trials, with constructs of 'bad' mothering and 'wicked' women overriding lack of evidence of cause of death. If convicted of murder, they received not only the law's highest penalty (life imprisonment or death) but society's greatest condemnation, as newspaper editors and letter writers competed for words of outrage to describe these 'unnatural creatures'. In the twentieth and twenty-first centuries, this outrage against mothers accused of infanticide has been no less palpable. Multiple infant death cases often involve no discernible cause of death so that circumstantial evidence is relied upon to prosecute and convict mothers whose infant children have died unexpectedly, with constructs of 'bad' mothering and 'wicked' women also overriding lack of evidence of cause of death.

This chapter will trace the sexed female body through the twentieth century up to the early twenty-first century in order to understand the multiple infant murder convictions of Donna Anthony, Sally

Clark and Angela Cannings, who were all subsequently acquitted on appeal. A fourth mother, Trupti Patel, was acquitted of the murder of her three babies at trial. This chapter will investigate the extent to which the motherhood myth influenced the perception of modern-day mothers accused of killing their infant children, given that the sexed female body—sexed good or bad—has, historically, been the vehicle for imposing moral regulation on women.

These multiple infant death cases will reveal today's cultural expectations of women and motherhood and the extent to which the female body is sexed according to centuries-old notions of motherhood and womanhood. The moral regulatory function of the criminal justice system, which has been the focus of this book, is also under the spotlight, in that the fundamental principles which protect an accused person from an unfair trial, arguably, failed in the Anthony, Clark and Canning cases.

Unlike the nineteenth century, in developed countries today low infant mortality rates mean that suspicious infant deaths attract considerable public and media attention, multiple infant deaths even more so. Today, maternal infanticide is also the subject of much academic inquiry, with several theories in the literature which attempt to explain why mothers kill their children (Resnick, 1969, 1970; d'Orbán, 1979; Meyer and Oberman, 2001; Oberman, 2003; Spinelli, 2008). This is, of course, a legitimate inquiry where there is clear evidence that a mother has killed one or more of her children. But within some of this literature one finds the cultural expectations associated with the sexed female body and representations of 'good' and 'bad' mothers as part of the 'scientific' explanation for infanticide.

By charting the influence of the sexed female body in the convictions of Anthony, Clark and Cannings, I will investigate (i) how the image of motherhood has continued to be manipulated to create a threat to the moral order more than a century after Waters' conviction; (ii) the extent to which nineteenth-century constructions of the 'mad' and 'bad' woman have influenced today's common-sense knowledge about 'unnatural' mothers; and (iii) whether or not modern-day cases of multiple infanticide constitute examples of the continuing moral regulation of the female body.

Some statistics about infanticide: Keeping things in perspective

As I argued in Chapter 1, it is important to keep the incidence of maternal infanticide in perspective. Historically, there have been considerable

variations in the death rate between children aged 0–1 year, 1–5 years and 5 years and over, a fact that still prevails today, with the mortality rate for infants higher than for all other age groups of children (Pritchard and Butler, 2003). The World Health Organisation (2013) states that '[i]n 2012, almost 5 million (73% of all under-five deaths) occurred within the first year of life'.

Worldwide, the vast majority of infant deaths are caused by disease, prematurity and birth trauma, with only 4% of infant deaths caused by injuries. In 2011, the four major causes of death of children under five years were pneumonia (17.5%), prematurity (16.9%), birth asphyxia and birth trauma (11.3%) and diarrhoeal diseases (WHO-UNICEF Child Health Epidemiology Reference Group (CHERG) estimates, 2013).² For the ten-year period 2000–2010, Table 4.1 sets out the number of children in the UK who died from injuries compared with all causes.

As Table 4.1 shows, death by injury is a small proportion of all causes of death (average 4.7%), with the World Health Organisation

Table 4.1 Number of child deaths in the UK, 0–4 years 2000–2010³

Year	All causes	Death by accidental and non-accidental injury (%)
2000	4,557	228 (5.0)
2001	4,439	214 (4.8)
2002	4,274	208 (4.9)
2003	4,207	183 (4.4)
2004	4,173	173 (4.2)
2005	4,176	160 (3.8)
2006	4,217	185 (4.4)
2007	4,224	163 (3.9)
2008	4,303	170 (4.0)
2009	4,345	166 (3.8)
2010	4,327	166 (3.8)
TOTAL	43,018	2,016 (4.7)

reporting that most deaths for children under the age of four in the UK were caused by prematurity and congenital abnormalities. Where a child's death is suspected or known to be caused by homicide, 'extremes of child abuse' tend to be associated with the child's death, with most offenders being related to the child (Pritchard and Butler, 2003: 341; 347). Indeed, male perpetrators account for the majority of deliberate child deaths under the age of five years (Rapaport, 2006: 536).

Child mortality rates reflect the 'underlying socioeconomic circumstances' of a particular country, including inequalities arising from wealth distribution (Pritchard and Butler, 2003: 347), while children in developed countries do not die from the diseases common in developing countries. In developed countries, relative poverty is associated with both child neglect and child mortality, with poorer children dying 'at a disproportionately higher rate than affluent children'. In a study of 19 developed countries, the age group most at risk of homicide was found to be children aged 0–1 year, although rates of infanticide vary from country to country. England and Wales ranked 17th (at five per million) with infant homicides making up only 0.097% of total infant deaths (Pritchard, Davey and Williams, 2013: 1405, 1417; see also The Office for Standards in Education, Children's Services and Skills (Ofsted), 2010; Sidebotham et al., 2012).

This means that child homicides are extremely rare events with the estimated annual numbers of violent childhood deaths in England and Wales being 5–15 infants, and 15–45 children aged 1–14 years (Sidebotham et al., 2012: 196). By comparison, at 29 per million, unascertained infant deaths are more common than death by homicide. They make up 0.56% of total baby deaths. Even if we assume that all unascertained child deaths are homicides, the combination of the two categories shows that England and Wales rank equal 13th out of 19 countries (at 15 per million or 1 in 141,812 infants), which again 'highlight[s] just how statistically rare homicide of children in the majority of Western countries is' (Pritchard et al., 2013: 1417, 1421).

Between 1973–1974 and 2011–2012, the number of people convicted of infanticide compared with all homicides in England and Wales was remarkably small. As the total number of homicides has increased, the number of infanticides has decreased from 24 out of 745 homicides (3.2%) in 1973–1974 to 3 out of 829 (0.4%) in 2008–2011.⁴ This decrease is reflected in a significant decrease in the incidence of child mortality from assault in England and Wales, dropping from 113 to 26 per 100,000 (77%) between 1974 and 2008, while the rate of infant deaths as a result

Table 4.2 Relationship of suspect to victims of homicide under the age of 16 years, 2007–2008 to 2011–2012 (UK)⁵

Identity of principal suspect	Number	Percentage (%)
Parent	176	67.1
Other family/friend/acquaintance	34	13.0
Stranger	22	8.4
No suspect identified	30	11.5
Total homicides where victim is under 16 years of age	262	100.0

of assault decreased from 5.6 per 100,000 to 0.7 per 100,000 during the same period (Sidebotham et al., 2012: 194).

Violence that causes infant deaths is, therefore, an exceptional form of human behaviour,⁶ with the most common perpetrators of infanticide being parents as seen in Table 4.2.

Contrary to press reports of mothers who kill, '[m]en predominate in the homicide of children less than one year of age, as they do with the older under-fives. Only newborns and children under one week in age are at greatest risk from their mothers' (Rapaport, 2006: 536), with neonaticidal women usually suffering from psychosis and social problems (Krischer et al., 2007). Yampolskaya, Greenbaum and Berson (2009) report that, although studies produce mixed results, most have found that perpetrators of filicide are predominantly male, being either biological fathers or biologically unrelated males in the household. In their own study, Yampolskaya et al. (2009) found that men were almost three times more likely than women to commit filicide, while non-biological parents were almost 17 times more likely to commit a fatal assault on their child compared to biological parents (compare Brookman and Nolan, 2006: 871).

In a study of 23 child assailants, Pritchard et al. (2013: 1422–1423) also found that the most likely child murderer was a 'stepfather' with a previous history of violence. For perpetrators who were biologically related to the child, mothers with a child on the Child Protection Register were the next most likely to kill, followed by mentally ill fathers and mentally ill mothers. A study by Brandon et al. (2008) supported these findings—of 34 child deaths studied, 53% involved violence by a male perpetrator while 63% of parental assailants had a current or previous mental disorder.⁷ Similarly, Schnitzer and Ewigman's (2005: e690) study of 149 deaths of children under five years of age in Missouri, US between 1992 and 1999 found that the majority of known assailants

were male (71.2%), with most being the child's father (34.9%) or the mother's boyfriend (24.2%). In only 19.7% of cases was the perpetrator the child's mother. A review by Bourget et al. (2007: 77) found that women commit most of the child killings during the first week of life, whereas fathers and stepfathers commit most child killings after the first week. In other words, by the late twentieth century, as rates of infanticide decreased along with a decreasing illegitimacy rate, men eventually overtook women as the most common perpetrator of child-murder. Despite these data, paternal filicide 'has attracted limited research'.

In relation to risk factors, for the 194 children who either died or were seriously injured between 1 April 2009 and 31 March 2010 in the UK, Ofsted (2010: 10) reported:

domestic violence was a factor in cases involving 61 children, mental ill-health for 44 children, drug misuse for 36 children and alcohol abuse for 27 children. Other family risk factors... included previous or current offending behaviour by the parents, family homelessness, suicide or attempted suicide by a parent, self-harming behaviour either of the parents or of the children, death of the mother by natural causes, and disability of a parent.

Sidebotham et al. (2001) reported the demographic factors linked to a risk of child abuse. For mothers these included: maternal age less than 20 years, relatively low educational achievement, history of sexual abuse, use of child guidance or adolescent psychiatric services, absence of father during the mother's childhood and a previous history of psychiatric illness. Similar demographic factors were found in the backgrounds of abusive fathers: aged less than 20 years of age, relatively low educational achievement, an experience of out-of-home-care during childhood and a history of psychiatric illness.

By contrast, a review by Porter and Gavin (2010: 103) concluded that '[t]he majority of infanticides and neonaticides are not related to [a] woman's mental illness', although the results of some of the studies they reviewed were misrepresented. For example, while Porter and Gavin (2010) interpreted the study of Krischer et al. (2007) to report that most neonaticidal mothers were merely angry, Krischer et al. (2007: 197–198) actually reported that most neonaticidal mothers were severely disturbed, psychotic women who were socially troubled. Infanticidal mothers had a similar background, while mothers who killed older children were 'severely depressed with a history of self-directed violence'.

Pritchard et al. (2013: 1428–1429; original emphases) also concluded that ‘[t]he key to identifying potential assailants is to recognise... their *psycho-psychiatric* situation... though poverty invariably makes a difficult situation worse’ and that it is necessary to recognise the dangers associated with non-biological carers who have a history of serious violence.

Given the rarity of child homicide in England and Wales, as well as the demographic and psychological backgrounds of those who do kill children, no one considered why Anthony, Clark, Cannings and Patel, who were not living in poverty and for whom there had been no previous reports of child abuse or mental illness, would, for no apparent reason, kill their infant children. What then was the legal and cultural impetus for their prosecutions, particularly given that child homicide is a rarer event than unascertained (also known as SIDS) deaths? Why did law (and later psychiatry) continue to focus on the moral regulation of women, rather than men who killed? And why do the media gather like vultures around the sexed body of the infanticidal woman, rather than the infanticidal man? In order to address these questions, I chart the relationship between the female body and concepts of motherhood within the disciplines of law and psychiatry.

Constructions of women, madness and motherhood

In brief, the answers to the above questions seem to lie in the nature of the sexed female body. When a mother kills, it challenges cultural and biological conceptions of women and motherhood. Throughout history infanticidal mothers have been documented in myths, poems, novels, opera, plays, the media, legal and medical texts as either ‘mad’ or ‘bad’ (Smith, 1981; Showalter, 1985; Thorn, 2003; Scher, 2005; Goc, 2007; Kilday, 2013). As Chapter 3 illustrated, since at least the middle of the nineteenth century, deviant, unnatural women have been the subject of intense media focus. Salient warnings about the evil power of women are found in fairy stories and folk tales about jealous stepmothers and wicked witches. As moral tales, they constitute a subtle form of moral regulation by making an example of undesirable ‘types’ of women and encouraging morally upright behaviour. Scher (2005: 43; 67) considers that:

Underlying all stories about the murderous mother is an unconscious fear of infanticide and fantasy of maternal destructiveness that is repressed in the individual psyche... [and] given expression

in our cultural narratives such as myths, fairytales, ... drama, novels, and poetry. Murderous mothers fill these narratives and [i]n these nightmare worlds, the murderous mother assumes monstrous forms, appearing and reappearing in the guise of serpent-dragons ..., witches ..., or mythic *phasma* The monstrous mother of infantile fantasy remains buried in the unconscious of all adults.

This chapter will examine the use of cultural myths about motherhood as a form of moral regulation in legal and medical discourse, in order to understand social anxiety around mothers and why infanticidal women are still perceived as a 'threat to the social order' (Feinman, 1986: 3). An accusation of infanticide highlights the disjuncture between the revered status of 'mother', the underlying expectations associated with the maternal body and the hostility towards infanticidal mothers. Even academics have been responsible for the perpetration of the dualism surrounding mothers as mad or bad: 'we conceive of the crime of infanticide as [an] ... exceptional act committed by a deranged or evil woman' (Meyer and Oberman, 2001: 177; see also Sparrow, 1970: 7).

By charting the evolution of the mad/bad dualism throughout the nineteenth and twentieth centuries, I will examine whether it was the heuristic cue (defined below) that affected decision-making in the Anthony, Clark and Canning trials, not only by the jury but also the judicial and medical interpretation of the evidence in each case. In particular, three authoritative sources for creating 'reality', medicine, the criminal trial and the media, will be examined to discern the ways in which the 'bad' or 'mad' mother has been constructed over the past 180 years, from the time when, around 1820, the medical profession first introduced the idea that the condition of femaleness was a form of madness.

Manufacturing madness: The 'rational' view of the female body

An interrogation of early, mid- and late nineteenth-century medical articles and texts shows that 'medical discourse was deeply imbued with Victorian moral values' (Smith, 1981: 66). At a time when there was no scientific data to prove the existence of psychiatric disorders, '[t]he language of [nineteenth-century] psychiatric medicine ... [was] as culturally determined and revealing in its metaphors as the language of fiction' (Showalter, 1985: 5). In essence, the new, emerging discipline of psychiatry was heavily involved in the moral regulation of women, the poor, the homeless and the aged. As the medicalisation (see definition below) of female criminality became more and more entrenched throughout

the nineteenth and twentieth centuries, infanticidal mothers were seemingly everywhere. The evil body of woman of the nineteenth century was transformed under the guise of psychiatric explanations of infanticide. Whether or not the language of twentieth-century science is as 'culturally determined and revealing in its metaphors' in relation to assessments of causes of death in multiple infant death cases is the question for this chapter.

The journey into the twentieth century must begin with the nineteenth and the work of early psychiatrists, such as Gooch (1820, 1829), Reid (1848), Bucknill and Tuke (1858), Batty Tuke (1865), Maudsley (1868, 1871), Campbell Clark (1887) and Clouston (1887), who developed the thesis that mental disorders associated with pregnancy, childbirth and lactation caused infanticide. These early psychiatric writings defined the female condition as a form of madness, with every biological cycle of women being causally related to different types of insanity, with 'madness as the essential feminine nature unveiling itself before scientific male rationality' (Showalter, 1985: 3).

Showalter (1985: 10) considers that the 'troubling, ambiguous nature of female insanity was...perpetuated by three major Romantic images...: the suicidal Ophelia, the sentimental Crazy Jane; and the violent Lucia', since all three established female sexuality and nature as the source of madness. Even when men and women exhibited similar symptoms of mental illness, women were diagnosed according to the values associated with the sexed female body, so that female mental illness was referable to the 'hysteria' associated with menstruation, pregnancy, childbirth, lactation or menopause.

While those deemed insane by the criminal justice system 'had an uneasy existence between prison and the asylum, between discourses of guilt and disease' (Smith, 1981: 34), female lunatics had an uneasy existence between discourses of the body, female biology and madness, with the female body becoming *the* site for moral control in the nineteenth century as the new mental asylums were established from 1845 onwards, discussed below. In other words, the asylum which was 'centered on the theme of paternal authority' and parent-child relations, was 'a religious domain without religion, a domain of pure morality, of ethical uniformity' which imposed segregation for the purposes of moral purification (Foucault, 1991: 148, 150, 162).

The struggle to understand maternal infanticide begins with two nineteenth-century beliefs—that women's bodies were associated with the creation and nurture of life, and that women's nature was biologically determined and ruled by their animal passions. For example, a

memorandum written to the Home Secretary in 1882 about the number of women who had been convicted of murder in the previous 20 years noted that '[w]omen have as a rule less power of self control than men, and often act hastily under the influence of feelings and emotions to which men are comparatively or altogether strangers' (Knelman, 1998: 18).

In terms of the values associated with the female body, there were only two ways to understand infanticide—as the result of 'wicked intention' resulting in a crime of 'the very deepest dye' and against everything 'the Author of our nature has planted in the breast of every female creature, ... the preservation of its young'. Or infanticide was 'committed under a phrensy from despair ... from a fever, or in lunacy' which should 'raise our pity' (Hunter, 1783: 7). With puerperal insanity, Patmore's 'Angel in the House' transformed from perfection into her other suppressed identity, a threat to herself, her husband and children.

The definition of female insanity sprang from male doctors' own irrational reasoning, which probably accounted for the 'statistical overrepresentation of women among the mentally ill' and 'the rise of the Victorian madwoman' (Showalter, 1985: 3, 55). With all counties and large boroughs required to construct asylums after the enactment of the Lunatics Act in 1845, the mentally ill population increased. By the 1850s most inmates were female, with asylums also becoming refuges for the poor, the infirm and the diseased (Showalter, 1985: 17, 55).

Discussions of insanity centred on physical causes which extended into moral causes, such as poverty, jealousy and unemployment, and gave rise to the term 'moral insanity' (Smith, 1981; Showalter, 1985). Even social factors such as poverty were located in the body, in that poverty was not just a social issue but a moral problem, for which the individual, him- or herself, was responsible (compare Marland (2003: 306)). This crossover into morality gave rise to the view that the female body had the potential for madness at any point where her behaviour did not match social expectations, such that swearing and salaciousness were also considered to be signs of lunacy in women (Maudsley, 1871; MacLeod, 1886; Baker, 1902).

The new emphasis on heredity as the cause of mental illness from about 1850 onwards emphasised the biological basis of insanity and the femaleness of this biology: woman and nature were interchangeable terms (Smith, 1981: 143). Insanity was not believed to be a disease, but different forms 'were stages of degeneration' from certain social standards expected of the human condition. Since the control of criminal behaviour and insanity was 'basic to social hygiene', early psychiatry

deemed those who disobeyed moral laws as criminals or criminally insane who needed to be controlled or cared for (Smith, 1981: 56). In this way, medicine was used to morally regulate the social domain and justify the incarceration of miscreants.

The weaknesses in medicine's explanations of insanity were exemplified by the jurist Fitzjames Stephen (1883: 131, cited in Smith, 1981: 58), who wrote:

I have found the greatest difficulty in discovering in [medical works on madness]... a definite account of the course of symptoms collectively constituting the disease. Most of the authors... insist... that insanity is a disease, but hardly any of them describe it as a disease.... [A]most all, describe a number of states of mind which do not appear to have any necessary or obvious connection with each other. These they classify in ways which are ultimately admitted to be... unsatisfactory.

In relation to puerperal insanity, MacKenzie (1851: 504) also recognised that 'much diversity of opinion prevails... and it would be as difficult to deduce from them a satisfactory theory of the disease', particularly since both poverty and wealthy idleness were cited as causes.

Fortunately, courts sometimes refused to accept that irrational or out-of-character behaviour necessarily amounted to insanity. Indeed, some judges recognised the lack of diagnostic skill in the profession of psychiatry and believed that juries were just as capable as doctors in assessing a defendant's mental state (Smith, 1981: 62). Maudsley (1868: 473, cited in Smith, 1981: 55) also recognised the circularity of the reasoning of this new science:

Thus, we infer unsoundness of mind because of the character of the acts; and, ... it is because we think there is disease of mind that we pronounce the acts insane.

Indeed, it was the character of the acts encapsulated in the term 'moral insanity' that led to pronouncements of insanity. When it came to women, this circularity of reasoning was particularly insidious, as women's immoral acts were all attributable to an unsound mind. Without empirical studies, the 'science' of the mind was inherently subjective, relying on moral stereotypes associated with the body and class. In fact, the wide range of apparent causes, from poverty, idleness and heredity to morality, anxiety, distress and marital problems, meant that

diagnosis was linked to the behaviour and circumstances of the woman in question and her inherent femaleness. So much so that puerperal and moral insanity became a catch-all phrase for a variety of 'unfeminine' responses to childbirth, including the delirium of puerperal fever which was caused by infection due to unhygienic medical practices (Loudon, 1992).

Rather than describing a state of disease, the nineteenth-century psychiatrist had only clinical signs and symptoms at his disposal. Contemporary accounts in lectures and textbooks illustrate the significance of visual signs for early psychiatrists, such as 'rapid talking', 'volleys of abominable oaths and obscenities', 'obscene and salacious conversation', the patient is 'stupid and dull' one day and 'more or less intelligent' the next (MacLeod, 1886: 239; see also Campbell Clark, 1887). Conversely, when well-to-do women suffered from puerperal insanity, it was due to their idle lives and heightened sensibilities (MacLeod, 1886).

Reid's (1848, cited in Bucknill and Tuke, 1858: 238–239) description of puerperal insanity, which was due to the 'vast changes in the uterine organs during pregnancy', also illustrates how 'insane' women's behaviour contrasted with Victorian expectations: 'the talking is almost incessant'; 'a total negligence of, and often very strong aversion to, her child and husband are evinced'; 'explosions of anger occur, with vociferous and violent gesticulations'; 'most awful oaths and imprecations are now uttered, and language used which astonishes her friends', compared to her previous 'correct, modest demeanour'. This loss of mental control was put down to the release of women's innate immorality and state of evil; when religious and moral principles were weakened by disease, 'the subterranean fires become active, and the crater gives forth smoke and flame' (Bucknill and Tuke, 1858: 273).

The imprecision of early psychiatry can be found in the definition of 'moral insanity', a term coined by Pritchard (1835). It was 'a generic term for emotional and volitional disorder', with 'the varieties of moral insanity... as numerous as the modifications of feeling or passion in the human mind' (Smith, 1981: 114). The concept showed the overlap between medicine and Victorian moral values and the role of psychiatry in morally regulating the boundaries of social norms, turning 'social cultivation' and morally upright behaviour into biological destiny and 'degenerative' behaviour into evidence of mental disease.

The power to objectify women came from men's and medicine's superior social standing, with psychiatric diagnoses of women representing women's social status. A dualistic 'language of representation' (Showalter, 1985: 3) underpinned the sexing of male and female bodies

according to the values associated with maleness and femaleness, which produced opposing cultural constructs: 'man' was stable and sane while 'woman' was unstable and irrational. Women's 'natural' passivity meant that the expression of alternative behaviours or personalities was a perversity. If too emotional and/or sexual they went against their nature: '[w]omen gave life, but at the cost of menstruation, emotional dependency, nervous weakness, and a world view restricted to the family'. By contrast, man corresponded to 'culture, activity, intellect, and responsibility' (Smith, 1981: 144). Maudsley (1871: 34–35) believed that 'the appearance of sexual feelings' in men, compared to women, was accompanied by 'the highest feelings of mankind, social, moral, and even religious'. Although some thought that if a girl was allowed the same education as a boy 'she would resemble him in tastes, feelings, pursuits, and powers', this was as absurd as saying that:

the antlers of the stag, the human beard, and the cock's comb, are effects of education; or that, by putting a girl to the same education as a boy, the female generative organs might be transformed into male organs.

(Maudsley, 1871: 35)

The medical view of women's innate, passive and obedient nature had particular salience in relation to explanations of infanticide (Smith, 1981). While the law had been punishing infanticide as a crime against nature by 'lewd' women since 1624 (as discussed below) and making a connection between infanticide and female insanity as a defence to murder, it was in the nineteenth century that medicine caught up with the law and gave the passive and obedient qualities of the sexed female body a veneer of scientific validity, and a diagnosis for unnatural acts of motherhood—insanity.

The law took the lead in seeking medical opinion in infanticide cases, creating an 'institutional framework into which medical evidence linking infanticide and lunacy could be placed' and justifying acquittals. However, scientific evidence was not always required, with some judges accepting a lay definition of insanity based on the destitute circumstances of a woman's life (Smith, 1981: 148–149) and clearly accepting that certain living conditions led to 'irrational' decisions. This meant that the mere act of infanticide was, itself, evidence of insanity.

With '[l]ay meanings . . . growing into medical meanings' and women's social choices being interpreted through a medical lens, law and medicine shared a common language about the weakness of the female

mind. But as medical terminology was adopted in the courts in infanticide cases, '[t]he medical language of individual internal disorder emptied the violent act of external social meaning' (Smith, 1981: 149). The act of infanticide became something to be cured by psychiatric treatment, thus obscuring the social conditions in which women killed their offspring, as well as women's agency in ridding themselves of unwanted children. In this way, female insanity was not a disease but a label to excuse or explain a woman's divergence from the norm of motherhood.

All of this was possible by adopting the sexed female body as the reference point. The naturally weak, passive, obedient and maternal female body was the measure for ideal motherhood. Any deviation from this norm meant that the female body was associated with the shortcomings of its biology, so that pregnancy, childbirth and lactation became the causes of female mental illness.

By locating the causes of insanity in the sexed female body, the legal and medical analysis of the female mind meant there could be no investigation of whether or not infanticide was a rational response to abnormal social circumstances in which infant life was unsustainable. An insanity verdict drained the act of infanticide of its social and economic meaning.

Indeed, women uniquely shouldered the burdens of childbirth and childcare and, if unmarried, deserted or widowed, the economic burdens. But as passive objects of clemency, they were at the mercy of law and medicine which sought to recast the reality of their lives into discourses about the perverse emotional effects of menstruation, pregnancy, childbirth and lactation or a life of immorality. As revealed in this chapter, compared to the male body, the sexed female body represented the social standard of morality (the moral body) but also required high levels of moral regulation, and was circumscribed by the language of men's desires, needs and demands. While femaleness was a condition from which there was no escape in the nineteenth century, was it also a straight-jacket for twentieth-century mothers accused of murdering their children, even as women gained access to a raft of political and economic rights unavailable in the century before?

Moral regulation, the female body and infanticide: A history

The study of the crime of infanticide through the centuries is a study of the moral regulation of the female body as the deviant body that required constant moral regulation to control a range of morally undesirable behaviours.

Historically, infanticide was used in many societies as a form of population control (Oberman, 2003 Kilday, 2013). Possibly as a result of social toleration, reports and punishment of this crime rarely occurred in England and Wales before the seventeenth century. An early case, documented in 1226, inquired into whether a mother had killed her child 'from madness or maliciously and intentionally'. If the former, she would not be punished (Kellum, 1974: 373), giving us a hint that the limits of social toleration hinged on perceptions of maternal motive.

The jurisdiction for punishing infanticide was originally held by the ecclesiastical courts, although secular courts had the jurisdiction to deal with infanticide as murder from the reign of Henry I (Damme, 1978). Illegitimacy entered the statute books as a moral and legal problem in 1576 under the Elizabethan Poor Law (18 Eliz. I, c.3). Although the ecclesiastical courts had been punishing sexual licentiousness for centuries (Outhwaite, 2006), magistrates were given a new power to uncover and punish bastardy so as to alleviate parishes from financial responsibility for bastard children. Not surprisingly, this early Poor Law had the opposite effect, since threats of prosecution made against unmarried mothers in order to identify the father of the illegitimate offspring saw an increase in the infanticide rate of bastard children (Hoffer and Hull, 1981: 11–25).

With previous punishments for bastardy stifled by the reality of women's lives, the Poor Law Enforcement Act of 1609 (James I, c.4) declared that '[e]very lewd woman which shall have any bastard which may be chargeable to the parish, the justices of the peace shall commit such woman to the house of correction, to be punished and set to work, during the term of one whole year'. 'Lewd' women who 'avoid[ed] their shame' by concealing the death of their bastard children became the subject of the Act to Prevent the Destroying and Murthering of Bastard Children of 1624 (21 James I, c.27), which was designed to address the increase in infanticide after the 1576 Act (Hoffer and Hull, 1981). By dealing with the social and economic consequences of illegitimacy through infanticide, women had invited further moral regulation, as if their acts of defiance produced a moral quagmire that Jacobean society could not stomach or solve, with the 1624 Act describing child murder as a 'great Mischeife' which was so obvious that the murder 'hardlie it is to be proved', since all unmarried mothers were 'lewd'.

The 1624 Act increased the degree of moral regulation over unmarried mothers and the likelihood of successful prosecutions by reversing the common law presumption that a dead infant was stillborn (Taylor, 1858) and replacing it with another presumption—that the buried or

concealed body of an illegitimate infant was a murdered infant. Considered to be a severe burden (Blackstone, 1765–1769: 198), the unmarried mother was required to prove her child was stillborn:

in every such Case the said Mother soe offending shall suffer Death as in the Case of Murther, except such Mother can make proof by one Witness at the least, that the Child . . . was borne dead.

(21 James I, c.27)

Because the 'lewd' woman was the only person who could be prosecuted even if another person killed her child, she was symbolic of the social evil of infanticide, with fathers notably absent from the tighter moral regulation erected around unmarried mothers.

While the 1624 Act saw prosecutions against unmarried women increase by a factor of four (Hoffer and Hull, 1981), during its 180-year history, the Act saw the development of unusual defences to ameliorate its harshness (Seaborne Davies, 1937), including the production of baby's linen (to prove preparation for birth), a claim of surprise delivery or a defence of temporary insanity, which could be based on something as simple as a late delivery and 'want of sleep'. But if a woman attempted to hide the child's body or if her husband denied paternity, no such leniency was available (Walker, 1968: 127).

Although there were four earlier attempts to overcome the harshness of the 1624 Act in the 1770s (Kilday, 2013: 113), it was not until 1803 that repeal was successful under Lord Ellenborough's Act, with parliamentarians eventually conceding that the 1624 Act had been found 'difficult and inconvenient to be put in practice' (42 Geo 3, c.58, ss1–4) and making the 'standards of proof easier to achieve' (Kilday, 2013: 114). The focus of the new legislation was still on the moral regulation of unmarried women, whose acts of infanticide would now be prosecuted but without any presumptions in favour of murder. An alternative charge of concealment of birth was available if a jury was not satisfied beyond reasonable doubt that the unmarried mother had intended to kill. This new offence allowed juries to convict an unmarried woman of something rather than acquit altogether, a task they enthusiastically adopted.

The popularity of the verdict of concealment of birth can be seen in the committals for trial for the offence over nearly 30 years, with the verdict increasing from 126 in 1834–1836, to 246 in 1837–1841 and to 522 in 1857–1861 (Seaborne Davies, 1937: 218), indicating that juries were less prepared to convict for murder than they were for concealment

of birth, which only attracted two years' imprisonment rather than the death penalty.

Under the Offences Against the Person Act of 1828 (9 Geo. 4, c.31), the crime of concealment of birth was amended to morally regulate *all* mothers who concealed the bodies of their dead infants, providing an alternative to a charge of murder for all working-class women for whom infanticide was likely to be a last resort. This 1828 Act also made it easier for a jury to convict, since the prosecution was no longer required to prove that a dead child had been born alive. Since concealment now covered both stillbirths and live births, the act of concealment itself became the immoral act. It was not until the Offences Against the Person Act of 1861 that concealment of birth became an independent, substantive offence that could be charged separately from a charge of murder and against any person, not just the mother of a dead infant (Seaborne Davies, 1937: 215–216), suggesting that the welfare of children was becoming a parliamentary concern. Yet variations in jury verdicts and judicial sympathies meant that prosecutions were a lottery, which made 'little more than a mockery of justice' and amounted to 'a silent sanction to the detestable practice [of infanticide]... which brings indelible disgrace upon a nation' (Ryan, 1862: 26).

Regulation of the sexually licentious, infanticidal woman was considered to be essential for maintaining social and economic order by preventing her from committing 'deeds against nature' in ridding herself of the product of her lust (Lake, 1993: 264). As discussed in Chapter 3, this regulation represented the moral values prevalent at the time: permissive male sexuality, indifference about the vulnerability of women to sexual liaisons and the shame of illegitimacy, as well as the place of women in the social hierarchy: '[i]n the playhouses, in anatomical illustrations and in crime chapbooks of the early seventeenth century, women are defined by their aberrant sexual natures and their ability to corrupt men' (Cregan, 2001: 129). From at least the sixteenth century onwards, the female body was sexed as 'immoral, uncontrollable and uncontrollable', with unmarried mothers perceived as a 'social evil', representing all that 'was morally wrong with society' (Cregan, 2001: 126).

Nonetheless, the centuries-long history of the moral regulation of the female body and unmarried sex had produced outcomes that were no longer tolerable. Illegitimacy and infanticide, although sinful, were recognised as inevitable outcomes because the Poor Laws in practice placed sole financial responsibility on unmarried mothers and released fathers from their paternal duties. Ironically, as the moral regulation

of women exceeded public acceptability in terms of the financial and moral responsibilities placed on women, judges and juries ameliorated it through the acceptance of lesser charges and the insanity defence in relation to the crime of infanticide, even in the face of evidence to the contrary.

The statute law governing infanticide and how the law was put into practice reveals an ongoing tension between the harshness of the attempts to morally regulate unmarried women and the reluctance by judges and juries to place the burden of illegitimacy onto single women. This tension existed for much of the nineteenth century and eventually resulted in the enactment of the special offence of infanticide in 1922, which addressed the failure of existing laws to prevent infanticide but did not provide 'a partial defence to murder', as Ward (1999: 163) suggests.

Since 1803, the unlawful act of killing an infant in England and Wales had been prosecuted as murder, if there was sufficient evidence to prove both the act (the *actus reus*) and the intention to kill (the *mens rea*), or concealment of birth. However, the Infanticide Act of 1922 created a new offence as an alternative to murder. The crime of infanticide had been first recommended in 1866 by the Royal Commission on Capital Punishment at a time when women were believed to suffer from 'temporary insanity' as a result of childbirth. Nonetheless, the 1872 and 1874 attempts to introduce such an offence failed (Kellett, 1992), despite a recognition that both judges and juries were 'in the van of criminal law reform' (Seaborne Davies, 1937: 220) by refusing to comply with the letter of the law of murder. Sixty-six years after it had first been suggested, infanticide, as a separate and distinct offence, was revived in response to the trial of an unmarried Leicester mother, Edith Roberts, who was sentenced to death for killing her child, although the prosecution had not proved that her child had been born alive (Kilday, 2013: 187).

The new offence of infanticide applied to a mother who killed her 'newly born child' and allowed her act of killing to be prosecuted as manslaughter instead of murder:

Where a woman unlawfully by any wilful act or omission causes the death of her newly born child, but at the time... she had not fully recovered from the effect of giving birth to such child, and by reason thereof the balance of her mind was disturbed, she shall... be guilty of felony, to wit of infanticide, and may... be dealt with... as if she had been guilty of the offence of manslaughter.

(12 & 13 Geo. 5, c. 18)⁸

This new Act echoed nineteenth-century medical theories which proposed that women were subject to forms of mania as a result of menstruation, childbirth and lactation (Maudsley, 1871), constructing women as victims of their biology, but mitigating what would otherwise have amounted to an act of murder by allowing a jury to return a verdict of infanticide, whereby she would be 'punished as if she had been guilty of ... manslaughter'.

The 1922 Act created an offence that effectively criminalised the social disadvantages unique to unmarried mothers but created the myth that infanticide was caused by disturbance of the mind. This made it easier for juries to convict in circumstances where prosecutions for murder had failed in previous decades. But it was at a cost to the infanticidal woman, since the actual mental illness amounting to a disturbed mind was not specified in the 1922 Act, so that proof of specific mental symptoms was not required. As a form of moral regulation, the prosecution was not required to establish a causal connection between the mental illness and the act of infanticide. The female condition, in and of itself, was considered to lead to mental illness, a belief that had been prevalent since at least the late eighteenth century.

With the enactment of the 1922 Act, the moral regulation of women on the grounds of insanity was cemented in law, ensuring that juries could not impose their own moral code by defeating the moral regulation embodied in this new offence. As such, the Act introduced a pathologised version of the infanticidal woman, creating 'a convenient stop-gap' between the difficulties with obtaining a murder conviction and juries' tendency to acquit (Seaborne Davies, 1937: 213). In fact, the offence of infanticide created a presumption of insanity in the name of moral regulation which was unique to English criminal law and provided 'the infanticidal mother with a very half-hearted exemption' (Walker, 1968: 134, 136). While it allowed a mother who killed her infant to be charged with the lesser offence of infanticide, it 'block[ed] acquittal by making it impossible for the mental disturbance to play an exculpatory role' (Boetzkes et al., 1990: 128), and ensuring that all women charged with infanticide, mentally ill or otherwise, were convicted of manslaughter. In this way, the sexed female body, rendered 'insane' by childbirth, is implicit in the legislation, with the Act representing 'an interesting example of myth-making by legislation' about the mental fragility of women (Walker, 1968: 136).

While the new offence appeared to medicalise maternal child-murder, the term 'infanticide' invoked the nineteenth-century view that the killing of an infant was not as heinous as the murder of an adult,

possibly because children's lives were not valued in the same way as adults' lives. The term also recognised that infanticide was not an act of malice, rather an act of economic desperation and shame (Seaborne Davies, 1937). As a result of the 1922 Act, no mother who killed her newly born child was found guilty of murder in the years following, although it is unknown how many such charges were actually laid compared to a charge of infanticide (Walker, 1968: 132).

The crime of infanticide appears to give women special treatment compared with men who commit the same crime since, from 1923 to 1965, sentencing patterns showed a steady decline in imprisonment for infanticide. By 1965, nine out of ten convicted women were committed to a mental institution or placed on probation (Walker, 1968: 133–134). While Walker (1968) recognises this sentencing pattern was part of a broader trend away from imprisonment for *all* offences, his analysis shows that the Infanticide Act gradually shifted infanticide from being a sin (and prosecuted as murder) to a mental illness prosecuted as infanticide and best dealt with by medical treatment.

For some, the 1922 Infanticide Act was 'a clear-cut instance of the medicalization of women's deviance' (Kramer and Watson, 2008: 238, citing Ward, 1999; see also Zedner, 1991), although this view does not investigate the question: did medicine really gain control over what had previously been viewed as a social problem which could only be addressed via criminalisation? Arguably, the 1922 Act conveniently adopted the view that had been prevalent from the early nineteenth century onwards that the biological conditions associated with the female body led to mental disturbance, which justified the need for a special offence associated with childbirth. In other words, women's 'aberrant' behaviour could be explained, not by reference to social context, but by reference to their inferior biological make-up.

When infanticide was first recommended in 1866, it was a response to the difficulties with prosecuting unmarried mothers for murder, not as a response to a new psychiatric discovery. Indeed, the parliamentary debates on the 1922 Infanticide Bill did not refer to any medical information about puerperal insanity (Ward, 1999: 170) while the rationale for the new offence was based entirely on a *layperson's* understanding of the impact of childbirth on a new mother:

The phrase 'balance of her mind was then disturbed' seems to me a particularly happy one; no one can doubt what it means when one visualises the scene in the bedroom. – the child crying, the woman possibly very inexperienced, a difficult labour ... and ... 'the breakfast to be got ready as usual in the morning' ... so that she, under stress

of circumstances and not being mistress of her actions, does what in cold blood she never would have done.

(Ward, 1999: 170, citing a letter from the Director of Public Prosecutions)

Where stringent moral and legal regulation under the offence of murder had failed to prevent infanticide, parliamentarians used the common beliefs about the dangers associated with women's biology to enshrine in legislation that childbirth led to the disturbance of a woman's mind and infanticide. Coincidentally, these beliefs represented current medical thinking at the time, even if a majority of women found guilty under the 1922 Act (and later the 1938 Infanticide Act) were not found to be 'mentally abnormal' when sent to prison (Matheson, 1941).

As a result of various controversial cases where judges found that the 1922 Act did not apply to the killing of an infant older than three to four weeks, the Infanticide Act was amended in 1938 to remove the words 'newly born' and to create a time limit for the offence:

Where a woman by any wilful act or omission causes the death of her child being a child under the age of twelve months, but at the time ... the balance of her mind was disturbed by reason of her not having fully recovered from the effect of giving birth ... or by reason of the effect of lactation consequent upon the birth of the child ... she shall be guilty of felony.

(1 & 2 Geo. 6, c.36)⁹

This provision extended the moral and legal regulation of women for the period of one year after the birth of their children, on the grounds that not just childbirth but also lactation created a disturbance of the female mind. While the 1938 Act has been attacked as embodying an outdated concept of mental illness (Ward, 1999; Kilday, 2013), the purpose of the Act was to use medical terminology for the purposes of morally regulating women who killed their infants.

The impact of essentialist notions associated with the female body meant that if a woman killed her infant she was predestined, as a matter of biology, to have a disturbed mind as a result of either childbirth or lactation. Rather than being a mitigating factor like diminished responsibility, the facts of childbirth and lactation amounted to elements of the offence which could not be disproved by the defence.

The 1922 and 1938 Acts were the first legislative examples of what appeared to be the dependence of law on medicine in morally regulating

the criminal behaviour of women who killed. Nonetheless, Ward (1999: 174) considers that the 1938 Act was 'hardly a convincing example of the "medicalization" of female crime'. It was not so much a victory for psychiatry but merely parliamentary recognition of 'a form of insanity which "had been familiar to the English courtroom since at least the sixteenth century"' (Ward, 1999: 174, citing Eigen, 1995: 148), long before its formal 'discovery' by medicine.

However, a moral regulatory framework assists in interpreting the purpose of both the 1922 and 1938 Acts, since both embody a punitive approach to infanticide but allow a degree of compassion through the legal fiction of insanity associated with childbirth, thus representing the law's engagement with community standards at the time. Paradoxically, this compassion was to women's detriment (as a legal fact, it continued to construct them as a function of their biology and weak mental constitution) *and* to their advantage (it was preferable to a charge of murder).

Infanticide was still seen as a moral rather than a social problem, to be dealt with by medico-legal means. The focus on psychiatric disturbance allowed for social and mental distresses to be taken into account without 'threaten[ing] basic legal tenets of responsibility' (Ward, 1999: 174). While this medical excuse complemented medical knowledge of the time, both law and early psychiatry operated in morally regulatory ways, using the sexed female body as their moral standard. The idea of a disturbed mind as a result of childbirth and/or lactation drew on the negative aspects of the sexed female body to explain the apparent irrational and unnatural act of infanticide. The infanticidal woman was a sexed subject, but a contradiction in terms, being both a wilful criminal and a subject whose biology condemned her *and* excused her; she was both 'bad' and 'mad'.

Conversely, if infanticide was considered to be a rational act in certain circumstances, what would this say about the social conditions of motherhood? Had infanticide been seen as a rational act in a market economy which produced limited employment opportunities for women and no welfare support for unmarried mothers, radical structural changes would have been required.

The laws governing infanticide did not amount to the importation of psychiatric theories into the legal system. Rather, both medicine and law, as different forms of moral regulation, were underpinned by the moral values of the time, which culminated in a medico-legal but undeniably biological view of infanticide in both the 1922 and 1938 Infanticide Acts. By 1922, the law appears to have conveniently embraced

current psychiatric thinking as a justification for a new offence that had first been debated in 1866. But that new offence had developed independently of psychiatric theories, since its rationale in 1866 was not to medicalise infanticide but to find a solution to the difficulties with prosecuting women for child murder. In fact, when the 1922 Act was enacted, it was in response to the harshness of the law of homicide in a particular case.

This discussion shows that the female body has a long history of being morally regulated because of the 'unnatural' act of killing illegitimate infants, with lawmakers involved in convenient 'myth-making' about 'lewd' women or mentally disturbed women driven insane by shame, childbirth or lactation. The laws regulating maternal infanticide represent a clear historical period when the dichotomous meanings associated with the sexed maternal body gained legal status.

Although it appears that madness is the preferred legal and social explanation for understanding infanticide, when madness is not apparent to make the act of child-murder comprehensible, explanations focus on the 'bad' maternal body to explain the 'wicked' act. The sexed female body is a fluid concept that can be massaged to fit the explanation required and to justify particular forms of moral regulation, from psychiatric treatment to life imprisonment.

The fluidity of the sexed female body allows prosecutors to construct a sexed body narrative about selfishness, callousness, neglect or heartlessness, the impact of which may be reinforced by judges advising juries 'to use their "common sense" to reach a verdict' (D'Cruze et al., 2006: 30). The 'bad' mother narrative closes off options for the defence so that, paradoxically, the defence case also relies on the sexed body to construct an alternative narrative of the 'good' mother (Rapaport, 2006: 557). During sentencing the judge can choose between 'bad' or 'mad' constructs to impose a harsh or lenient sentence (Wilczynski, 1991: 79), although, historically, mothers are less likely to be imprisoned, more likely to be paroled and to be hospitalised, compared with fathers who kill their offspring (Walker, 1968; Dobson and Sales, 2000). In this way, the female body sexed 'bad' or 'mad' perpetuates the nineteenth-century moral regulation of women and may contribute to wrongful convictions, discussed later in the chapter.

It is no surprise that the sexed concepts underpinning the 1938 Act are not supported by modern medical and clinical evidence about mental illness (Dobson and Sales, 2000), particularly since lactation insanity was one of the insanities of reproduction invented by psychiatry in the early nineteenth century (discussed below). In fact, contemporary

research questions whether the year after childbirth actually ‘represents a special time, when psychological and biological forces interact to cause mental illness so severe’ that the law should assume a woman cannot be held responsible for her infanticidal acts (Dobson and Sales, 2000: 1099).

The irony of the Infanticide Act is that psychosis after childbirth is a rare mental disorder affecting approximately 1 in 1,000 post-partum women. It does not appear to be related to hormonal changes but is associated with existing or underlying bipolar disorder (Terp and Mortensen, 1998; Hay, 2009; Valdimarsdóttir et al., 2009). There is also ‘little convincing evidence that postpartum depression’ differs from depression in women, generally speaking. Contrary to the premise underlying the Infanticide Act, the act of infanticide as a result of an imbalance of mind after childbirth is not supported by medical research (Dobson and Sales, 2000: 1105).

Pathologising the female body: The insanities of reproduction

Despite changing social and economic conditions and attitudes, the sexed female body of the twentieth century continues to be associated with nineteenth-century essentialist values. Arguably, as discussed below, it is this body that populates the narratives of trials, the media and medicine today. With the background of the offence of infanticide lost to history, it is necessary to trace the provenance of this construction. During the nineteenth century, medicine independently developed a new set of mental disorders known as the insanities of reproduction, which complemented, but did not initiate, the legal regulation of the female body. Nineteenth- and twentieth-century psychiatric texts developed such a complicated narrative of female insanity due to reproduction that if a woman was not considered to be insane, the only option left to understand her infanticidal act was the inherent evil and wickedness of the female body. In the absence of ‘madness’ and a prosecution under the Infanticide Act, the only other interpretation of the infanticidal mother is ‘badness’, a concept that played out in the Anthony, Clark, Cannings and Patel cases, discussed below.

According to Kramar and Watson (2006: 242), Marcé, a French physician, was the ‘accepted medical authority on the “insanities of reproduction”’ in the second half of the nineteenth century, although that honour appears to have been taken by Maudsley (Showalter, 1985). While Morton (1934) considers that puerperal insanity was first described in

1875 by Fürstner, it was described by Macdonald in 1847 (who believed it was due to 'the suppression of breast milk, and its metastatic transference to the brain': Smalldon, 1940: 81), and by Gooch, an obstetrician, even earlier in 1820 and 1829.

In fact, Gooch was the first physician to use the term 'puerperal insanity' and to delineate the symptoms of the disease (MacKenzie, 1851) which was taken up enthusiastically by the medical profession as an explanation for women's uncharacteristic behaviour after childbirth. Although Gooch's diagnosis was based on a mere handful of cases of women's reactions after childbirth, it formed the bedrock for explanations of women's disorders of the mind for the next century, and was used to explain the otherwise unexplainable act of infanticide.

Puerperal insanity, lactation insanity and exhaustion psychosis were arbitrary categories in the insanities of reproduction with arbitrary cut-off points (Baker, 1902). They were invoked to explain infanticide at different stages after childbirth and to explain the different socio-economic conditions and marital status of convicted women, indicating that medicine was also in the business of moral regulation. When infanticide reached its peak in the mid-nineteenth century as a result of an explosion in illegitimate births, it was explained by the term 'puerperal insanity', which was believed to be induced by the shame of giving birth to an illegitimate child, compared with the definition of the term today (Terp and Mortensen, 1998).

Ironically, by the turn of the century most women in Broadmoor Asylum who had been convicted of infanticide were married (Baker, 1902; Hopwood, 1927). This meant that in the twentieth century infanticide was interpreted as a married women's problem because the offence of concealment of birth was the usual charge laid in relation to infanticidal *unmarried* women, who typically received a non-custodial sentence (Walker, 1968). In fact, exhaustion psychosis was the convenient diagnosis to explain the reality of married women's lives, since women with 'an unstable temperament would feel the strain of the puerperium and lactation more acutely' when they had more than one child to look after (Hopwood, 1927: 101–102). Class was a key variable in the diagnosis of exhaustion psychosis, since 'practically all the cases belong to the working or lower middle classes' where financial difficulties, lack of domestic help, insufficient nourishment and domestic servitude led to mothers' mental breakdown (Hopwood, 1927: 101). While Hopwood recognised the social factors leading to infanticide, he attributed it to a *biological* mental condition, rather than a rational act under conditions of stress and poverty.

In reality, puerperal insanity:

was an untidy, elusive disorder...[with] no firm conclusions... regarding its onset, preconditions, causes, prevalence, precise timing or duration...how it should be treated,...the chances of re-occurrence, and whether [poor women or well-to-do women were most susceptible].

(Marland, 2002: 177)

For Darwinian psychiatrists, insanity 'represented an evolutionary reversal, a regression to a lower nature' (Showalter, 1985: 106), which was detectable in physical marks and expressions, such as tics, stammering, asymmetrical features, malformations of faces, eyes, mouths, teeth, ears and noses.

Henry Maudsley, the champion of Darwinian psychiatry and in whose psychiatric writings Darwinian views of insanity found 'its most pungent expression' (Showalter, 1985: 106), believed that lunatics were evolutionary failures, a category into which women, generally, belonged. His book on *The Physiology and Pathology of Mind* (1868) was read widely throughout Europe and republished four times. Together with three other books on mental illness, this book cemented his intellectual leadership of psychiatry up to the late nineteenth century (Showalter, 1985: 117–118).

For Maudsley, hereditary was inescapable, although he had no basis for his theories other than Victorian notions of superiority. In an age where European culture was considered to be the pinnacle of man's evolution, compared to 'savages' in Africa and Australia, Maudsley (1871: 46–51) believed that some human brains did not develop past the animal stage of development. Because it had been proved that the average weight of the adult male brain was 10% greater than the average weight of the adult female brain, it was obvious that men were more intelligent than women (Maudsley, 1871: 52; see also Thurman, 1866).

Maudsley believed that criminals were born wicked with easily recognisable physical deformations, and 'in the case of women, by their ugliness and gracelessness. Crime was a disease, the result of "physiological laws of production and evolution"' (Showalter, 1985: 118, citing Maudsley, 1874: 33). Later in his career, Maudsley admitted that 'the concept of degeneracy had gone too far and had become an ideological weapon' (Showalter, 1985: 119) to deal with all types of deviations from Victorian moral standards. Nonetheless, the nineteenth century saw medicine's colonisation of the human brain with little to assist doctors'

interpretations of mental disease other than their own righteous moral values, and asylums built to house the morally fallen. Women were considered to be at the mercy of their erratic reproductive organs, since doctors medicalised the human condition of being female. It would be middle-class women who would be subject to diagnoses of 'nervous disorders' (Showalter, 1985: 120) and working-class women who would be incarcerated for acts of infanticide.

A woman who acted according to her sex by reproducing 'will necessarily be feebler than man', with the reproductive and other organs in the body having a specific effect upon the mind: 'there can be no question that the brain... is sensible of, and affected by, the conditions of its fellow members' (Maudsley, 1871: 35–36). Gooch (1820, 1829) had first proposed that the female sex organs were implicated in insanity because, since they are 'in action only during half the natural life of an individual, ... [d]uring intervals... they diffuse an unusual excitement throughout the nervous system; witness the hysteric affections of puberty; the nervous susceptibility... during every menstrual period' (cited in MacLeod, 1886: 240). In fact, '[t]he insanities of puberty and early womanhood are very apt to relapse' to cause puerperal insanity (Campbell Clark, 1887: 174–181) and during the long process of pregnancy, childbirth and lactation, 'there is no time at which the mind may not become disordered' (Gooch, 1829: 54). Similarly, Man Burrows (1828: 380) believed that there was 'sympathy' between the brain, breasts and uterus because of the 'similitude in the fabric of those parts'. Indeed, the effect of the reproductive organs was obvious:

[t]he monthly activity of the ovaries... has a notable effect upon the mind and body; wherefore it may become an important cause of mental and physical derangement. Most women at that time are susceptible, irritable, and capricious, any cause of vexation affecting them more seriously than usual; and some who have the insane neurosis exhibit a disturbance of mind which amounts almost to disease.... [M]ania may be a sympathetic morbid effect of the ovarian and uterine excitement, and may represent an exaggeration of the mental irritability which is natural to women at that period.

(Maudsley, 1871: 78)

Other doctors thought that various poisons precipitated puerperal insanity, such as alcohol in lower-class women, for whom 'alcohol is a favourite prescription', while illegitimacy could cause 'nervous excitement' as could chills, anaemia, pelvic inflammation and excitation of

the 'special senses', such as 'reading an exciting novel' or hearing an argument (MacLeod, 1886: 241). MacKenzie (1851: 505) was convinced that puerperal insanity was mainly caused by 'the existence of anaemia antecedently to labour', which was connected to the 'great susceptibility of the [female] nervous system'. MacLeod (1886: 240) thought that heredity produced puerperal insanity but was more dangerous in the female line, as did the birth of an illegitimate child because of the 'moral effect of the shame and degradation'. Curiously, puerperal insanity was as common among the rich as it was among the poor. In this moral climate, the duality of women's nature was apparent to all:

[e]very medical man has observed the extraordinary amount of obscenity, in thought and language, which breaks forth from the most modest and well-nurtured woman under the influence of puerperal mania;...that religious and moral principles alone give strength to the female mind; and that, when these are weakened...the subterranean fires become active, and the crater gives forth smoke and flame.

(Bucknill and Tuke, 1858: 273)

There were three distinct types of disease associated with reproduction: the insanity of pregnancy, puerperal insanity and the insanity of lactation (Maudsley, 1871: 81). These classifications were first described by Batty Tuke in 1865 and were 'generally adopted' by the medical profession (MacLeod, 1886: 239). Long before the Infanticide Acts, the latter two types of insanity were commonly used to explain infanticide in trials of infant-murder, so that by the end of the nineteenth century 'some 60 per cent of the inmates of the Broadmoor hospital for criminally insane women had been committed...for killing their children' (Nelson, 2007: 150).

The belief that women were inherently unstable served as 'evidence' of the fact that women *were* mentally unstable, with female 'lunatics' providing sufficient case studies to support this circular reasoning. One such study was carried out by Baker (1902) who was the Deputy Superintendent of the Broadmoor State Asylum. Originally called the Broadmoor Criminal Lunatic Asylum, this hospital had a notorious reputation from its opening in May 1863 (Stevens, 2013), with inmates who had either been found not guilty of an offence on the grounds of insanity (known as criminal lunatics) or prisoners who had become mentally ill during their term of imprisonment (known as lunatic criminals) (Baker, 1902: 13). Since the asylum's opening, two-thirds of the

female inmates had been from the former class, who mostly suffered from 'delusional mania'. Baker (1902: 14) likened them to animals 'who herd together' but 'are indolent and idle by nature' with no appetite for work:

As a rule they are demonstrative and noisy, obscene in language, degraded in behaviour, and subject to outbursts of paroxysmal violence.... Very frequently these insane manifestations have a sexual bearing, and... this class of lunatic are mainly recruited from women of loose character and irregular life.

Given the frequency with which the insanity defence was pleaded and accepted by judges and juries in infanticide cases, it is probably no surprise that the majority of female criminal lunatics in Broadmoor had been tried for infanticide. Indeed, in the year that Baker was writing (1902: 15), pleas of insanity were still common, with both judge and jury still 'inspire[d]' by pity.

Between 1863 and 1902, a total of 286 women had been committed to Broadmoor as a result of infanticide or attempted infanticide. Despite Baker's recognition of the ready acceptance of the insanity defence by juries on the grounds of *pity*, he proceeded to describe 'the infanticides' as suffering from different types of insanity, even though many would not have met the criteria for a mental disorder. Instead, the act of infanticide, of itself, was deemed to amount to insanity. Such a view perpetuated the idea that women who killed their children were mentally ill as a result of the biological conditions of pregnancy and childbirth, rather than actions resulting from poverty, the shame of illegitimacy and/or abandonment by the father of the child.

Baker (1902: 16) defined 'the infanticides' as falling into the categories first described by Gooch (1820):

the insanity of pregnancy 5 percent
puerperal insanity 35 percent
the insanity of lactation 60 percent

Baker recognised that these classifications were quite arbitrary, with different doctors defining different periods of time after childbirth when puerperal insanity occurred (from six weeks to three months). Further adding to the view that 'the infanticides' were, as a class, insane was Baker's (1902: 25) discovery that 'the brain-weights of homicidal female lunatics [who died in Broadmoor] were below the normal standard of

sane women', although the brain-weights of the lunatic criminals were even more deficient.

Twenty-five years later, the link between childbirth and insanity still prevailed in the psychiatric literature:

Childbirth and lactation entail a severe stress on the female sex, and, under certain circumstances, are liable to cause insanity, during the course of which attempts at infanticide and suicide are common.

(Hopwood, 1927: 95)

The same three classes of insanity were considered to apply, with lactational insanity being due to 'exhaustion psychosis' as a result of lactation. Hopwood (1927: 95–96) reported that for the 25-year period 1 January 1900 to 31 December 1924, 42.8% of 388 (166) female inmates were committed to Broadmoor on the grounds of insanity after being tried for the murder of an infant. Most of these 'infanticides' were married, since the killing of an infant by an *unmarried* mother frequently resulted in the charge of concealment of birth, rather than murder, as discussed above. Despite recognising that financial difficulties, lack of domestic help and insufficient food were more likely to have influenced the behaviour of 'the infanticides', Hopwood stuck to the view that infanticide in such situations was due to 'an exhaustion psychosis' rather than being a rational decision in extreme economic circumstances (Hopwood, 1927: 101; for similar views, see Clarke, 1913; McIlroy, 1928; Zilboorg, 1928; Harris, 1936).

An alternative, atavistic view was expressed by Morton (1934: 68), who believed there was no such thing as puerperal insanity but that the infanticidal women in Holloway Prison were similar to animals who destroy their offspring soon after birth: '[m]ay not, then, a woman, as a result of the strain of her pregnancy ... [and confinement] lose her reason for a short period ... and also destroy her offspring?' Morton (1934: 70) considered that many of his patients suffered from an 'insane gene' and, as this was coupled with poor living conditions, were properly diagnosed as suffering from exhaustion psychosis. Since Morton's theory depended on an unbalanced mind 'as a result of the strain of pregnancy' and the stress of childbirth, the sexed female body with its essentialist, primitive nature also underpinned Morton's resort to biological instincts to explain infanticide.

This discussion shows that the moral regulation of infanticidal women was not solely conducted through the criminal justice system. When that system provided a back door through which a woman could

be freed of responsibility for her behaviour, by linking madness with the biological functions of the female body, the emerging discipline of psychiatry could reveal its special knowledge of women's mental fragility and impose another form of moral regulation. Through its crude analysis of the effect of the female organs on the brain, and by interpreting women's behaviour through a medical lens, psychiatry developed the knowledge and power to explain, cure and control women's lives. While marriage protected women from 'vicious habits such as drunkenness, [and] limitless promiscuity' (Foucault, 1991: 149), medicine imposed a veil of madness to safeguard society and protect infanticidal women from further transgressions.

But did this new form of moral regulation amount to the medicalisation of women's deviance? While Parsons (1951) appears to have been the first to recognise the discipline of medicine as a form of social control (Conrad, 1992), Zola (1972) developed the medicalisation thesis; that is, the development of 'medicine as an institution of social control' (or moral regulation), which involves the transformation of a social problem into an individual problem (Zola, 1972: 487). Medicalisation refers to the 'process by which nonmedical problems become defined and treated as medical problems', with the adoption of 'a medical framework to understand a problem' and the transformation of certain conditions 'from sin to crime to sickness' (Conrad, 1992: 209, 211, 213).

The above discussion shows that the process of medicalisation is one of many forms of moral regulation, with the discipline of psychiatry developing a complex moral regulatory framework throughout the nineteenth century via its theories of women and biology, and acquiring an important new standing by proving the medical and moral necessity of keeping infanticidal women under a new form of lock and key, the insane asylum. But the medicalisation thesis, which assumes a gender neutral position (Riska, 2003: 65), is insufficient for explaining psychiatry's development of the mental disorders associated with the female condition, since it fails to recognise the institutional power of medicine as a discipline which, during the nineteenth century, was exclusively populated by male doctors.

Like other forms of moral regulation, psychiatry acquired the power to name and shame. This is most evident in relation to the development of psychiatric disorders pertaining to women and childbirth, and coincided with an increase in its prestige as a professional discipline. But if women are 'more vulnerable to medicalization than men' (Conrad, 1992: 222), then the sexed bodies approach is needed to interrogate

the reasons why. The above discussion shows that medicalisation of the condition of being female (compared with the normal condition of maleness) involved invocation of the sexed female body in order to justify particular measures of psychiatric control of women who killed; that is, to restore her to a socially desirable state of femininity so that she could resume her position as a wife or mother.

If a medical framework 'decontextualizes social problems and... individualizes... collective social problems' (Conrad, 1992: 223–224), this process mimics the moral regulatory frameworks discussed in Chapter 2, which broadly speaking invoke individuality and morality to justify a particular form of regulation, this being particularly obvious during events that lead to a moral panic.

By the middle of the twentieth century, the view common amongst psychoanalysts and psychiatrists was the simplistic notion that there were 'bad' mothers and 'good' mothers (Zilboorg, 1931; Bowlby, 1940; Erikson, 1950; Fromm, 1964; Murphy, 1964). Zilboorg (1931) considered that because a child represented 'a living expression of the husband's virility' the mother seeks to destroy it. Similarly, Rheingold (1967) believed that all mothers had strong, unconscious feelings of hatred, destructiveness and filicidal impulses towards their children but for different reasons:

the mother is in reality a cannibalistic, vampire-like, or necrophilous person.... Do we know how we would feel if we were... thrown into a pit filled with snakes? Can we express the terror that would strike us, seeing ourselves sentenced to trembling impotence? Yet it is precisely this kind of experience that constitutes the fear of mother. Can there be doubt that... the evil tendency in man, is basically rooted in the mother-child relationship?

(Rheingold, 1967: 118–119)

With little complexity written about motherhood, or women's place in society and their general confinement to the domestic sphere, Bowlby (1958) proposed that the mother–child relationship was merely instinct-based. Others ascribed magical, 'voodoo' powers to mothers, such as Mathis (1964), whose published article attributed a middle-aged man's death to the maternal power of suggestion. Because the man's 'demanding and disdainful mother' predicted that something terrible would happen to him, Mathis (1964: 105) concluded that the mother's repeated suggestions of dire consequences was the major cause of the man's subsequent death, despite an autopsy report that recorded the cause of death as an asthma attack. Instead, this 'voodoo death' was due to:

[t]he influence of the mother's death wish... [which] can be regarded at least as a triggering mechanism for the asthmatic attacks.

(Mathis, 1964: 106)

Jungian concepts also envisaged a black and white image of motherhood which matched earlier, nineteenth-century conceptions of woman and motherhood as described by Patmore in his famous poem, as well as the original belief by Freud (1961) that 'neurotic' women's fears of being killed by their mothers arose from an unconscious hostility on the part of mothers towards their offspring, something Freud later retracted. According to Jung (1990: 83), the archetypal mother is either all loving or all dangerousness which may be 'fantastic (i.e., archetypal) projections on the part of the child'. Nonetheless, infantile fantasies were often due to parental influence, especially the mother's:

The mother archetype forms the foundation of the so-called mother-complex. It is an open question whether the mother-complex can develop without the mother... [being] a demonstrable causal factor. My own experience leads me to believe that the mother always plays an active part in the origin of the disturbance.

(Jung, 1990: 85)

Similarly, Deutsch (1945) described two types of mothers, the ideal mother and the killer mother, although, like Rheingold, much of her work was based on small samples of women who feared being aggressive towards their children and whose experiences were generalised to the whole.

By the 1960s, mothers had become the new 'evil' that doctors had to watch out for. On 10 May 1965, *The New York Times* published an article on an epidemic of 'momism', a condition that had been identified by a two-year study of drug addicts. Researchers set out to discover why they were having little success in helping male drug addicts 'kick the habit' and discovered that 'Mom is the Villain'—'that pillar of American culture' was sabotaging 'any efforts to give their sons financial and emotional stability, because unconsciously they are unwilling to sever "their malignant symbiotic relationships" with their sons'. This study of more than 400 young male addicts found that 'ingratiating sabotaging and seductive behavior traits in mothers was a significant cause of addiction'. In particular, mothers of addicts 'created an infantile dependence and sexual anxiety and caused "a psychic state prone to addiction"... Because of the mother's "immaturity"... she has "a vested interest in perpetuating addiction to gratify her need for a dependent son"',

keeping him tied to her apron strings, a view that coincided with Jungian concepts of the mother-son complex (Jung, 1990: 85–86).

The mother archetype was taken one step further in Rheingold's work, demonstrating how psychiatry was still characterised by Victorian moral values associated with the sexed female body. Despite thousands of years of history which proved the capacity of mothers to successfully raise children without harming them, for Rheingold, a psychiatrist from Harvard Medical School, the mother was a destructive, terrifying and inescapable power, as 'the witch, the dragon or ... devouring or entwining animal, the grave, nightmares, and bogies' (Rheingold, 1967: 77). In 1964, Rheingold published *The Fear of Being a Woman: A Theory of Maternal Destructiveness*, which described the need for the medical profession to recognise a mother's (inherent) filicidal and mutilation impulses. Rather than being based on empirical research, the theory of 'maternal destructiveness' was based on 'common experience', professional opinion and dubious experimental studies, including clinical histories and some observations of 'the threatening behavior of mothers'. Even when he was presented with 'a remarkable disparity' between the hatred expressed by his patients towards their mothers and the mothers' loving behaviour, Rheingold (1967: 125) decided that rather than 'the evil image of the mother [being] a projection of an archetype', maternal destructiveness was 'far more subtle than meets the eye'.

These beliefs were followed up three years later by *The Mother, Anxiety and Death*, in which the theory of maternal destructiveness was expanded upon, leading to the conclusion that fear of death was 'the product of the maternal filicidal impulse' while the castration complex was due to 'the maternal mutilation impulse' (Rheingold, 1967: 153). There could be no 'doubt of the [universal] pathogenic effects' of mothers' attitudes and behaviours. Challenging the concept of 'good' and 'bad' mothers, Rheingold (1967: 105) asserted that:

every mother exerts *both* salutary and harmful influences. Even the most noxious mother provides some care and protection ... On the other hand, it is notorious that certain kinds of solicitous mothering conceal hostile feelings for the child, and even the genuinely nurturant mother is not without a degree of adverse effect.

In fact, the 'maternal filicide impulse' was likely to be present in all mothers with different degrees of intensity (Rheingold, 1967: 126).

Based on 'objective' and 'scientific' observations, Rheingold (1967: 108–110) denied the morality of his and others' judgements about

motherhood and dismissed those who minimised mothers' 'pathogenicity' such as Anna Freud (1954: 9), who believed that '[t]o put the blame for the infantile neurosis on the mother's shortcomings... is no more than a facile and misleading generalization'.

While Rheingold recognised, as we would today, that harsh discipline and neglect harm children, he believed that 'repressed impulses', that is, 'not observable behaviour but the mother's unconscious propensity', was the problem. Such was the extent of 'maternal destructiveness' that 'it enters causatively into a greater range of [psychiatric] disorders than any other factor':

if we could make all mothers nurturant (or just eliminate the unconscious aggressive impulses)... not much mental (and social) disorganization would remain.... The father plays almost no role in the earliest phase of personality development... The paternal role is often dictated by the mother, and she may make him the agent of her aggressive impulses... because very few men have the destructive drive toward children common to mothers.

(Rheingold, 1967: 106–107)

Taking his moral analysis even further, Rheingold (1967: 107) observed that 'the father is often the tender parent, inverting the myth of the stern father'. Even when discussing the psychological damage from child sexual abuse, the paternal perpetrator was not in any way implicated in the child's distress (Rheingold, 1967: 121). While father-daughter incest did not result in any pathogenic effects on the daughter, maternal seduction of a son or daughter 'invariably has abnormal consequences', such as homosexuality (Rheingold, 1967: 131–132).

While acknowledging that these were archetypes, for Rheingold they represented experiences 'derived from each generation's actual experience with mothers'. Nonetheless, 'the fetus responds to and may be permanently impaired by maternal anxiety and possibly even by unconscious hostile attitudes', producing a 'neurotic' or 'deviant' infant who engages in a struggle for survival, although the mechanism by which this hostility was transmitted to the foetus was unknown (Rheingold, 1967: 69, 77). Even biological complications in pregnancy were an 'indirect result of maternal conflict', 'created directly and indirectly by the mother's reactions to pregnancy and childbirth' (Rheingold, 1967: 71, 74, 102), which 'allow[ed] the filicidal impulse to find unbridled expression' (Rheingold, 1967: 130). So powerful was the maternal filicidal

impulse that the death of a newborn child at 12 hours of age was apparently due to 'the hostility of the mother, although there had been no contact between mother and child after its birth' (Rheingold, 1967: 126–127).

Rheingold was not the only practitioner to believe in these filicidal impulses, citing several other authors such as Zilboorg (1931), Deutsch (1945), Flügel (1957), Gardner (1957) and Chapman (1959). While Rheingold (1967: 84) was also concerned about the 'battered child syndrome', recognising that both fathers and mothers can be physically violent towards their children, 'maternal destructiveness' was always his focus:

It will not do to speak of 'parents'. The use of the terms *parents*, *the caretakers*, and *the human environment* ... strikes me as an evasion of assigning sole or preponderant responsibility to the mother.

(Rheingold, 1967: 89; original emphases)

Although the 1960s was a time when the primary caregiver was the mother, the impact of social and family environments, such as lack of employment opportunities for women and their enforced domestic servitude, domestic violence and paternal violence towards children played no part in Rheingold's analysis of infant fears and anxiety. With echoes of nineteenth-century views of women, Rheingold described the 'malignant', 'necrophilous', 'lethal' mother who was a 'witch' in her 'role as wife and mother'. So out of touch with reality was Rheingold (1967: 129) that he was able to report that there are a number of women who 'admit the desire to abuse, rape, mutilate, or kill a child, any child', and that 'I have never known a man with this "cold-blooded" animosity for children'.

In replacing nineteenth-century moral explanations of women's criminal behaviour with twentieth-century rhetoric about suppressed needs and desires, the above psychiatric explanations of women's deviant mothering produced a new caricature of the modern infanticidal mother, but one that was based on nineteenth-century values associated with the female body. Similarly, Resnick (1969, 1970), who is credited with producing new definitions of infanticidal categories, defined infanticidal women according to this caricature. For Resnick (1969: 325), child murder was an emotive topic. In his published articles, his moral views were clear for all to see, beginning his first on the topic with a quote from Medea's thoughts on the murder of her sons ('No, I who gave them life will give them death') and his second with a quote from

Wordsworth ('A simple child, That lightly draws its breath, ... What should it know of death?') (Resnick, 1970: 1414).

Based on a sample of 131 cases of female perpetrators, rather than a population sample of both male and female perpetrators, Resnick concluded that most child-murderers were women. He divided mothers who killed children into five categories, based on their explanations and independently of any psychiatric diagnosis: altruistic filicide, acutely psychotic filicide, unwanted child filicide, accidental (child abuse) filicide and spouse revenge filicide (Resnick, 1969: 329–330), creating what is now regarded as flawed diagnostic categories (Stanton and Simpson, 2002: 3).¹⁰ This latter category was based on the work of Rheingold who believed, as discussed above, that the filicidal impulse existed in every mother. Even the child-murders by mothers who had been sexually abused as children were interpreted by Resnick as the result of an eroticised relationship with the child, rather than the behaviour of a psychologically damaged adult-survivor. References to Medea are frequent in Resnick's work, even though she is a mythical figure, including the reaction to Medea's acts of infanticide by her husband, Jason: '“Accursed woman! by Gods, by me and all mankind abhorred as never woman was”' (Euripides, quoted by Resnick, 1969: 332).

Resnick (1970) considered that the murder of newborn babies, which he called neonaticide, was distinguishable from other child-murders. After studying only 34 cases, Resnick (1970: 1415) concluded that 'the great bulk of neonaticides are committed simply because the child is not wanted'. Adopting Hirschmann's and Schmitz's (1958) typologies, Resnick (1970: 1416) concluded that most women who committed neonaticide had 'strong instinctual drives and little ethical restraint'. This group was:

callous, egoistic, and intelligent. They tend to be older, strong-willed, and often promiscuous. Their crime is usually premeditated and not out of keeping with their previous life style.

Adopting Freud's questionable beliefs about incest (Goodwin et al., 1979; Bennett, 1992), Resnick (1970: 1416) also speculated that 'unresolved oedipal feelings may cause some of these girls to have the unconscious fantasy that their pregnancy is proof of incest', causing them to kill their infant.

By 1940, Smalldon (1940) and Cruickshank (1940) had recognised that the mental diseases associated with childbirth were not separate

clinical entities and were no different to mental diseases occurring at other times, although the association of mental disorders with childbirth took some years to die out (see Garner, 1964). It was eventually accepted that childbearing itself was not associated with a specific psychiatric syndrome and that childbirth was a stressor that precipitated mental illness in a predisposed woman (Seager, 1960). Nonetheless, the evolution in thinking about childbirth, mental illness and infanticide illustrates how the sexed female body underpinned original diagnoses of the insanities of reproduction and later conceptions of the destructive mother.

As the discipline of psychiatry grew and expanded over the last 150 years, perceptions of insanity were reinforced by dubious psychiatric interpretations of women's behaviour. While the criminal justice system sought to alleviate the unfairness of women's social circumstances, ironically the reinterpretation of infanticide as a psychiatric illness imposed yet another layer of moral regulation:

[p]sychiatric disposals are not necessarily 'lenient' sentences... [in that] psychiatric treatment involves considerable social stigma, a high degree of intra-psychic intervention, and the reinforcement... of traditional gender stereotypes.

(Wilczynski, 1997: 425)

While historically most women convicted of infanticide have received non-custodial sentences (Walker, 1968; Wilczynski, 1997), a study by Wilczynski (1997: 426, 428) showed that the small number of infanticidal women who received prison sentences were perceived as 'bad' mothers on the grounds of their drinking habits or because of previous abuse of the child. This evidence relates to the period of time just before the first of the multiple infant death cases that are the subject of this chapter and suggests that, historically, little had changed from the mid-nineteenth century to the late twentieth century in terms of the construction of women who kill children.

In light of the work of Rheingold and Resnick, it was a short step from the 1960s view of the 'monstrous' mother to the 1990s, when several mothers experienced multiple infant deaths in their families. With no clear causes of death and disputes amongst experts about the likelihood of multiple SIDS in the same family, the unnatural mother loomed large within the Anthony, Clark and Cannings trials. Where psychiatry left off, prosecutorial narratives took up the issue of monstrous, unnatural mothers, as did the media in relation to a 'newsworthy and highly saleable darker side of motherhood' (Goc, 2007: 156).

The new moral panic: Child abuse

The trials of Anthony, Clark, Cannings and Patel occurred at a time when a new moral panic around child abuse had emerged as a result of specific social and economic changes which resulted in the discovery of 'new' harms to children. As discussed below, this context was influential in perceptions of the risk of harm posed by mothers.

Critcher (2011: 271–272) describes important developments during the late twentieth century which transformed Western societies: deindustrialisation, the expansion of the finance and telecommunications sectors, increasingly flexible labour markets accompanied by deunionisation and casualisation, 'cyclical unemployment', the privatisation of state-owned entities, economic deregulation, and conservative, new right politics with a cut to welfare and other social services. With these changes, some speculate that the 'destabilization of previously fixed points of reference (family, neighbourhood, education, work)' meant that perceptions of risk and fear changed both publicly and privately (Critcher, 2011: 272) with dangers to children at the centre of new perceptions of risk and harm.

In order to justify the increased regulation of adults who harm children, 'adult society has to construct an image of childhood' to explain 'why such a status requires protection' (Critcher, 2003: 156). The concept of childhood varies over time and place, and its potency as a symbolic construct was evident in Chapter 3 in relation to baby-farmed children. Although it is believed that childhood has become 'a newly contested terrain' for moral campaigns in the twentieth century (James et al., 1999: 197), childhood in the mid- to late nineteenth century was a newly contested terrain for power which was colonised by the medical profession in their campaign against infanticidal mothers and childcarers. Indeed, the middle classes of nineteenth-century society believed that the incidence of infanticide represented a nation's degree of civilization. It was also symbolic of the social order, since infant mortality rates and rates of infanticide were a measure of the extent of poverty and 'immorality' in the lower classes. Indeed, changes in child death and homicide rates are considered to 'reflect changes in [a] society, be it improved or a worsening of that country's health, law or child protection services' (Pritchard and Butler, 2003: 342).

This history shows that the concept of childhood as a social construct sees government and public concern about the vulnerability of children ebbing and flowing over time, with the symbolic value of the vulnerable child being manipulated by different groups at different times. Claims made about the safety of children strike a chord in communities

because they focus 'ill-defined fears' which arise from particular social and economic upheavals or uncertainty, including the role of women and the stability of the family (Jenkins, 1998: 16). In fact, 'the ever-flexible concept' of the demonic figure who threatens children 'provides an invaluable gauge for the state of current ideologies' of a particular time (Jenkins, 1998: 12–13). Childhood 'may be less a psychological projection of all adults than a discourse mobilized by elites', with the vulnerable child becoming a paradigmatic symbol for moral campaigns. As a result, the 'concentration on childhood is... rooted... in the shifting terrain of moral regulation' (Critchler, 2003: 161–162), and when moral regulation is perceived to fail, the mountainous regions called moral panics may appear.

Critchler (2003: 164) argues that the idea of children at risk both within and outside families was central to concerns and campaigns surrounding child abuse in the 1990s, which 'generated discourses about childhood innocence or vulnerability'. For example, when the United States Advisory Board on Child Abuse and Neglect declared in its 1990 report that 'child abuse and neglect in the United States now represents a national emergency' and was 'a matter of national survival', it 'drew the attention of the nation to the severe abuse and neglect of hundreds of thousands of America's children each year'. Three years later, the advisory board declared that the 'child protection emergency' had deepened, with '[a]n inordinate number of children continu[ing] to die at the hands of caretakers', a 'collapse' in the nation's child protection system and an emergency threatening 'the nation's social fabric' (United States Advisory Board on Child Abuse and Neglect, 1993: 1–2).

Such calls for child protection came late in terms of the growing awareness of the effects of child abuse and neglect throughout the twentieth century, so that strategies to combat situations of national emergency tended to be emergency focused (English et al., 2000) or to come on the back of 'a high-profile tragedy', such as stranger abuse or murder (Pritchard and Butler, 2003: 342). The climate of risk and child protection means that those who sexually abuse, abduct and/or kill children 'are pure candidates for monster status' (Cohen, 2011a: xviii), such that deeper analysis of the problem is swamped by the horror that is felt. Not surprisingly, other discourses, such as one about the relationship between constructions of masculinity, the sexualisation of children's bodies and child sexual abuse within the home, did not appear (Cossins, 2000).

The most commonly reported danger to children in the media is the stranger in the street. This, in turn, has involved changing perceptions

of risk and harm, with 'discursive representations of children as victims of folk devils . . . appear[ing] at a growing rate' (Hier, 2008: 184) and the spectre of the dangerous paedophile seemingly everywhere (Jenkins, 1992; Critcher, 2002), with the 'dominant discourse in the moral panics' of the 1980s and 1990s being one about childhood (Critcher, 2003: 155). Like the situation in the mid-nineteenth century, concern about child welfare today attracts an exaggerated reaction in relation to those who threaten children's safety. Twentieth- and twenty-first-century publicity surrounding child murders, kidnapping and child sexual abuse means that stories about child welfare are invested with anxiety and panic (Buckingham, 2000: 3), as illustrated by the case of Madeleine McCann who disappeared on 3 May 2007 from her parents' holiday apartment in Praia da Luz, Portugal (Collins, 2008), and the murder of eight-year-old Sarah Payne in July 2000.

In the wake of the discovery of Sarah's body, one of the most extreme examples of vigilantism took place in Portsmouth 'where a vigilante group . . . "Residents Against Pedophiles" torched cars and firebombed flats', an issue later taken up by the British tabloid, *News of the World*, in a campaign of naming and shaming convicted sex offenders (Hier, 2008: 185). This campaign exhibited all the hallmarks of a moral panic: 'the emergence and naming of a new problem; its sensationalized and stereotyped treatment by the media, including the construction of an unequivocal folk devil of the "pedophile"; the unanimous moral condemnation of the threat posed to the moral order by this evil' (Critcher, 2002: 527). In other words, the sexed male body (Cossins, 2014) became the subject of a new moral panic.

Like the murderess who killed children for money in the nineteenth century, such constructions amount to bodies of evil and represent the most depraved and perverted form of humanity, with animalistic qualities of dangerousness that locate the evil body outside normal human life. Today the ultimate form of evil is the perverted and predatory paedophile who stalks newspaper narratives, although the sexed male body is implicated in this construction (Cossins, 2014).

While Critcher (2003) and Buckingham (2000) consider that anxiety about children is a recent phenomenon, the previous chapter shows that child welfare has been a regular topic of social concern from the mid-nineteenth century onwards, particularly in relation to infant mortality, childhood diseases and the need to protect illegitimate children from harm at a time when child-murder and child abandonment were relatively widespread. By contrast, the preoccupation of the late twentieth and early twenty-first centuries focuses on protecting children

from physical and sexual abuse within the family and from a particular type of (sexualised) stranger danger (Critcher, 2003). A new form of moral regulation around paedophiles represents the hypervigilant context within which the media, the public and the state now regard child safety (see, further, Jenkins, 1998).

This 'new' harm to children has seen extraordinary levels of moral regulation in order to punish, detain and monitor the dangerous paedophile, all of which may be classified as a collection of knee-jerk regulatory policies and laws that have focused resources on the least common type of child sex offender and on solutions least likely to change sex offender behaviour. By contrast, there is no specific moral regulation of intra-familial offenders unless they are deemed to pose a risk to the wider community.

The new harm to children also coincides with a new period of severity, with punishment and criminalisation in the ascendancy (Finkel et al., 2000), including 'three strike' laws, mandatory minimum sentences, mandatory life sentences for murder, sex offender registration schemes, civil detention of dangerous paedophiles and community notification. Horror stories led to a raft of 'panic' legislation in the United States which was later adopted in modified form in other countries, since it is difficult for politicians to resist proposals to increase the safety of all children and, indeed, it is in their long-term interests to do so. In fact, the package of laws governing the new moral regulation of convicted sex offenders¹¹ possibly represents the most intensive degree of moral regulation of a group of people since the Contagious Diseases Acts of the mid-nineteenth century, which enabled the police to arrest, and surgeons to forcibly internally examine, women believed to be prostitutes and to detain 'diseased' women in prison-like conditions until they were disease-free (Jordan, 2007).

During this period there was also a good news story about children, which showed that between 1974 and 1999 England and Wales experienced 'substantial falls in the baby homicide [rate]' compared to the United States, where there was a large increase, with England and Wales having the lowest rate out of ten major Western countries (Pritchard and Butler, 2003: 345). However, such a story could not compete with stories about external dangers to children. Instead, media and socio-legal responses to child abduction and homicide now mean that children in all families are perceived to be at the same level of risk (despite the fact that lower socio-economic groups are more likely to experience child deaths from abuse and neglect than higher socio-economic groups), a perception that arose from new sensitivities to risk and harm to children in the 1990s and early 2000s.

This new 'culture of fear' among families 'beg[s] the question as to whether the incidence of child predation has increased or whether [a] nations' heightened sensitivity is a result of increased media reporting' (Zgoba, 2004: 386). Evidence for the latter arises from the fact that there has been a fundamental shift in the image of the child molester over the decades from that of a non-threatening, psychologically disturbed individual to the dangerous, predatory paedophile (Jenkins, 1992; Critcher, 2002, 2003), with some newspapers involved not so much in 'reporting paedophile news [as] creating it' (Critcher, 2003: 105). Indeed, this shift has seen the creation of a serial moral panic surrounding paedophilia, with each new case contributing to a 'discourse of evil' and a folk devil characterised by all the negative values associated with the sexed male body: cunning, dangerous, predatory, perverted, degraded and lacking remorse, with the spectre of the paedophile 'threaten[ing] any child anywhere at any time' (Critcher, 2003: 110, 114, 117). Crimes against children committed by strangers are likely to evoke the greatest public and media interest and, in turn, media revenue. Indeed, '[c]hild predation cases are the most vilified in... the media... [with] child abduction, child molestation and child homicide consistently receiv[ing] national media prominence' (Zgoba, 2004: 385).

However, a moral panic analysis does not, by itself, explain why paedophilia (that is, stranger danger) was constructed as *the* major threat to children's well-being. More is required. The sexed male body that is the focus of the paedophilia moral panic is not a *specific* person but a generalised, mythical figure of harm who strikes a deep chord of fear and represents all that is dangerous about the male body, resulting in a form of mass delusion about the real threat posed by strangers. In other words, this sexing process results in an idealised type of danger and focuses community fears onto the predatory outsider, unwittingly obscuring threats to children from child sexual abuse within the home or by people known to the child. Compared with the dangerous outsider, the bodies of fathers, grandfathers, uncles, teachers, priests and other trusted, male authority figures—those more likely to pose a danger to children—are usually associated with protection and safety.

As discussed in Chapter 3, the consequences of a mass delusion about risk and harm to children shows that the cultural purpose of the folk devil is to manipulate risk and danger for political purposes. To address the most common source of harm to children from sexual abuse would mean challenging the authority of men in all walks of life—for example, the father as provider and protective parent, the priest as religious authority, the male teacher as educational authority—and male sexuality, generally speaking (Cossins, 2000).

This new culture of fear regarding stranger-danger to children contrasts with another that emerged in the late 1990s in Britain—harm to children within the family by infanticidal mothers. Chapter 3 demonstrated that cultures of fear concerning children have existed since at least the mid-nineteenth century and were focused not on infanticidal mothers who attracted sympathy from many quarters, but on infanticidal baby-farmers.

The moral regulation of paedophiles represents the hypervigilant context within which the media, the public and the state now regard the safety of children, which is reinforced by new forms of moral regulation to prevent child abuse by parents and other caregivers, such as mandatory reporting of child abuse requirements on certain professionals, care and protection legislation which allows for the removal of a child at risk from its family, foster-care arrangements and adoption schemes.

Critcher (2003: 81) has defined three moral campaigns or phases surrounding child abuse in Britain in the late twentieth century: the dangers of physical abuse which, arguably, began with the seminal article by Kemp et al. (1962) on the battered child syndrome but coalesced around the death of a seven-year old child who was beaten to death in the 1970s; the 1987 Cleveland affair, which alleged widespread sexual abuse within various families in the county of Cleveland; and the emergence of allegations of ritualistic sexual abuse of children. Compared with the extended moral campaigns against paedophiles in the late twentieth century and baby-farmers in the nineteenth century, none of these three particular phases resulted in the development of a moral panic since there were no clear folk devils on which to focus a moral campaign:

it is extraordinarily difficult to gain acceptance for the idea that the family is the primary site of child abuse. Any such assertion is immediately contested...with an emotive defence of innocent parents against...agents of the state or feminist ideas. The problem of abuse is overwhelmed by discourses about the sanctity of family life.

(Critcher, 2003: 98)

If, as Critcher (2003) suggests, there is a need to explain why these three child abuse campaigns did not produce identifiable folk devils, the answer lies in the lack of a (sexed) body to threaten the moral order; that is, an archetypal figure who stalks the narrative about the predatory stranger and who embodies the negative values associated

with the female or male body. While social workers, for example, were criticised for their 'gullible and heavy handed' tactics in relation to the Cleveland affair (Critcher, 2003: 91), such a group did not tap into cultural fears to enable the construction of a folk devil as mad, bad, evil or depraved. By contrast, the similarity between the moral panic around nineteenth-century baby-farmers and twentieth-century paedophiles, both of whom were evil personified, is found in the sexed body of dangerousness which represented the focal point for a successful moral panic, with particular moral entrepreneurs, experts and the media involved in its construction.

In his review of the moral campaigns concerning children, Critcher did not include claims of multiple infanticide, a phenomenon that emerged with increasing frequency in the late 1990s but which differed from the battered child syndrome, since multiple infant deaths are not usually associated with a history of physical abuse (Kauppi et al., 2008). Nonetheless, publicity surrounding the battered child syndrome and heightened concern about children's vulnerability meant that dangers to children from their parents had infiltrated public consciousness.

By the late 1990s, the concession given to the sanctity of family life was to change with the identification of a new threat to children within the family: the infanticidal mother. When four multiple infant death cases were prosecuted in the late 1990s and early 2000s, the public was well used to discourses of evil and dangers to children. It was, therefore, a short step from the dangerous outsider to the unnatural mother who killed her babies, with such a woman representing a new site of evil. Nonetheless, narratives of evil are only possible when there is a sexed body on which to project this discourse.

In a context of risk and harm to children, the idea of children at risk from their own mothers was the perfect fuel for a new moral campaign by the medical profession in the 1990s. But how did the 'bad', 'unnatural' mother who threatened conceptions of motherhood and the inviolability of the family come to have such prominence? The concept of evil, constructed as it is around particular sexed bodies, symbolises particular fears and struggles for power at different historical periods. For women who murder, 'the myths and legends of dangerous women throughout history' (Morrissey, 2003: 2) are readily invoked to explain seemingly inexplicable, unfeminine behaviour. Arguably, the weight of the sexed female body throughout history has been burdened with such opposing expectations and opprobrium that no other conception of the infanticidal mother was possible. This is the context in which four women, Sally Clark, Angela Canning, Trupti Patel and Donna Anthony,

were prosecuted for the murder of their infant children between 1998 and 2003.

The historical moral regulation that has surrounded the female body, from 1624 conceptions of 'lewd' women to shameless single mothers under the Poor Laws to mentally disturbed mothers under the Infanticide Act to psychiatric conceptions of innate maternal depravity and destructiveness, constitutes the fertile ground for moral panics to erupt in relation to motherhood and murder. In other words, moral panics are only possible by the type and extent of the moral regulation that is already in place, and the particular conceptions of the sexed body that are the focus of that moral regulation. Without those conceptions there would be no basis from which a moral panic could seed, grow and erupt. The relationship between the sexed body, moral regulation and moral panics constitutes the original contribution made by this book to the moral panic literature.

However, a moral panic does not appear to have developed in relation to the multiple infant death cases, discussed below. The question is why? The answers are discussed in Part 2 of this chapter.

PART 2: The female body on trial in the twentieth century

As they had a century before, it appears that mothers are still expected to act as the moral guardians of life. While women in the twentieth century may be 'viewed as "out of place" in the criminal justice system' (Wilczynski, 1997: 420), this was not the case in the nineteenth century when women competed with men in terms of murder rates. But when rates of infanticide decreased in the twentieth century, so too did women's appearance as defendants in murder trials. Nonetheless, the moral regulation of women did not cease, with law's and medicine's expectations around the female body and motherhood remaining more or less the same as in previous centuries.

For more than a century, courtrooms and court reports had described women who killed as being either 'bad—wicked or inhuman; or mad—not like "ordinary women' " (Birch, 1993: 5). Arguably, these historical conceptions of infanticidal women closed off consideration of other causes of the deaths of the infants in the circumstantial evidence cases of Anthony, Clark, Cannings and Patel. In fact, another layer of moral regulation emerged in multiple infant death cases in the form of forensic paediatric expert evidence, which, as discussed below, was based

on flimsy empirical evidence but, like nineteenth-century psychiatry, embodied the moral values of its time, including subjective judgements about mothers as 'mad' or 'bad' and with crude working rules. The nineteenth-century conception of the sexed female body once again emerged as the basis for accusations against mothers when medicine was unable to explain sudden infant deaths.

The portrayal of Anthony, Clark, Cannings and Patel: Paediatric forensic pathology in the dock

The above discussion about the twentieth-century moral panic surrounding child abuse illustrates the cultural context in which the Anthony, Clark, Cannings and Patel trials took place. These cases were chosen because of the commonality of their facts, trial narratives and legal outcomes. They all involved two or more sudden familial infant deaths and in each case the defendant was the mother, even though there had been no reports of child abuse in relation to the deceased children. In each case the prosecution case was mainly or solely circumstantial, relying on paediatric forensic expert witnesses to determine the causes of death. Autopsy reports of each child's death were inconclusive. In each case, the prosecution sought a motive by constructing a narrative about each defendant as a 'bad' mother. As a result, everyday facts about the defendants acquired particular cultural significance, such as the career ambitions of Sally Clark or the fact that each dead infant was found by his or her mother.

Infant pathology is 'an inexact science' which is more likely to produce 'equivocal and uncertain pathological findings' compared with 'autopsies on murdered adults [which] are characterized by clearer overt medical evidence' (Betts and Goodman-Delahunty, 2007a: 2), since the suspected murder of an adult is more likely to involve identifiable trauma, compared to the suspected murder of a child. Because of the difficulties with identifying causes of death in infants, 'we must now acknowledge the possibility that a number of homicides... may be instances of naturally occurring unexplained deaths' (Brookman and Nolan, 2006: 877).

As several experts testified in the Anthony, Clark, Cannings and Patel cases, SIDS deaths are often indistinguishable from intentional suffocation. Paediatric pathologists serve as gatekeepers, in that their determination about the cause of death 'will determine how a child fatality will be dealt with' (Brookman and Nolan, 2006: 878). Where there is no identifiable trauma, this gatekeeping function necessarily

involves interpretation and invites opinions based on facts as well as those based on expectations of human behaviour and 'common sense'. Unfortunately, subjective interpretations of the evidence will be 'cloaked in the garb of so-called... expert opinion' (Brookman and Nolan, 2006: 884). Inexperienced pathologists may over-interpret 'relatively minor pathological changes' while others may be resistant to a diagnosis of murder (Brookman and Nolan, 2006: 879, citing Berry et al., 2000: 108). Expert opinion can change from SIDS to intentional injury once a pathologist becomes aware of another infant death in the same family. This 'malleability of medical opinion is a significant concern for justice' (Betts and Goodman-Delahunty, 2007a: 3), as is the thoroughness and competence of pathologists, an issue that arose in Clark's second appeal.

Indeed, where there is disagreement between experts and uncertainty in relation to a cause of death, how can a jury, with no scientific training, hope to resolve controversies and disagreement between leading experts? Jury research shows that gaps in the evidence are likely to be filled with jurors' own, sometimes misconceived, attempts to make sense of the medical evidence and/or victim and defendant behaviour (Cossins, 2013).

Part 2 of this chapter investigates the extent to which the 'bad' mother construct, which has populated medical, media and cultural discourse for more than a century, influenced the outcomes in the trials of Anthony, Clark and Cannings, who were all convicted at trial in a context where the failure of married, middle-class mothers 'to protect and nurture their children ... [became] grist for the media mill'. Compared with single mothers living in poverty, middle-class women populate the motherhood myth so that when they fail, the fall from grace and public fascination is all that much greater (Rapaport, 2006: 558).

I examine the details of these cases to discern the extent to which the values associated with the sexed female body influenced the prosecutorial process, expert witness evidence and each jury's decision to convict. I also ask whether the expert witness evidence given in these trials amounts to a new form of moral regulation of mothers.

What is sudden infant death syndrome (SIDS)?

In order to understand the multiple infant death cases discussed below, it is necessary to begin with some definitions. Several different terms are used to explain an unexpected infant death: 'cot death', SIDS, 'unascertained' or 'undetermined', not all of which mean the same thing even to experts. The acronym SIDS is not a cause of death; rather it is 'a diagnosis of exclusion' (Beckwith, 2003: 286) and a label attached to an infant

death, considered to be natural, but attributed to causes as yet unknown which have resulted in cessation of breathing. According to Krous (2008: 302), 'SIDS is a default diagnosis when another cause is specifically not found' while it does not 'apply to deaths which are clinically explicable or consequent on demonstrable trauma'.¹²

The original definition of SIDS by Beckwith (1970, 2003) is circular in terms of providing a causal explanation for an infant's death, since it states that SIDS is 'the sudden death of any infant... which is unexpected by history, and in which a thorough post-mortem examination fails to demonstrate an adequate cause of death'. In other words, it is a cause of death which does not provide a cause of death, something that may account for the controversy the label has attracted. As Beckwith (2003: 287) later admitted, '[i]f a prize were offered for the poorest definition of a disease or disorder in the scientific literature, this one would be a strong contender!'

Because of the identified weaknesses in the definition of SIDS (Beckwith, 2003), with DiMaio (2005) describing it as a 'wastebasket' diagnosis, there has been considerable debate in the literature about whether SIDS is a true clinical entity, a label used to disguise incomplete, inadequate or inaccurate pathological findings, or a label that covers causes of death that are multifactorial and yet unknown (Beckwith, 2003; Byard, 2004). Because:

[t]he definition of SIDS allows considerable scope for inconsistency... pathologists and coroners may vary in their readiness to accept SIDS as a registered cause of death, sometimes preferring terms such as... 'unascertained'.

(Bacon, 2000: 2–3)

Beckwith (2003: 286) acknowledges that SIDS, as a cause of death which does not provide a cause of death, necessarily involves:

subjective and permissive variables that can be interpreted according to the whims of the diagnosing pathologist. Current definitional criteria... leave pathologists free to apply [SIDS] either too liberally or too restrictively.

A revised definition of SIDS was developed in 1989 to incorporate an age limitation, although Beckwith (2003: 288) considered this definition was little improved:

The sudden death of an infant under one year of age, which remains unexplained after a thorough case investigation, including

performance of a complete autopsy, examination of the death scene, and review of the clinical history.

Further attempts to improve the definition in 1992 resulted in three categories of SIDS deaths, although some pathologists now prefer the term 'unascertained', since it includes deaths that are 'natural and explained, ... natural and explicable (but the cause was not found) and unnatural (accidental or deliberate)'.¹³ Since SIDS appears to amount to a cause of death, its use hides the fact that pathologists are unable to distinguish between a natural and an unnatural death which results in cessation of breathing (American Academy of Pediatrics, 2006; Hall, 2006).

Where an autopsy does not *unequivocally* support homicide as a cause of death, interpretations of the pathology findings may be made from two possible reference points—murder or unascertained cause. Without evidence of homicide, the first constitutes a *cultural* reference point rather than a scientific one, with beliefs about motherhood and mothers likely to loom large, particularly in multiple infant death situations. With so much disagreement in the literature about the proportion of SIDS cases that are covert homicides, 'convictions that rely heavily on ... statistics about the risk of more than one unexplained death in a family are unjustified and hazardous' (Hall, 2006: 8).

The idea that medical science will produce one simple, non-controversial cause of death is challenged by the fact that the cases discussed below involved a number of experts who gave conflicting opinions about a particular infant's cause of death. In other words, 'medical opinion on causation is probabilistic and involves clinical judgment' which can be affected by 'heuristics or cognitive shortcuts in a similar manner to lay decision makers' (Betts and Goodman-Delahunty, 2007b: 21). While an unascertained infant death is relatively rare, the probability of a second or third is higher if there has already been one such familial infant death (Carpenter et al., 2005), although even this finding has attracted controversy.

In a review of eight studies of recurrent SIDS since 1970, Bacon et al. (2008: 323) found that all studies overestimated the risk of recurrence and concluded that although an increase in risk is likely, possibly owing to genetic factors, 'this risk cannot be quantified from the available evidence'. Nonetheless, the study by Carpenter et al. (2005), which examined 6,373 siblings of infants who died of SIDS, was the most accurate. Not only was it the largest study reviewed, it involved a randomised sample of infants and an in-depth review of every subsequent

familial infant death. This study gave a relative risk of 5.9 for families that had previously experienced a SIDS death, compared with the rest of the population, although Bacon et al. (2008) consider the risk to be much smaller.¹⁴ By contrast, Hill (2004: 322) estimated that an infant was five to ten times more likely to be a SIDS victim if a previous sibling had died from SIDS.

The latest research shows that there may be genetic or brainstem abnormalities which explain sudden, multiple infant deaths in the same family (Hymel and National Association of Medical Examiners, 2006; Duncan et al., 2010; Berkowitz, 2012; Moon and Fu, 2012), with Manchester-based researchers reporting a 'cot death gene' (Summers et al., 2000). Most of this research was not available at the time of the trials of Anthony, Clark, Cannings and Patel.

Nonetheless, there were several studies in the literature that had attempted to estimate the recurrence of SIDS in the same family before the above cases went to trial. Emery's (1986) study of 12 families which had experienced more than one infant death showed a range of causes, that is, natural or genetic, unexplained, parental neglect or filicide. Emery was able to exclude the likelihood of homicide in seven of the 12 families and provided evidence that families can and do experience a second infant death from natural or unexplained causes, with two recurrent SIDS deaths out of 12 families in 20 years. At the time, the risk of recurrence in a family with one SIDS death was estimated to be three times that of families in the general population (Peterson et al., 1980). By contrast, Wolkind et al. (1993) and Peterson et al. (1986) concluded that the risk of recurrence was very small and probably no greater than for the general population, although Wolkind et al. (1993) reported five SIDS cases out of 57 recurrent infant deaths.

By contrast, Oren et al. (1986) found that, during monitoring of 1153 infants for sleep apnoea (cessation of breathing) at a local hospital, 76 infants who had had an initial spell of sleep apnoea had a very high risk of dying (25%) if they were the siblings of victims of SIDS, suggesting that there was a group of infants that might be particularly vulnerable to sudden death. Indeed, Taylor, Emery and Carpenter (1983) had found that babies who died unexpectedly at home from infection, or cot death associated with a possible infection constituted a high-risk group.

Beal and Blundell (1988) estimated that for 92% of families in which an infant had died from SIDS the risk of recurrence was less than twice the expected risk, but for a subgroup, 8% of families, there was 'a significantly increased risk of recurrence'. Oyen et al. (1996) estimated that

the relative risk of recurrence for SIDS was 5.8 and found that 'SIDS deaths showed strong sibship aggregation consistent with a genetic susceptibility in subsets of SIDS that may interact with environmental factors'.

These studies show that before the Anthony and Clark trials, five studies had shown recurrence rates for SIDS at around five to six times the rate for the general population (Froggatt et al., 1984; Irgens et al., 1984; Beal and Blundell, 1988; Guntheroth et al., 1990; Oyen et al., 1996). In 2000, the year of Clark's first appeal, Fleming et al. (2000) reported that of 364 SIDS cases, 13 families experienced more than one infant death, and published risk rates for a second SIDS death according to families' socio-economic backgrounds and other risk factors.

Paediatric 'fashion'

Despite the above research into the risk of recurrence of sudden infant death, in 1997 Sir Roy Meadow, the eminent British paediatrician and expert witness who gave highly controversial evidence in the Anthony, Clark, Cannings and Patel trials, published the belief that 'one sudden death is a tragedy, two is suspicious and three is murder until proved otherwise', describing it as 'a crude aphorism but a sensible working rule'.¹⁵ With no reference to any research or data, Meadow excluded genetic factors from being implicated in multiple infant deaths (Meadow, 1997: 27, 29), even though undetected genetic disorders, such as cardiac conduction disorders, were suspected as being causative in SIDS cases at the time (Beckwith, 1990: 514). Dubbed Meadow's Law, the crude aphorism was first enunciated by forensic pathologists DiMaio and DiMaio (1989: 291), whose presumption of murder was given in evidence in American cases.¹⁶ While it was a 'key influence' in the assumption that children who died from undetermined causes had been smothered (Le Fanu, 2005: 251), it was later described as 'scientifically illiterate' (John Sweeney and Bill Law, *Guardian Unlimited*, 15 July 2001; citing Dr Drucker) since it had no evidential basis.

From his crude aphorism about multiple infant deaths, Meadow developed diagnostic criteria to identify cases of smothering: (i) infant death in the late afternoon/evening; (ii) after a meal; (iii) and/or after a previous life-threatening event; (iv) no history of illness before death; (iv) discovery of the child by the mother; and (v) inconsistent accounts in her evidence. By the late 1980s, Meadow had an international reputation, giving papers on sudden infant deaths to his peers as well as to police, social workers, lawyers and judges (Le Fanu, 2005).

The certainty of Meadow's opinion about sudden infant deaths contrasts with the flimsy evidence base of paediatric forensic pathology; as this 'is an extremely small world', '[t]he uncertainties... of the area mean hard "facts" are hard to come by' (Cradock, 2011: 364). Meadow also believed that 'SIDS has been used at times as a pathological diagnosis to evade awkward truths' (Meadow, 1999: 12) and that between 2% and 10% of SIDS babies 'have probably been smothered by their mothers' (Meadow, 1989: 1572). Other estimates of SIDS deaths due to smothering varied from 2–10% to 100% (Cunliffe, 2011: 49; Table 4.2), while Emery's (1993) widely cited estimate of 10–20% has 'acquired a certain statistical sanctity' (Hilton, 1989: 179). Even though Emery's study 'was not supported by any reference to empirical studies' (Cunliffe, 2011: 48), it has been 'routinely employed within the criminological and legal literature to support the proposition that infant homicides are under-detected' (Cunliffe, 2011: 51).¹⁷

Nonetheless, covert video surveillance of children suffering from sudden episodes of apnoea caught two mothers in the act of smothering or choking their babies, which supported the paediatric view that a number of SIDS cases were covert homicides, even though for the vast majority of children studied (51 out of 53) the mechanisms for episodes of cessation of breathing were identified (Southall et al., 1987).

Meadow was not the only paediatric specialist who entertained suspicions about multiple infant deaths. While paediatric forensic pathology is the discipline responsible for determining whether a crime has occurred after a child's death, Anthony, Clark, Cannings and Patel were prosecuted at a time when the dominant paediatric belief was that 'SIDS [does not] run in families... murder does' (Begley, 1997: 72, citing Dr Lucey). In fact, Rushton, a consultant paediatric pathologist, used the word 'dogma' to describe the approach taken in relation to multiple familial infant deaths at the time of Clark's trial:

current dogma is that an unnatural cause has been established unless it is possible to demonstrate an alternative natural explanation for these events.¹⁸

Golding, a professor of paediatric and perinatal epidemiology, called it 'a fashion':

there is a fashion nowadays that if you have more than one sudden infant death the next one must have been killed deliberately, and

that is something that people within the paediatric profession have taken on board without sufficient evidence.¹⁹

Without empirical evidence to support this fashion, Golding revealed it is 'mostly a hunch... not based on any scientific foundation'.²⁰ These views confirm that of Cradock's (2011: 371) that forensic pathology 'is as much art as science' with limited published research, the use of anecdotal experience as evidence and influenced by 'social construction'. The question is, why did the hunch that mothers were responsible for multiple familial infant deaths supplant the alternative view that the lack of a cause of death could have been due to limits in medical knowledge?

This hunch was vindicated as a result of a multiple infant death case in the United States that was originally thought to involve natural causes but later involved a confession of murder by the mother, Waneta Hoyt in 1994. As a result, 'the desire to give mothers the doubt in the absence of positive evidence was marginalised within the medical literature' such that multiple infant deaths came to signify homicide (Cunliffe, 2011: 35–37).

Since 'categorising the cause of infant death as natural or unnatural' also depends on subjective assessments of parenting abilities, including 'normative expectations of motherhood' (Cunliffe, 2011: 64), such assessments, underpinned by the hunch surrounding multiple infant deaths, highlight the biases involved in experts' clinical opinions and the dangers of opinions based on a predetermined outcome (Betts and Goodman-Delahunty, 2007b: 23). Hindsight bias is a significant risk when an expert gives an opinion of how an infant died based on the knowledge that a previous or later infant death occurred in the same family.

This raises an important question for judges and prosecuting authorities—if two or more infants in the same family die from unascertainable causes and it is assumed, based on paediatric fashion, that the mother killed them, will the trial be run in such a way to uphold the presumption of innocence or will the defendant be forced to rebut a presumption of murder?

Indeed, the cases discussed below reveal that judges may be blindsided about the relevance and probative value of such medical evidence, by assuming that it is 'founded on distinctively scientific or clinical reasoning and expertise' (Cunliffe, 2011: 11) and failing to interrogate the scientific basis of the opinion. While it is clear that child abuse is a serious harm to children and that some parents kill their own children (Hall, 2006), the following discussion illustrates the reliance

of experts, judges and juries on fallacious heuristic cues or hindsight bias, in reasoning that a familial history of multiple infant deaths is so rare that the mother must be responsible for the deaths. The discussion will then focus on forensic paediatric medicine as a form of moral regulation of women in a context where child abuse and child protection was the current social and political discourse of the time. At the time of the Anthony, Clark, Cannings and Patel trials, paediatric forensic pathology was an even more uncertain discipline than it is today, with pathologists, faced with the dilemma of unclear forensic evidence, involved in 'defensive pathology' rather than risking an incorrect diagnosis (Cradock, 2011: 372).

Sally Clark

In November 1999, Sally Clark, a solicitor, was sentenced to life imprisonment for the murders of her two infant sons, Christopher, who died in December 1996, aged 11 weeks, and Harry, who died in January 1998 aged eight weeks. Christopher's death was originally attributed to a respiratory tract infection and diagnosed as SIDS until Harry's death.²¹

The Crown case was that Clark had murdered Christopher by smothering and Harry by violent shaking and then smothering, although none of the other classic physical signs of shaking were evident in Harry's body. In fact, the death of Christopher only became suspicious in light of the autopsy report of Harry's death, where one fractured and one dislocated rib were detected although one could have been a birth injury while the other could have been an injury from resuscitation. The Crown argued that both were caused by Clark's physical abuse.

Medical evidence presented at Clark's trial was equivocal and complex. At the time, 'a great deal about death in infancy, and its causes... [was] unknown and undiscovered'.²² In this context, the prosecution called Meadow, the acknowledged paediatric expert, to give evidence about the likelihood of two SIDS deaths occurring in the same family, in the expectation that the defence case would argue that Clark's babies had died from SIDS. Meadow testified that a family like the Clarks had a 1:8,543 chance of one SIDS death, and if that figure was squared, the chance of a second SIDS death was 1:73 million.

Meadow derived his 1:73 million figure from the study by Fleming et al. (2000, Table 3.58) which estimated the incidence of SIDS in England and Wales in families of different backgrounds for the years 1993–1996. For a family in which the parents did not smoke, in which

there was at least one waged income and in which the mother was over the age of 26, the risk of SIDS was 1 in 8,543 live births. Meadow squared this figure to arrive at a probability of 1:73 million, without considering its mathematical validity. He informed the jury that, based on this statistic, a second SIDS death would only occur every 100 years, with its likelihood being equivalent to different horses winning the Grand National at 80:1 in four consecutive years.²³ Meadow's statistic was first conveyed to the jury in the Crown's opening address: '[t]he chances of two genuine unexplained natural deaths in such a family are about 1 in 73 million'.²⁴ Later reported in the media, Batt (2005: 151) reveals that Clark saw a jury member carrying a newspaper with the 1:73 million figure 'prominent in the headline'. Meadow also gave evidence that each infant death in Clark's family had similarities consistent with an unnatural death, including 'previous unusual episodes, inconsistent accounts between parents, and both events occurring in the evening after a feed'.

The trial judge's summing-up reinforced the credibility of Meadow's statistic. Although sounding a note of caution, the judge gave the jurors permission to use the statistic in reaching their verdict by informing them:

[Meadow's] figures were derived from a very thorough research study... the probability of one cot death is 1:8,543 and the probability of two is 1:73 million live births. That means there is a chance of two SIDS in the same family happening once every hundred years.... However compelling you may find those statistics, we do not convict people... on statistics.... Statistics are part of the evidence... no more than that. It may be a part of the evidence to which you attach some significance.... The probability of two SIDS deaths within the same family, namely 1:73 million, are even longer odds if you take into account the old and fresh injuries, and the seven similarities between the two deaths.

(Batt, 2005: 289)²⁵

With this instruction, the trial judge contradicted his direction that a person should not be convicted on the basis of statistics and impermissibly pointed the jury towards a guilty verdict by referring to how unlikely a second SIDS death would be in light of injuries to the infants and the apparent similarities surrounding the deaths, although the evidence of similarities had not been empirically validated as evidence of murder by smothering, a fact that the Court of Appeal later focused on. By the end of the trial, the jury had heard the statistic repeated several times, read

about it in the newspapers and heard the trial judge give it prominence and credibility.

Other irrelevant and prejudicial evidence was also admitted at trial, with Meadow permitted to describe the new syndrome he had discovered, Munchausen's Syndrome by Proxy, even though the prosecution accepted that the syndrome did not apply to Clark. Nonetheless, Meadow was permitted to tell the jury:

A parent, usually the mother, invents false illness for her child, causing the child to have many medical procedures, and she sometimes harms the child by poisoning, smothering or injuring the child.

(Batt, 2005: 181)

Meadow then graphically described how a mother would smother a child:

the mother would put a hand over [the child's] mouth and nose Sometimes she will use a pillow or a pad of material. Sometimes a mother has been recorded clutching a baby into her chest to smother . . . after about ten seconds they start to wriggle and struggle quite hard, the child has to be restrained with an arm or hand.

(Batt, 2005: 182)

Since there was no evidence to show that Clark had acted in this way with her babies, Meadow's graphic description was not only irrelevant but highly prejudicial in that it painted an image of what Clark was alleged to have done, thereby making death by smothering all the more possible in the jury's minds. As Meadow's testimony continued, he was permitted to describe the so-called diagnostic criteria for smothering, something that was outside his area of expertise and which the Court of Appeal later described as unrelated factors.²⁶ He compared the 'normal' pattern of a SIDS death between midnight and 11am with unnatural deaths which occurred in the late afternoon and evening, when children were 'at their most annoying and parents are tired', a pattern that matched the deaths of Clark's babies. Meadow was also permitted to comment, outside his area of expertise, that when parents give an account of a genuine, natural death, it 'is recalled accurately and is repeated in a consistent way, whereas a story being made up often changes', which he compared to Clark's apparent inconsistent accounts of where Christopher died (Batt, 2005: 183–186). All of this evidence did not qualify as expert evidence on the grounds that there was 'no

sufficiently organised body of knowledge' published in the research literature to support the diagnostic criteria for smothering. Meadow was relying on nothing but his own experience for these diagnostic criteria, while his clinical notes had been destroyed before trial.²⁷

Clark's case attracted national coverage because of its 'newsworthy' features. Not only was Clark middle class, she was a solicitor, living in a luxury home. Charged with two counts of murder, she was not the type of woman expected to have murdered her children. The media did not just report the details of the case, they pondered the reasons for her unnatural behaviour, frequently pre-empting the jury's verdict. Conversely, the possibility of Clark's innocence was given very little media prominence. While the prosecution was required to prove its case beyond reasonable doubt, it also engaged in the simplification adopted by the media in its construction of Clark's motive, reducing the complexity of the case (which arose from the conflicting medical evidence) to a simple story of a middle-class solicitor overwhelmed by the conflicts between career and motherhood.

Out of the four mothers tried for multiple infant murder, the media and prosecutorial portrayal of Clark was the most graphic in terms of how she was labelled as a 'bad' mother. She had failed to 'cope' with her new role as a mother, a quality that is 'part of the conventional narrative of selfless motherhood' and an innate, biological characteristic associated with the body of the 'good' mother. Despite evidence to the contrary, Clark's failure to cope was portrayed as a wilful choice and a 'positive refusal of "self sacrifice"' as expected of the 'good' mother (Naylor, 2001: 160–161). As a result, Clark was constructed as a cold-hearted, selfish career-woman whose abuse of alcohol rendered her unfit to be a mother:

she was a selfish, alcoholic, grasping, depressive, career-obsessed woman who liked pretty clothes, and who first abused and then murdered her children because they ruined her figure and stood in the way of her lucrative future. According to which paper you read, ... on the day she murdered Harry she had twice popped out in the morning ... to buy, in total, seven, eight – or was it nine? – bottles of wine.

(Woffinden, 2001)

Media outlets referred to Clark as 'the 35-year-old blonde' with 'a history of depression and drink problems' (Andrew Chapman, *The Mail*, 16/7/2000, p.38), the 'killer mum' (Frank Corless, *Daily Mirror*, 26/10/1999, p.14), the 'baby killer mum' (Mike Taylor, *Daily Mirror*,

18/7/2000, p.17), the 'alcoholic mum' (No author, *The Sun*, 10/11/1999, p.1), the 'convicted baby killer' (Tim Knowles, *Daily Mail*, 17/7/2000, p.30), the 'baby killer' (Jan Disley, *Daily Mirror*, 27/11/1999, p.9), the 'drunken life of solicitor who killed her babies' who lived in a 'house of horror' (Caroline Sigley and Andy Russell, *The Sun*, 10/11/1999, p.4), 'alcoholic Sally', the 'boozy lawyer' (Stewart Whittingham, *The Sun*, 3/10/2000, p.23), and 'the lonely drunk whose life was a mess' and who on the surface 'was the perfect mother':

Clark liked to look slim, glamorous and well-dressed – and her husband has admitted the children arrived at a time when she wasn't feeling 'desperately maternal'.

(Paul Byrne, *Daily Mirror*, 10/11/1999, p.7)

Instead of glamour:

she ended up stuck at home – pregnant, fat and ... feared she would lose her good looks and figure because of motherhood, and be unable to fit into her smart work suits. She became a familiar face at local off-licences, and drank heavily through both her pregnancies – often alone ... [T]he reluctant mother struggled to cope with the chaos [the babies] brought to her tidy home.

(Caroline Sigley and Andy Russell, *The Sun*, 10/11/1999, p.4)

After her conviction, Clark was the 'high-flier mum [who] hid grim secret' (Caroline Sigley, *The Sun*, 10/11/1999, p.5) while she and her husband 'were portrayed as enjoying a "champagne lifestyle" in a luxurious cottage in the stockbroker belt of Cheshire' (Woffinden, 2001). She was '[t]he ambitious lawyer who ... was exposed ... as a lonely alcoholic whose addiction to gin and wine left her career in tatters' (Caroline Sigley and Andy Russell, *The Sun*, 10/11/1999, p.4), which contrasted with the woman who began to drink as a way of dealing with her grief over the death of her first child. Even the BBC got in on the act with its story about 'Baby Killer was Lonely Drunk', although it was accepted at trial that Clark had not been drinking at the times her sons died:

solicitor Sally Clark appeared to have it all – supportive husband, a high-flying career, a luxury house and a bouncing baby boy. But only 11 weeks after the birth of her first son Christopher, the '*lonely drunk*' smothered him to death while her husband was at a Christmas party. Some 14 months later the *depressed alcoholic* was to do the same

again – murdering baby Harry in his bedroom.... The 35-year-old lawyer *drank* through both her pregnancies, often alone. Her *serious drink problem*, ruled inadmissible in court, was exacerbated by loneliness, with her husband's career often keeping him away... [W]ork colleagues were said to be concerned about her *drinking*. She was once collected from a conference... by Mr Clark after *suffering from drink and depression*. She was referred to Cheadle Royal Hospital in Greater Manchester to help her with '*bouts of severe binge drinking*'.... Prosecuting counsel Robert Spencer, QC, told the court that on the day of Harry's death, Clark had bought *eight bottles of wine* for a fictional dinner party. He said: 'On the very day Harry died she was telling a lie about what was happening that evening and it was a lie *involving drink*'.²⁸

The above media depictions show that the 'bad' mother construct was used time and again to explain Clark's acts of infanticide, in particular, her sin of being a 'boozy', alcoholic mother, with nine references in the above BBC article about how Clark's extraordinary selfishness and reckless drinking led her to commit murder.

Other media outlets ran what appeared to be a sympathetic line but added to the 'bad' mother narrative with a warning to mothers. Under the headline, 'Tragic Mother Lost in the Fog of Exhaustion', the *Daily Mail* (Colette Douglas Home, 12/11/1999, p.13), stated that during the trial:

[w]e wanted to block our ears.... We didn't want to acknowledge that an intelligent, successful young woman with a caring husband and a nice home could kill her own babies. Yet the story of Sally Clark should be pinned up in every office block in the country... as a warning to all those young professional women who are planning [to start families].... [T]he transition to motherhood isn't as easy as it looks.

In this article, the underlying message was that any young, professional woman could turn killer, a message that was reinforced at Clark's trial:

She allowed herself to be pressurised into motherhood before she was ready. She seems to have given birth with little realisation of how tough the early months would be. Finally she snapped and killed her little boys.

(Colette Douglas Home, 12/11/1999, p.13)

The prosecutorial story told at Clark's trial appeared to swamp the 'good' mother defence. Defence witnesses who testified about Clark's love for her children and the bond between them was insufficient to neutralise the prosecution's narrative of an obsessed, selfish, career woman, unprepared for, and resentful of, motherhood.

I have included these numerous media accounts to demonstrate the ubiquity of the language used to construct the 'bad' mother and the 'common-sense' cultural knowledge that existed about how 'bad' mothers behave. But where did the media obtain the narrative about Clark as the archetypal 'bad' mother? The prosecutor, Robin Spencer QC, set out to portray Clark as 'a psychologically flawed monster' (Stuart Qualtrough, *Sunday Mirror*, 14/11/1999) telling the jury that the 'idea a mother could deliberately kill her baby is almost too horrific. Sadly, it does happen' (Paul Bryne, *Daily Mirror*, 13/10/1999, p.17). While the jury had not been allowed to hear evidence of Clark's drinking problem, after the verdict, Spencer asked for the order banning publication of this information to be lifted.

The very first question put to Clark during cross-examination by the prosecutor was, 'Mrs Clark, motherhood didn't come naturally to you, did it?' This question continued the prosecution's narrative from its opening address that Clark was a 'bad' mother and amounted to a heuristic cue that could fill in the gaps in the contradictory medical evidence that had already been admitted. Subsequent cross-examination reinforced the prosecutor's message, with pages of questions along the following lines:

You found it a real shock to the system.
You hadn't wanted to have children so soon?
You and your husband differed as to when you should start a family.
You didn't have much by way of family support in Wilmslow?
Did you find it disconcerting when you began to get larger... your
looks were going...
It was very tiring, demanding, after Christopher was born?
You had to do something before your husband went away the next
day?... Kill Harry!... While you were at the end of your tether?.

(Batt, 2005: 217)

Although there was no evidence that Clark was distressed about her husband's absences from home, Spencer told the jury that Clark could not cope when her husband was away: 'You can be sure the unthinkable is

the truth. This mother deliberately killed her babies since her husband had wanted a family 'sooner than she would have liked'. On the night that each child died, her husband was 'away or about to go away – something that was preying on his wife's mind'. Even Clark's distress was under the prosecution's spotlight: although '[a]mbulance crews found her "hysterical" ... a hospital medic thought her distress "superficial"' (Caroline Sigley, *The Sun*, 13/10/1999, p.21). In the prosecution's closing address, Spencer 'paint[ed] Sally as a baby-murderer whose motives for killing ... were that she resented the interference with her career, she hated being fat and ugly and she couldn't get into her clothes; with Steve away having a good time, she snapped' and killed her babies (Batt, 2005: 283).

Because of the conflicting medical evidence about how Christopher and Harry had died, the jury was required to do more than make a finding of guilty or not guilty. As laypeople they were required to determine the cause of death for each child, even though many of the experts in Clark's trial had not been able to do so.

At trial, the pathologist who had conducted the autopsies on Christopher and Harry, Dr Williams, changed his mind about Christopher's cause of death in light of his autopsy findings in relation to Harry, even though Harry's cause of death was, he later admitted, influenced by the death of Christopher. Although Williams had originally recorded that Christopher had died from a respiratory tract infection and documented the infection's symptoms, he later decided that 'there were no significant features of' a respiratory tract infection and that Christopher had died from smothering as a result of the amount of old and fresh blood in the baby's lungs. Three other experts concurred that the blood in the lungs was suspicious, although two experts decided that the cause of death was unascertained.

While other experts gave evidence that Harry's death was due to trauma they were not able to describe how that trauma was inflicted. Without an agreed cause of death, the onus was on the defence to disprove an unnatural death, something that undermined the presumption of innocence. In other words, as Batt (2005: 202–203) recognised, without evidence of infliction, it was left to the defence to 'come up with an explanation or leave the jury believing the worst', something defence experts were not able to do. Paediatric forensic pathology had switched the onus of proof by its focus on exculpatory evidence (to exclude natural death) rather than inculpatory evidence (of the acts causing death), something not recognised by the trial judge.

Williams concluded that because of Harry's swollen spinal cord and intra-retinal haemorrhages, the baby had been shaken on several occasions, even though other expected symptoms of Shaken Baby Syndrome were absent. Other experts either agreed with this diagnosis, or decided that Harry's death was not due to natural causes. Clark's case was also marred by Professor Green's embarrassing admission in evidence that the retinal haemorrhages in Harry's eyes found by Williams were a post-mortem artefact, not evidence of shaking as Green had said at Clark's committal hearing. Yet this apparent evidence of shaking was the reason why Williams changed his opinion that Christopher had not died naturally but had been smothered.

Because several experts disagreed that intra-retinal haemorrhages were present in Harry's eyes, a symptom of shaking, the prosecution case ultimately relied on smothering as the cause of death. Remarkably, however, in his closing address, the prosecutor relied on both to prove how Clark killed Harry: '[a]gain she snapped and shook Harry or twisted him or smothered him too, to death' (Batt, 2005: 283).

Clark's appeals

At Clark's first appeal in June 2000, several grounds of appeal were raised, including the argument that the Crown had not excluded death by natural causes and that Meadow's statistical evidence undermined the safety of the convictions since it was based on fallacious reasoning.

At the outset, this statistical evidence ought not to have been admitted, since death by SIDS was not a fact in issue in the trial because the defence had not argued that the Clark babies died from SIDS. Not only was this evidence irrelevant, it was positively misleading, because it assumed that multiple familial infant deaths were independent events, like tossing coins, and ignored any predisposing genetic and/or environmental causes (Royal Statistical Society, 2001; Joyce, 2002; Hill, 2004).

SIDS deaths are not random events, as individual families are more complex than a statistical group and many factors determine their risk of a SIDS death (Watkins, 2000). In fact, the 1:73 million statistic was a fallacy since it was the broad consensus in the literature that if a family had a history of SIDS, the chance of a second SIDS death was greater than for a family that had experienced no SIDS deaths. Rather than being vanishingly rare, as Meadow stated at Clark's trial, recurrence rates meant that a second SIDS death occurred 'in England about once every year and a half' (Watkins, 2000: 2). These recurrence rates were documented

in several studies, discussed above, that had been published before Clark was tried and ought to have been known to Meadow.

When cross-examined about his statistic, Meadow did not explain why two familial SIDS deaths would be independent events, even though the defence asked him whether the two deaths were 'like tossing a coin' (Batt, 2005: 191). Babies might die from different causes in different families, such as a genetic predisposition in some families, or environment, such as smoking, in other families. Without being warned of the flaws in Meadow's calculation, jurors could have mistakenly used Meadow's figure to reason that the chance of a second SIDS death was the same as the chance that Clark was innocent (Joyce, 2002; Nobles and Schiff, 2005), something known as the prosecutor's fallacy.

What Meadow failed to explain was 'the *relative* likelihood of the deaths' being SIDS or being caused by murder, not just how unlikely they were as SIDS deaths (Royal Statistical Society, 2001; emphasis added). Hill (2004: 324) concluded that since SIDS deaths are less likely in affluent families such as the Clarks, the factors that make a family a low risk for SIDS 'also make it a low risk for murder'. Meadow also used the incorrect probability figure (1:8,543) for estimating SIDS deaths in the Clark babies, who because they were male, were at greater risk of dying from SIDS than female babies (Hill, 2004). In addition, the 1 in 100 year estimation was 'complete nonsense', since the probability of two familial SIDS deaths did not apply to the whole population, only to a vulnerable subpopulation of families. Since the true likelihood of a double SIDS deaths was more frequent, '[o]ne wonders whether the Clark jury would have convicted if... they had been told that second cot deaths occur around four or five times a year and... [are] more frequent than second infant murders in the same family' (Hill, 2004: 325).

Hill's analysis (2004: 321, 323) reveals that the chance of a single SIDS death was 1:1300 for the years 1993–1996 compared with 1:21,700 for an infant homicide. For a second SIDS death the chance was 1:288 compared with 1:123 for a second homicide in the same family. Although there are supporters of Meadow's evidence (Sesardic, 2007; Williams, 2010), they do not take into account the heuristic significance of the 1:73 million figure on jury decision-making, as discussed below.

In Clark's first appeal, the defence argued that the 1:73 million figure 'had a "devastating" impact on the jury', arguing that the jury were invited to interpret it as 'the odds of the defendant being innocent are greater than 73 million to 1 against'.²⁹ The defence adduced reports by two expert statisticians, both of whom criticised the use of the figure 'for predictive or explanatory purposes' since the calculation ignored the

individual characteristics of Clark's family, which may have predisposed her infants to cot death.

The Court of Appeal rejected this argument on the grounds that the figures were cited in evidence to prove 'a very broad point, namely the rarity of a double SIDS', such that 'the number of noughts... did not matter once the overall point was made', and characterised the admissibility of this statistic as 'very much a side-show at trial'.³⁰ As a result, the court ignored the fact that this evidence cited early in the trial formed the background for the jury's assessment of *all* other evidence, and invited heuristic reasoning, one of the dangers inherent in jury decision-making. Together with the heuristic cue that Clark was a 'bad' mother who resented her babies, the statistic left the jury with almost no option but to conclude that Clark's sons had died from unnatural causes. One journalist reported that the prosecution had told the jury that 'it was beyond coincidence that both children could have died naturally. The probability was one in 73 million'.³¹ This was tantamount to saying that the probability of Clark's innocence was 1:73 million.

While the Court of Appeal described the statistic as 'merely a distraction',³² it ought to have placed greater weight on the possibility that the jury may also have interpreted it in the way hinted at by the prosecution. Although the court considered that the trial judge's summing-up in relation to the statistic did appear to endorse the prosecutor's fallacy, the court did not consider this error rendered the convictions unsafe, since 'there was overwhelming evidence of the guilt of the appellant on each count... while no expert evidence... supported the contention that either death was SIDS'.

The court also took into account the evidence that the 'behaviour of the appellant at hospital when told her baby was dead impressed Dr Douglas as "very dramatic and almost hysterical", and was described by her as "such an over-reaction"'.³³ Obviously, the court was influenced by one doctor's perception as to the normal responses that an innocent mother would have versus the 'over-reaction' of a guilty mother. Once again normative conceptions of motherhood emerged as an important influence, even at the appeal level.

As the defence argued in its closing address at trial, there was no actual evidence that Clark took any action to cause her sons to die. This means that the jury's decision relied entirely on supposition—the likelihood of a SIDS death occurring and medical interpretation of various forensic features to which none of the experts entirely concurred. What role, then, did the sexed body of the mother play—the 'bad' mother who preferred her career to children and who could not cope

with the demands of motherhood? These were not considerations taken into account by the Court of Appeal in assessing the relevance of the 1:73 million statistic, its misleading nature and the extent to which it may have filled in gaps in the prosecution's circumstantial evidence case. In other words, to what extent was the 'overwhelming evidence' of Clark's guilt coloured by this statistic and the 'bad' mother narrative? It would be another couple of years before this question was answered in Clark's second appeal.

A second, successful appeal in January 2003 held that Clark had been wrongfully convicted after her husband, also a solicitor, discovered 'the results of microbiological tests performed on samples of Harry's blood, body tissue and cerebrospinal fluid [CSF]' that had not been disclosed to the defence. These results revealed evidence of a *Staphylococcus aureus* infection in Harry's CSF, which 'in turn cast doubt upon the jury's finding that Christopher had been murdered'.³⁴ When this information was submitted to the Criminal Cases Review Commission, it concluded there was a real possibility that Clark's convictions were unsafe, and referred the case back to the Court of Appeal. Once again, on appeal, Clark's lawyers also argued that Meadow's statistical evidence considerably overstated the rarity of two unexplained familial infant deaths.

The Court of Appeal reviewed all the evidence that implicated Clark in the physical abuse of her sons, including (i) apparent bruises on Christopher's body, which were documented at the autopsy but were not noticed by medical staff at the hospital on the night Christopher died; (ii) the presence of old blood in Christopher's lungs; and (iii) a tear in Christopher's frenulum (the tissue which connects the inside of the lip to the gum), all of which had been interpreted as evidence of abuse and smothering by Dr Williams. As discussed previously, by the time of Clark's trial, Williams had discounted his original findings of infection in Christopher's nose and respiratory system and inflammation in the lungs and spleen which had led him to originally conclude death by lower respiratory tract infection, in favour of death by smothering. This unexplained reversal of opinion 'called into question the competence of Dr Williams'.³⁵ Because the six other experts who gave evidence at Clark's trial could not agree on the cause of death, the court 'doubt[ed] very much whether any jury would have concluded that they could be sure that Christopher had died an unnatural death', since four out of seven experts decided the cause of death was unascertained. It was the evidence relating to Harry's death 'that may have enabled the jury to resolve the doubts' about how Christopher died. This meant that if the conviction in relation to Harry was unsafe then 'the conviction in respect of Christopher's death was equally unsafe'.³⁶

Williams had also relied on haemorrhages in Harry's eyes and eyelids to conclude that he had been smothered by Clark. On appeal, two experts considered that these haemorrhages were artefacts caused by the post-mortem examination, again calling into question the competence of Williams. The most damaging forensic evidence were the findings relating to Harry's spinal cord (swelling and excessive amounts of old and fresh blood), from which Williams concluded that Harry had been shaken more than once. However, other experts did not agree that these injuries were typical in babies who were shaken or did not believe there was a swollen spinal cord. Evidence concerning a previous fractured rib was also called into question, since the X-rays of Harry's skeleton showed no such fracture; instead Williams had *felt* an area of bony growth which he assumed was the healing of a fracture, although he did not actually visualise or photograph it (Batt, 2005: 166). Other experts disagreed that there had been a fracture and that a supposed dislocated rib had been caused while Harry was alive.

The Court of Appeal held that before the jury could make a finding that Clark had caused the deaths of her children, they 'would have had to be sure that they could rely upon the evidence of Dr Williams', since important medical findings relied upon his competence as a pathologist. The crucial evidence *at trial* was Harry's unexplained death with no evidence of any prior illness or infection. This evidence would naturally have coloured the jury's interpretation of the evidence concerning Christopher's death.³⁷

The court then turned to the non-disclosed finding of *S. aureus* bacteria in Harry's CSF. While these bacteria were commonly found in various parts of the body, because the CSF was normally sterile, the concentration of the bacteria indicated a significant infection (meningitis). Because the jury was deprived of the chance of considering this evidence, Clark's conviction for the murder of Harry was unsafe. Accordingly, the verdict in relation to Christopher was also unsafe.³⁸

The court went on to roundly criticise Williams for his substandard practice as a pathologist, since he had known about the microbiological results but gave evidence at trial that there was 'no evidence of acute infection' and no evidence that Harry had died as a result of natural causes. Because of this lack of disclosure, Williams' competence was in question in relation to all the evidence he gave in Clark's trial about the babies' causes of death. Because he had not shown these results to all the other experts who gave evidence at Clark's trial, their evidence was thereby affected, not only in relation to Harry's death but also Christopher's.³⁹

Unlike the first Court of Appeal in 2000, this court criticised Meadow's statistical evidence. The jury had not been told by Meadow that estimates of cot death happening in any one family were for the purposes of identifying families at risk, not for the purpose of diagnosing the likelihood of an unnatural death in a particular family, and that specific genetic and familial factors had to be taken into account before determining whether a second infant death was unnatural. As such, 'it was the headline figure of 1:73 million that would be uppermost in the jury's minds', especially since Meadow had reinforced it using the colloquial idea of backing four 80:1 winners of the Grand National in successive years.⁴⁰

We can never know for sure the reasoning processes used by the jury to arrive at its guilty verdicts. It is likely that the jurors were confused by the complex medical evidence presented at trial and the disagreements between the expert witnesses as to the causes of death of Christopher and Harry, and looked for heuristic cues as a way out of the complexity. As the Court of Appeal recognised, the 1:73 million figure should not have been admitted at trial because of its inherent dangers:

[t]he jury were required to return separate verdicts on the two counts [of murder] but the 1 in 73 million figure encouraged consideration of the two counts together as a package. If the jury concluded that one or other death was not a SIDS case, ... then the chance that the other child's death was a SIDS case was 1 in 8,543 and the 1 in 73 million figure was wholly irrelevant ... Putting ... [this figure] before the jury with its related statistic that it was the equivalent of a single occurrence of two such deaths ... once in a century was tantamount to saying that without consideration of the rest of the evidence one could be just about sure that this was a case of murder.⁴¹

As a result of its reasoning, the Court of Appeal considered that Clark would have won her second appeal on the grounds of the irrelevance of Meadow's statistical evidence. Furthermore, Meadow was:

an expert witness of great distinction, if not pre-eminence in [his] field ... whose evidence would undoubtedly have carried great weight with the jury ... If it were flawed, as it was, the safety of the jury's decision was further called into question.⁴²

What influenced William's change of diagnosis from natural to unnatural in relation to Christopher's death? The paediatric fashion discussed

above suggests that Williams changed his original diagnosis when he became aware of Harry's death, believing that murder, not SIDS, runs in families. This belief must have been so strong that he was compelled to either forget or pretend that he had not received the microbiological results which showed Harry's death was due to a significant *S. aureus* infection.

Both Williams and Meadow engaged in what is known as 'hindsight bias' or 'outcome bias'. This 'is a person's tendency to judge past decisions in light of one's current knowledge of the outcome. This is a cognitive heuristic that distorts one's ability to judge the true probability' of an event, leading experts to ignore opposing evidence (Betts and Goodman-Delahunty, 2007b: 21). This meant that Meadow and Williams interpreted the autopsy results of Christopher in light of Harry's subsequent death, with Williams changing his original findings in relation to Christopher's death.

Both Williams and Meadow were investigated by the General Medical Council. Meadow was found guilty of serious professional misconduct and was struck off the medical register in July 2005. Although he won a subsequent appeal against this ruling,⁴³ he later voluntarily withdrew his medical registration. Williams was suspended from undertaking pathology work for three years, while the GMC issued guidelines for experts giving expert testimony.⁴⁴

After Clark's successful appeal, the media construction of Clark changed from accusatorial ('boozy lawyer', 'baby-killer', etc.) to sympathetic. Clark was now the wronged woman, a victim of 'incompetent' experts, one who gave incorrect statistical evidence and another who hid evidence. Uncharacteristically, the media reflected on its own contributions in the construction of Clark, who was 'vilified as a monstrous mother... [and was a]t the time... one of the most hated women in the country' (Geoffrey Wansell, 'The mother of all injustices', *Daily Mail*, 4/72002).

Clark did not recover from the trauma associated with the deaths of her sons, the trial and her imprisonment. She died on 16 March 2007 from acute alcohol intoxication.⁴⁵

Heuristic processing⁴⁶

When laypeople sit as jurors in a multiple infant death case, they do not 'begin with a blank slate':

There is ample research showing that...jurors...arrive at court fully loaded with prototypes..., myths..., heuristics..., and

'commonsense notions' of justice and fairness... If jurors are toting weighty prototypical baggage at the outset, then probability alone suggests that some of these notions are likely to be at odds with the law and with science.

(Finkel et al., 2000: 1113–1114; references omitted)

In order to understand why the disputed evidence in Clark invited prejudicial reasoning, the theoretical framework proposed by Chaiken and colleagues—the heuristic-systematic processing model that has been used to explain jurors' decision-making—is described below (Chaiken, 1980; Eagly and Chaiken, 1993; Chen et al., 1996; Chaiken and Trope, 1999). What we know about jury decision-making, generally, is that:

- (i) 'jurors' decisions involve a complex and nuanced set of cognitive processes that transform difficult choices into easier ones by amplifying one alternative perspective on the evidence and deflating competing perspectives' (Winter and Greene, 2007: 741, citing Simon, 2004);
- (ii) individuals, generally, hold particular beliefs and attitudes that affect their reasoning processes and 'bias reasoning performance';
- (iii) when jurors are 'faced with complicated cognitive tasks' and lack the motivation or ability to understand and interpret the evidence, they will rely on heuristic cues to determine guilt (Chen and Chaiken, 1996: 73; Winter and Greene, 2007);
- (iv) media, film and television influences are likely to affect a layperson's attitudes and beliefs, which introduces 'instability in gauging the commonsense viewpoint' at any particular time (Finkel et al., 2000: 1114).

The heuristic-systematic processing model posits that two particular processes mediate individual decision-making. Heuristic processing involves little or no scrutiny of the evidence and low cognitive effort because the individual uses (persuasive) heuristic cues or generalisations about human behaviour, such as 'there's no smoke without fire' or 'lightning doesn't strike twice' to arrive at a decision. Heuristic processing tends to be relied on when individuals are required to process ambiguous or incongruent evidence (which typically arises in a circumstantial evidence case with complex medical evidence), but lack the ability or motivation to engage in systematic processing, which involves greater scrutiny of the evidence and higher cognitive effort. The higher a person's motivation and the less his or her emotional involvement, the

more likely he or she will engage in systematic processing (Maheswaran and Chaiken, 1991).

A number of factors may influence jurors' interpretation, motivation and emotional involvement in the evidence and facts of a case, such as pre-trial publicity (which may establish a pro-prosecution bias), individuals' own experiences of similar crimes or events, as well as their own skills, competencies and individual differences such as gender, age and education (Smith, 1991; Honess and Charman, 2002; Winter and Greene, 2007: 743) and their beliefs in the constancy of human behaviour (Acorn, 1991: 71). Heuristic cues are part of everyday life since 'most of our knowledge of social life comes from the mass media' (Nobles and Schiff, 2004: 224), which simplifies its messages about people's behaviour and, at times, actively constructs particular myths, stereotypes and folk devils, as discussed in Chapter 3.

Heuristic cues may arise from any one of these influences or other persuasive factors to do with the trial, like the impressive reputation of an expert witness, such as Meadow, or 'the heinous character of the crime [or] the horrific nature of certain evidence' (Winter and Greene, 2007: 746).

An individual's processing style influences his/her understanding of evidence and, therefore, the quality of his/her reasoning. In a complex trial or one relying solely on circumstantial evidence, 'difficulties in comprehension may spark different processing strategies. For example, confusion may lead to a recourse to heuristics' (Honess and Charman, 2002: 73) and incomplete or inadequate interpretation of the evidence. When jurors' comprehension difficulties trigger heuristic reasoning, this is associated with poorer evidence recall (Honess et al., 1998; Charman et al., 2001). This type of reasoning may also influence jurors to make up their minds early in the trial and, once that occurs, 'they stop thinking about the evidence too hard' (Honess and Charman, 2002: 74).

Both judges and jurors are susceptible to heuristic reasoning when gaps in the evidence give rise to confusion. As an example, the disputed medical evidence in Clark probably produced comprehension difficulties because the evidence did not reveal clear, unambiguous causes of death for the Clark babies. Instead, the gaps in the evidence were likely to trigger heuristic cues, such as 'lightning doesn't strike twice' or 'there's only a 1 in 73 million chance that Clark is innocent'. In the context of the resentful, angry, 'bad' mother narrative crafted by the prosecution, the evidence given by Meadow, that the chance of SIDS striking twice in an affluent family was 1:73 million, was a powerful heuristic cue for the jury, and may have overshadowed the more effortful logical reasoning

needed to question its validity. In effect, the trial judge's summing-up directed the jury to use Meadow's statistic as a heuristic cue. More in-depth analysis of the calculation (of which the jury may not have been capable) would have revealed that it was based on a mathematical error and did not represent the likelihood of a second familial SIDS death.

While the trial judge had informed the jury that, although they might be 'sure' that Clark had killed *one* of her babies, they could not reason that because she had killed one, she must have killed the other one as well. However, heuristic reasoning side-steps this process, allowing the jury to conclude that if the chance of a second SIDS death was 1:73 million, Clark must have killed Harry and, therefore, must have killed Christopher. In other words, this statistic, coupled with Williams' evidence of apparent child abuse, overcame any reasonable doubt.

The 'bad' mother motif, a cultural form of moral regulation with a provenance going back hundreds of years, provided a plausible motive based on 'common-sense' notions about how a woman can 'snap' at the end of her tether. In particular, the 1:73 million figure gained meaning as a heuristic cue *because* the prosecution had constructed Clark as a career woman who was not coping with the demands of motherhood. The statistic invited the jury to reason, heuristically, that the probability of Clark being innocent was 73 million to one.

Angela Cannings

Angela Cannings was the mother of four children, three of whom died in infancy.⁴⁷ Matthew died aged 18 weeks in November 1999 some years after Cannings had lost two other children to 'cot death': Gemma, who died aged 13 weeks in November 1989, and Jason, who died aged seven weeks in June 1991. Cannings was only charged in relation to two of the infants' deaths, that is, with the murders of Jason and Matthew. At the time, Meadow's Law was still commonly believed by paediatric experts, in that once a third child has died in the same family, the first two deaths were assumed to be unnatural.⁴⁸

Cannings was convicted of the murders of Matthew and Jason in April 2002, with the prosecution informing the jury:

She obstructed their nose and mouth so the babies could not breathe for so long they were taken beyond the point of resuscitation. For a mother to attack her own child in this way is against nature and against instinct.

(Jamie Pyatt, *The Sun*, 20/2/2002, p.23)

Unlike the Clark trial, the prosecution was not able to develop a motive based on constructing Cannings as a woman resentful of motherhood, since Cannings, a shop assistant, had no 'high-powered' job and 'smart suits' on which to base a story about a career woman inconvenienced by motherhood. Despite the fact that there was no evidence that Cannings had a psychological disorder, the prosecutor told the jury that Cannings had 'faked' the cot death of her first son, while the apparent life-threatening events (ALTEs)⁴⁹ suffered by both Matthew and Jason before they died were 'dry-runs for the murders' (Jamie Pyatt, *The Sun*, 20/2/2002, p.12), with the diabolical mother looming large in the trial:

No one is seen as more evil than a mother who murders her children. Society is shocked to the core when nurturers go against nature to commit such callous crimes.

(Sharon Hendry, *The Sun*, 17/4/2002, p.19)

Kevin Toolis of the *Daily Mirror* (17/4/2002, p.11) described Cannings' crime as the 'ultimate betrayal', asking:

How could she?...How could any mother murder her own children? The crime is beyond our normal conception of good and evil... [since] it is the betrayal of everything we hold precious.

Although Cannings was not charged in relation to the death of her first child, the jury was told that Gemma's death was the backdrop for considering the charges against her (Jamie Pyatt, *The Sun*, 20/2/2002, p.23).

When Cannings' convictions were quashed in December 2003, she was the third mother in 11 months, after Anthony and Clark, to have her conviction for murdering her infants quashed for being unsafe. On appeal, the Court of Appeal noted that from the considerable amount of forensic and expert medical evidence, none had 'demonstrated any single piece of evidence conclusive of [Cannings'] guilt'. As a result, the Crown's case solely 'depended on specialist evidence about the conclusions to be drawn from the history of three infant deaths... in the same family'.⁵⁰

The jury had been warned by defence experts that it was very difficult to differentiate between a SIDS death and death by suffocation, which may have created 'an assumption of guilt because a death cannot be firmly attributed to cot death' (Jenny Forsyth, *Sunday Mirror*, 21/4/2002, p.11, quoting Dr Rushton). Where a family experiences three

infant deaths, some experts concluded that ‘the rarity of such incidents... raise[d] a very powerful inference that the deaths’ were due to deliberate harm, although there was no medical evidence to support such an inference. As Cannings’ lawyer speculated after her conviction, she was found guilty ‘simply because no other explanation could be found for her children’s deaths’, likening such thinking to the Salem witchcraft trials of 1692 (Stewart Payne, *The Daily Telegraph*, 18 April 2002, p.11).

Arguably, this inference was derived from the suggestion by the prosecution that Cannings had turned on her children and acted against nature and against instinct, with the jury offered the choice to believe in the ‘good’ mother or the ‘bad’ mother construct. If the second option is adopted,

the route to a finding of guilt is wide open. Almost any other piece of evidence can reasonably be interpreted to fit this conclusion. For example, if a mother who has lost three babies behaved or responded oddly, or strangely, or not in accordance with some theoretically ‘normal’ way of behaving... her behaviour might be thought to confirm the conclusion that lightning could not indeed have struck three times.⁵¹

The use of heuristic cues discussed above (such as unnatural mothering or lightning not striking three times) allows a jury, faced with no medical evidence of the infants’ causes of death, to fill in the gaps in the prosecution’s case. This was also the approach of Meadow, who interpreted the events leading up to the death of Matthew and Jason as supporting his suspicions of murder. Meadow testified that:

[t]he fact that a previous child had died in the family is relevant because... that sort of story is one that is very typical of a child who had died as a result of smothering. So my *medical diagnosis* there would be probable smothering.⁵²

At trial, no one recognised that this was not a medical diagnosis, based as it was on a presumption rather than scientific evidence of the cause of death. No one recognised the circularity of Meadow’s reasoning, which was along the lines: ‘I believe that a previous infant death in the same family is evidence of smothering; therefore, when I come across a family with a previous infant death, that confirms my belief that the cause of death is smothering’.

Meadow had set great store by his diagnostic criteria of smothering (discussed above), including the fact that each of the Cannings infants had been well and suddenly found dead or near death with no symptoms of illness before their deaths, leading him to conclude that 'something quite extraordinary had happened'.⁵³ Another medical expert, Dr Platt, held a similar view: 'the death was a smothering event' because of the 'pattern in the family'.⁵⁴

At Cannings' appeal, new evidence was presented to the court, including 'a substantial body of research' that suggested that three unexplained infant deaths 'can and do occur naturally' in the same family. Based on research from the Confidential Enquiry of Stillbirths and Deaths in Infancy Study (CESDI) Report (Fleming et al., 2000), the Court of Appeal heard that 17–25% of infant deaths below the age of one year could be attributed to SIDS, making this cause of death 'not a remote academic possibility'. The report also concluded that a second unexpected infant death from natural causes in the same family was not a rare event, while three unexpected infant deaths, although rare, could occur naturally, as shown in the study by Wolkind et al. (1993).⁵⁵

At trial, Meadows and other expert witnesses had either not known about or ignored studies that showed there were a small number of families which had experienced three unexpected infant deaths and in which unnatural causes had been ruled out. Based on the findings from the CESDI Study, the Court of Appeal considered that experts could no longer jump to the conclusion that three deaths 'resulted from the deliberate infliction of harm'.⁵⁶

Also contrary to Meadow's evidence at trial, new evidence from the CESDI study presented at the appeal showed that 9% of babies who had died during the day had been quite well 'fewer than ten minutes before they were found dead'.⁵⁷ Some experts had also concluded that where a child suffers an ALTE and survives, but dies from a second ALTE, this was evidence of smothering. Nonetheless, the CESDI study showed that 11.7% of parents whose infants had died from SIDS reported a previous 'episode in which [the child] became lifeless'.

The Court of Appeal concluded that the Crown's case that Jason's and Matthew's deaths resulted from deliberate harm 'should now be approached with a degree of healthy scepticism'. Subsequent research into the incidence of multiple infant deaths, including the possibility that Cannings' babies had died from a genetic cause, contradicted the so-called pattern of deliberate harm that the Crown had put before the jury. As a result, 'the fundamental basis of the Crown's case, based on the extreme rarity of three separate infant deaths in the same family,

and the pattern of events in this particular family is... demonstrably undermined'.⁵⁸

Contrary to Meadow's evidence, the court held that the *lack* of a cause of death 'did not lead to the inference that the infants had been smothered'. In fact, 'there was an absence of the slightest evidence of physical interference which might support the allegation that [Cannings] had deliberately harmed them' and there was no evidence to show that Cannings was 'suffering from some form of personality disorder or psychiatric condition'.⁵⁹ Nor was there any evidence upon autopsy, such as fresh bleeding in the lungs or petechial haemorrhages (tiny red or purple spots which appear when blood vessels burst in the eyes as a result of asphyxiation) to indicate smothering.⁶⁰

With this lack of evidence, how might the jury have come to its decision?

Like the Clark case, it is possible that because of the competing theories of the experts called by both the defence and the prosecution and the complexity of the medical fields in which they specialised, the jury took the easier, heuristic processing route. Although Meadow did not give the damaging statistical evidence he had given at Clark's trial, faced with the Crown's narrative of a 'bad' mother who had acted against instinct and against nature, the jury may have 'inadvertently, unconsciously, have thought to itself that if between [all the experts], none could offer a definitive or specific explanation . . . , the Crown's case must be right'.⁶¹

Since this was the third multiple infant death to come before the Court of Appeal in 2003, the court observed that:

great care must be taken not to allow the rarity of these sad events . . . to be subsumed into an assumption . . . that the dead infants were deliberately killed, or . . . to regard the inability of the defendant to produce some convincing explanation for these deaths as providing . . . support for the Prosecution's case.⁶²

This field was 'still at the frontiers of knowledge', with later research likely to overturn the accepted wisdom of the day. In future cases, where multiple infant deaths are:

followed by a serious disagreement between reputable experts about the cause of death, and a body of such expert opinion concludes that natural causes . . . cannot be excluded as a reasonable . . . possibility, the prosecution of a parent or parents for murder should not

be started... unless there is additional cogent evidence, extraneous to the expert evidence... which tends to support the conclusion that... one of the infants was deliberately harmed.⁶³

In other words, '[i]f murder cannot be proved, the conviction cannot be safe'.⁶⁴

What the Court of Appeal did not explicitly state was that the existence of three separate infant deaths, two of which were the subject of murder charges, meant that the deaths, in and of themselves, could not be used to conclude that Cannings had murdered her children, as Meadow had reasoned. Such a conclusion relies on an inference that Cannings had a propensity to murder infant children. Yet there was no evidence of Cannings' intentional acts causing death. Cannings was not a murderer until found guilty, since whether she *had* murdered her children was a fact up for proof in the trial. This means that the Crown's case relied on the circular reasoning that because Cannings' three babies had died from unknown causes of death, these three deaths amounted to evidence of smothering, which could then be used to prove that Cannings murdered her children.

The Court of Appeal also documented the family history of infant deaths in the Cannings family, stating that 'the incidence of infant death and ALTEs in this particular family are unlikely to be explained by chance alone... [and] there may have been a genetic cause, as yet unidentified'.⁶⁵ A BBC documentary later revealed that the Cannings children might have died from 'a previously undetected-genetic flaw which has caused eight cot deaths and three near misses over four generations of her family', which produced a 'lethal reaction to cow's milk' (*The Mail*, 2/11/2003, p.32).

Donna Anthony

Donna Anthony was the first of the four mothers to be tried for multiple infant murders, although her case attracted little attention until after Clark was convicted and acquitted. In 1998, Anthony was convicted of the murders of her eleven-month-old daughter Jordan, who died in February 1996, and her four-month-old son Michael, who died in March 1997. Like Clark, her first appeal against her convictions in June 2000 was dismissed. Anthony spent six and a half years in gaol before her convictions were overturned in a second appeal in April 2005.

Much of the evidence surrounding the care and deaths of Michael and Jordan focused on the adequacy of Anthony's mothering skills in

relation to her children.⁶⁶ In fact, everything she did or did not do was interpreted in terms of 'what a mother would normally do' in a situation where her children were frequently hospitalised and failed to thrive. Yet none of the experts who testified for the prosecution were psychiatrists or psychologists who had expertise in grief responses before and after the death of a child.

Both autopsy examinations concluded that the deaths of each child were 'unascertained', although at the time of the trial three experts, including Meadow, testified that two unexplained deaths were unlikely and most likely caused by deliberate suffocation. Despite the evidence in the literature (discussed above), Meadow gave evidence that there were 'such incredibly long odds' against two children in the same family dying of natural unexplained causes. He was permitted to give the prejudicial evidence that 'if one child was smothered there was a heightened risk that subsequent children would be smothered'.⁶⁷ This evidence ought to have been inadmissible because no empirical basis for such a pattern was given in evidence. An expert report presented on appeal noted in reference to Meadows' evidence that:

A careful distinction had to be made between pattern recognition... [which] is a fundamental tool of expert clinicians (*although increasingly this can and should be substantiated by a physiological measurement*): and discussions of coincidence/chance/probability, which... can create seriously fallacious arguments.⁶⁸

Meadow's evidence in Anthony's trial was also influenced by his diagnosis that she was suffering from Munchausen's Syndrome by Proxy (Meadow, 1997). Although this syndrome was not empirically validated, Meadow (1999: 11–13) and others believed (see Southall et al., 1997) that it was a motive in multiple infant death cases. Meadow used this motive to warn that '[i]nfants who die in the afternoon or evening, after recent admission to a hospital... should raise suspicion'. In fact, one expert based his opinion not on medical facts but on the assumption that because Anthony's marriage had broken down immediately before the death of her son, it was very likely that Michael had been suffocated.

In Anthony's second appeal, the Court of Appeal was able to say, by 2005, that although two familial infant deaths was unusual,

no inference can safely be drawn without simultaneously giving full weight to the additional rarity that a mother would act so unnaturally as to smother two of her babies. We acknowledge that this

catastrophe sometimes happens, but, unless that second fact is given equal weight with the first, any inference based on the first taken in isolation from the second is likely to be flawed.

The evidence presented in Cannings' appeal, discussed above, had shown that a second infant death in a family was more common than realised in the late 1990s and was usually due to natural causes. Both Court of Appeal decisions in the Cannings and Anthony cases relied on a published study of unexplained infant deaths in the same family, which found that rather than the probability of such deaths being zero,

Our data suggest that second deaths are not rare and that the majority, 80–90%... are natural. Families who have experienced three unexpected deaths also occur. [W]e believe that the occurrence of a second or third sudden unexpected [infant] death... although relatively rare, is in most cases from natural causes.

(Carpenter et al., 2005: 34)

Cannings' case stands for the proposition that where the expert evidence at trial is subsequently overtaken by new research about the incidence and causes of multiple infant deaths in a family, the evidence at trial 'could not [sic] longer sustain the weight of inference formerly imposed on it by the experts'.⁶⁹ In Anthony's case, the 'conclusion that the deaths of these two children was unnatural and the consequent convictions depended substantially on the fact that there were two such deaths in the same family'.⁷⁰

This is a reference to the prejudicial, circular reasoning employed by expert witnesses in Anthony's case. For example, Meadow's evidence was prejudicial because it contained an impermissible inference that Anthony had a propensity to kill, but whether she did have such a propensity was a fact up for proof in her trial. While the *actus reus* of each death had to be proved beyond reasonable doubt by the prosecution, the *combination* of two deaths in the same family and the supposed rarity of such an event, in circumstances where Anthony found each baby either dead or comatose, was allowed to be used as *evidence* to prove the *actus reus*. This conclusion is likely to have been based on heuristic cues associated with the 'bad' mother construct (the mother who acted against instinct and was likely to have murdered her son because her marriage broke up), since the expert interpretation of the evidence proceeded from, or related to, Anthony's behaviour before and after the

death of each child. This ‘must inevitably have permeated the way in which the jury... approached this evidence’.⁷¹

While Meadow had not given the damaging statistical evidence that he had given at Clark’s trial, another expert, Professor Milner, had testified that the likelihood of an 11-month-old child, who had had an apnoea attack (as Jordan had), dying from ‘cot death’ was 1:400,000. This was also a fallacious calculation, since it was derived from assessing the probabilities of events that were not independent of one another. Similarly, Meadow’s evidence of ‘incredibly long odds’ against two children dying of natural causes in the same family was also open to criticism, ‘not least because of the flawed statistical evidence he gave at the trial of Sally Clark’. The Court of Appeal had ‘little doubt that... [the statistical evidence given by these experts]... would have been deployed by the jury to reinforce and support the Crown’s case’.⁷² In other words, these figures and estimations operated as heuristic cues for laypeople who would not have had the mathematical training to identify their inherent flaws.

The Court of Appeal concluded that if Anthony’s case had been heard in 2005, the Crown’s medical evidence would not have been as compelling as it appeared in 1998, ‘there would have been more persuasive expert medical evidence available to the defence’, the trial judge would have summed up differently in light of Cannings’ case and expert evidence about statistical probabilities would not have been admissible. For these reasons, Anthony’s convictions were held to be unsafe and were quashed.⁷³

Trupti Patel

In 2003, Trupti Patel endured a six-week trial, charged with the murder of her three infants, Amar, who died in 1998 aged 13 weeks, Jamie, who died in 1999 aged 15 days, and Mia, who died in 2001 aged 22 days. Unlike Anthony, Clark and Cannings, Patel was found not guilty.

It is possible that Patel was not convicted because her trial was conducted differently compared to the trials of Clark, Cannings and Anthony. Unlike the Clark trial, the prosecution in Patel was unable to craft a ‘bad’ mother narrative which arguably contributed towards the convictions of Clark and Anthony. Although Patel was cast as a ‘cold-blooded killer “against all the natural instincts of a mother”’, the prosecution could offer no motive for murder (Harry Arnold and Alexandra Williams, *Daily Mirror*, 12/6/2003, p.4). Crucially, Patel was able to provide the jury with an alternative explanation for the deaths

of her infants, in that there was a history of sudden infant deaths in both her and her husband's families. A professor of medical genetics told the jury that '[u]nknown genetic defects could account for many of the 350 unexplained cot deaths in Britain every year' (David Derbyshire, *The Daily Telegraph*, 13/6/2003, p.13), with the defence case relying on an undiagnosed genetic defect to account for the deaths of Patel's three infants.

Patel's jury was also given quite different directions by the trial judge, which 'reflect[ed] the greater understanding of and insight into these problems' after Clark's successful appeal. These directions included the following:

I am going to ask you to put out of your minds the idea that because there are three [infant deaths] that makes it more likely that the causes are unnatural... I think that would be a dangerous approach in this case for two reasons.... [S]uppose that something happens and there is only one possible event as the cause for it.... If it is rare the unexpected has happened. Suppose, though, that there are two possible events as the cause... Suppose... that the two events are both rare; perhaps very rare. They are nonetheless equally likely as the cause even though they are rare.... So it is not enough to say that an event is rare so it is unlikely to be the cause... That is the danger with... saying that three SIDS deaths in a family would be very unusual, therefore the deaths are unnatural.⁷⁴

In the above direction, the trial judge was asking the jury to ignore the heuristic cue which arises from evidence of three deaths in one family (such as 'lightning does not strike three times') and the type of circular reasoning employed in Cannings' and Anthony's cases. But more important perhaps was Patel's evidence of an alternative cause of death, suggesting that in cases where the Crown's experts cannot agree on a cause of death, the jury expects the defendant to fill in the gaps in the medical evidence presented by the prosecution.

Science in the courtroom: The 'man of science' and 'the bad mother'

The press reports after Anthony, Clark and Cannings were acquitted could not have been more different, switching from 'bad' motherhood to a focus on injustice and the fallibility of the justice system. Meadow and other experts now became the focus of media vilification. As they

had previously condemned Anthony, Clark and Cannings, the media now sympathised with their plight and turned the story about bad motherhood into one about bad science, as one headline in *The Daily Telegraph* (13/12/2003, p.4) exemplified:

In the rush to protect children, 'experts' use junk science to accuse innocent parents. Evidence is growing of disturbing flaws in the way allegations of abuse are laid and then pursued.

Another headline asked, 'How Can We As a Civilised Society, Go on Jail-ing the Mothers of Babies Who Die?' (Geoffrey Wansell, *Daily Mail*, 11/12/2003, p.11). In his article, Wansell prayed that the quashing of Cannings' convictions 'will finally bring to an end the obscene witch-hunt that has been conducted' against mothers like Canning which have 'been a stain on the conscience of the nation', while Stott declared that '[s]uspicion, assumption and prejudice must have no part in British justice' (Richard Stott, *Sunday Mirror*, 14/12/2003, p.14).

Mothers who had been previously labelled 'unnatural' and perverse became innocent victims, mimicking the age-old dualism of 'good' and 'bad' motherhood. Rather than being unfit mothers, Anthony, Clark and Cannings were 'women wrongly accused of serial infanticide—one of the most horrendous crimes imaginable'. Formerly a scientific hero who had spent 20 years giving evidence in cases involving allegations of child-murder, Meadow was now a 'Bungling Prof' (Sharon Hendry, *The Sun*, 11/12/2003, p.5) and part of a:

culture of junk science... [where] medical opinion is confused with truth and guilt is determined not by hard evidence, but by a check-list of medical or psychological symptoms.... Too many doctors still embrace pseudo explanations for things they do not really understand.

(*The Daily Telegraph*, 13/12/2003, p.4)

These views reveal that the 'man of science' is as much a social construction as the 'bad' mother, with his qualities derived from the sexed male body whose rational, objective and unemotional characteristics were lauded by Maudsley (1871) more than a century ago. The new media focus on 'junk science' revealed how malleable is the sexed body, producing 'bad' mothers who cold-heartedly kill their infants or 'good' mothers who are victims of 'the system' versus 'good' scientists who help uncover child abuse or 'bad' scientists who are part of a 'witch-hunt' against mothers.

In fields such as forensic paediatric pathology, research science is the art of guesswork as much as scientific fact (Ravetz, 2009), with scientific opinions no stronger than the strength of their scientific basis, despite the years of experience and qualifications that a particular court expert may have. Ravetz (2009: 32–33) considers that clinical or professional experts of the type who gave evidence in the Anthony, Clark and Cannings trials may have considerable eminence in their fields but lack the research background to provide reliable expert evidence:

it is all too easy for a person to capitalize on professional eminence in order to indulge in specious scientific judgments in the courtroom.

It seems remarkable that medical experts such as Williams and Meadow could have had such an inordinate influence over the lives of mothers accused of infanticide, with the criminal justice system not only endorsing trial narratives based on outdated conceptions of women and motherhood but also powerless to exclude unreliable scientific evidence and to prevent wrongful convictions. One hundred and fifty years ago the medical profession was also involved in cultural decision-making about women and infanticide, invoking the sexed female body and its evil influence as justification for greater regulation of midwives and baby-farmers.

Conclusion: The ‘bad’ mother narrative

The above discussion of multiple infant death cases reveals that proof of the *actus reus* in a circumstantial evidence case depended on the strength of the ‘bad’ mother narrative told by the prosecution, as well as the extent to which expert evidence reinforced that construct; the ‘good’ mother defence neutralised that narrative and the defence was able to provide an alternative cause of death. Anthony, Clark, Cannings and Patel were all portrayed as cold, uncaring mothers and, as middle class women, were the ones most likely to incite media and public fascination (Rapaport, 2006).

Nowhere is the sexing of the female body more apparent than in cases involving women accused of murdering their infants. Over a three-year period, these mothers became ‘part of a highly newsworthy master narrative of murdering mothers’ (Goc, 2007: 159) and deviant motherhood. As argued previously, the sexed female body is characterised by positive and negative qualities which manifest as a moral dichotomy—the biologically predestined qualities of unconditional love and nurture and a cold-hearted desire to destroy—separated by a divide

so great that it is almost impossible for women's experiences of motherhood to undo the demonisation associated with being labelled a 'bad' mother. None of these qualities characterises the body of father who, if anything, is permitted selfishness, inconsistent displays of love, indifference, abandonment and even murder (Wilczynski and Sinclair, 1999; Naylor, 2001).

It is probably no coincidence that there are symbolic similarities between how the media constructs criminals, how the prosecution constructs defendants in criminal trials and understandings of criminal behaviour. These understandings are based on the 'common sense' that certain cultures share about women, men and evil. In other words, sexed bodies as bodies of evil often make up courtroom and media narratives when it comes to men and women who kill, particularly when the victim is a child.

The trial process and the media construct similar representations of women accused of killing their children, with the narrative crafted by the prosecution during the trial and the one crafted by journalists containing similar elements which focus on the body of mother. Stories about 'bad' mothers are based on suspicion and innuendo rather than hard facts, despite the fact that the prosecution is required to produce sufficient evidence to prove its case beyond reasonable doubt. And if there are no incontrovertible facts to prove the causes of death of two or more infants who die in the same family, the expert medical witness is crucial to the narrative crafted by the prosecution and the media.

The adversarial framework facilitates the creation of these narratives, which may or may not have any relationship to reality, since the adversarial trial process is not a truth-seeking process. Rather, the adversarial trial is dependent on competing defence and prosecution narratives, with subjectively interpreted rules of evidence providing the gateways for, at times, questionably relevant evidence.

By theorising the narratives of multiple infant death trials, it is possible to reveal that the prosecution (and to a lesser extent the defence) digs into a baggage of cultural beliefs about women and motherhood in order to fill gaps in the medical evidence. With the sexed female body underpinning these beliefs, as well as concepts of criminality,

the body is continually being constituted, brought into crisis, and reconstituted The letter of the law excises the body . . . which displaces and realizes all the anxieties surrounding the body . . . that suffers under the weight of imagination as a spectacle to be consumed, disciplined, repressed.

(Young, 1996: 17)

As a multiple infant death case is reported, these beliefs are reiterated in the media, often with extra layers of hyperbole ('the weight of imagination') to construct the body of the 'bad' or 'mad' mother for the public's consumption. Although the terms 'mother' and 'woman' are concepts that are not fixed and unchanging, historically and culturally, there are remarkable similarities between the bodies of woman and mother as conceived in the nineteenth century and in the twentieth century, possibly because, when it comes to infanticide, this crime has an ongoing

hold on the cultural imagination. The infanticidal woman is a complex symbol of differing (and dangerous) images of women – women as naturally maternal, yet irrational; women as secretive, untrustworthy, moral incompetents, ... as the scapegoat[s] for male guilt, or communal guilt.

(Boetzkes et al., 1990: 127)

Added to this is the image of the diabolical mother—a body of evil that may claim its infant victims on a whim, for revenge or because it is at the end of its tether.

During the trials of Anthony, Clark, Cannings and Patel, media outlets repeated the narratives created by the prosecution, relying on the trial as an authoritative source. As Naylor (2001: 156) recognises, '[m]edia crime reports... involve patching together and reworking of... police reports, police press conferences, legal documents, various preliminary court appearances—and the trial itself'. In particular, the prosecutorial narrative of why, where and how the crime occurred, is often enhanced by the media with accounts of the emotion displayed in the courtroom by victims, witnesses and the accused.

These narratives reflect the news values and commercial imperatives of the period. Like the nineteenth-century media, today's media both feeds and generates social demands for graphic, unusual, and dramatic storytelling which focuses on contravention of social norms (Naylor, 2001), particularly those associated with the sexed female body. Goc (2009: 42) considers that today's media's fascination with the private sphere is considered to be a manifestation of the 'feminization, sexualisation and suburbanization of the "public sphere" of critical debate', producing 'privatised news'. Nonetheless, Chapter 3 revealed that the private sphere was the focus of the emerging nineteenth-century media—first, in the everyday moral tales of broadsides and then the downmarket newspapers which copied the broadside format. Privatised news accounted for the extraordinary success of broadsides'

moral tales and Britain's first daily newspapers, which created stories of deviant women, murder, motherhood, morality and social disorder, and drew upon myths surrounding the sexed female body to make sense of 'unnatural' women who defied their biological role. Rather than news stories about deviant motherhood suddenly appearing in the 1990s, mothers have been the subject of media narratives as a source of danger to their children since at least the early nineteenth century.

Many have written about ancient myths concerning mothers and the continuing influence of these myths in latter-day cultural constructs. For example, Rich (1976) documented the history of men's fear of women and how the source of that fear was located in Greek myths about Medea (the mother who killed her children to spite their father), who represented the evil side of motherhood. Others also agree that this myth is the cultural reference point for the 'bad' mother concept (Crimmins et al., 1997; Salecl, 2003; Goc, 2009), while it was repeated in the 1960s in academic texts about infanticidal women (Rheingold, 1967; Resnick, 1969, 1970).

The historical absence of women from the public sphere (such as the workforce, politics, medicine and the academy) means that conceptions of the bodies of woman and mother developed in cultural sites which dealt with deviance and moral regulation, that is, the law, medicine and the media. For example, early psychoanalytical writings made the essentialist assumption that the unconscious fear of mothers was biological—a pre-given state of the human psyche which manifests culturally but is biologically determined. Nonetheless, long before psychoanalysis, the legal system possessed its own myths about women and motherhood which justified the moral regulation of infanticidal women from the seventeenth century onwards.

Present-day trial and media narratives highlight the ongoing fascination with the body of evil, as the female body was known in the nineteenth century, and the potency of discourses that construct the female body as the out-of-control body that must be strictly regulated. Yet the sexed body of mother ('bad' or 'mad') is not generally the subject of moral panics. Even though the sexed female body was implicated in the Anthony, Clark, Cannings and Patel trials, this body was not characterised as a danger to the wider population. Maternal child-murder does not galvanise community fears in the same way as the sexed body of the dangerous paedophile, since women accused of this crime do not represent an external site of danger to children generally. Like the infanticidal mothers of the nineteenth century, they were not perceived as a threat to the public at large, unlike the nineteenth-century

baby-farming case of Waters where there was an identifiable folk devil who threatened England's children and represented a threat from which the public required protection through increased moral regulation.

Although there were 'socially accredited experts pronounc[ing] their diagnoses and solutions' at the time that Anthony, Clark, Cannings and Patel were prosecuted, there were no moral entrepreneurs manning 'the moral barricades' and a media campaign did not eventuate, declaring that something must be done to protect 'societal values and interests'. While these mothers were demonised, with the sexed female body representing a key heuristic cue during their trials and in media reports, there was no moral panic.

Nonetheless, the Court of Appeal decisions in these cases did not seem to fully realise the dangers associated with speculative expert evidence and the role of heuristic cues in jury decision-making. Such cues, based on cultural myths about how innocent and guilty mothers behave, were likely to have been used to interpret the complex and contradictory medical evidence in the direction of guilt, as opposed to the direction of innocence.

Ward (2004: 385) notes that '[i]f juries did not accept generalizations based on experience of human behaviour as having some validity, they could hardly function at all'. But if the generalisations are based on essentialist beliefs about how 'good' and 'bad' mothers behave, the jury system cannot be 'the fairest, most democratic mechanism... for deciding those cases which could rationally be decided either way' (Ward, 2004: 382). Gaps in scientific knowledge ought not to be sealed with cultural assumptions about motherhood. Where convictions are secured in this way, then the criminal justice system is an 'extremely rough engine' (Ward, 2004: 386) for deciding guilt and innocence. Le Fanu (2005: 249) was more explicit: 'the medical advocacy of contentious theories of the mechanisms of child abuse is likely to have been responsible for a systematic miscarriage of justice on a scale without precedent in British legal history'.

The twentieth-century imperative for child protection emerged with the support of science and medicine upon the publication of the seminal article by Kemp et al. (1962) on the battered child syndrome and with Resnick's (1969) classification of mothers who kill their children. This research resulted in a new focus for modern medicine, that is, away from the dangerous outsider to the dangerous insider—Rheingold's diabolical 'bad' mother lurking in each and every home. The new science around child abuse and child-murder provided categories, classifications, statistics and syndromes, amounting to a new form of

moral regulation of mothers which masked the questionable reliability and validity of a diagnosis of maternal child abuse.

While real cases of child abuse are far too frequent, wrongful convictions are not the answer to the problem. In examining relatively recent trials involving infanticide, this book has shown how science came to define mothers as a suspicious category and how motherhood was put on trial, in addition to the mothers accused of child-murder, with prosecutors relying on the sexed maternal body, a body that had changed little since the nineteenth century. By interrogating the provenance of this body, this book revealed the extraordinary relationship between trial, medicine and media narratives, all of which begs the question, '[w]hy are... we as a society, compelled to create binary oppositional frameworks of "good" and "bad" mothers as a way of understanding' (Goc, 2009: 34) harm to children? But even this insightful question is insufficient, because the historical dichotomised constructions of women that are the subject of this book were not created to understand harm to children. Rather, their role was to control and regulate the lives of women who transgressed particular moral boundaries. The infanticidal trial narrative and media reports about 'bad' mothers constitute a powerful form of moral regulation of *all* women, serving as a warning about socially acceptable behaviour by making an example of the accused mother.

5

The Implications of the Body for Female Criminality

This book has focused on the type of criminality with which women, historically, have been associated—child-murder and infanticide. By contextualising this crime within a framework of moral regulation, I have investigated the role of the sexed body in morally regulating infanticidal women during two different periods:

- (i) the moral panic response to female baby-farmers during the mid-nineteenth century when rates of illegitimacy and infanticide were at an historical high and infanticide was a largely unpoliced, hidden crime which rarely resulted in arrests and convictions; and
- (ii) the exaggerated responses to cases of multiple familial infant deaths which resulted in the wrongful convictions of three women during the late twentieth century.

While this book's focus has been about one type of female criminality, it is necessary to consider how its theoretical approach could be used to interrogate the construction of other 'criminal' women and their criminality. Based on the arguments developed in the foregoing chapters, it is my hypothesis that if an historical and moral regulatory approach is taken to other types of female criminality, such as prostitution, researchers would find that the sexed female body is implicated in how those crimes are perceived and how women are punished. While I have only considered the role of the sexed male body in relation to representations of paedophilia (Cossins, 2014), the sexed bodies approach may also provide greater insight into the criminalisation of behaviours normally associated with men and male adolescents, and into the genesis of moral panics around male criminality.

By illustrating the limitations of the moral panic concept, including its lack of a theoretical grounding to explain the causal basis of a moral

panic, one of the original contributions of this book was to identify a causal and theoretical model of moral regulation generally and of moral panics in particular which, as discussed in Chapter 1, I call the sexed bodies approach.

By focusing on the moral regulation of the female body and the power relations established between the moral entrepreneurs and the folk devils constructed during the moral campaigns around infanticide during the mid-nineteenth century, the vehicle for a moral panic appeared in the form of the sexed female body with its inherent dichotomous morality and potential for evil. These qualities were identified as manifestations of deep-seated, historical and cultural beliefs about female biology, such that the sex of the body and the qualities imposed were 'not arbitrarily connected' (Gatens, 1996: 13).

In other words, I argued that the construction of a folk devil—the indispensable step in the development of a moral panic—was a product of cultural and historical sexing processes of either the male or the female body, with its characteristics derived from the essentialist, negative values associated with maleness or femaleness. I also argued that other attributes such as class and race also affect this process, creating intersectional bodies of danger and evil. Within a context of moral regulation, this sexing process gives rise to symbolism, exaggeration and distortion to produce a culture of fear and a symbolic figure of danger which may or may not result in a full-blown moral panic, since dissenting voices and folk devil resistance can disrupt the power relations established between the moral entrepreneurs (those with the power to name) and the demonised (those who carry the shame). In this way, the sexed bodies approach provides the theoretical foundation for understanding the initiation and development of a moral panic, since that approach seeks to identify the types of bodies that are moralised in social discourses such as the discourse of moral panic.

The moral panic surrounding infanticide during the mid-nineteenth century only developed once the female body—sexed according to the oppositional attributes of the ideal Victorian woman—emerged in a context where the moral regulatory processes which governed the lives of working-class women were subverted by women's private solutions to the immediacy of poverty and the problem of illegitimacy. Through this sexing process, male doctors accrued expertise and power, positioning themselves (the rational male body) as the moral saviours in relation to the depravity represented by the sexed female body. With a perceived failure in moral regulation, they were able to justify more

coercive control over the immoral female body to restore threats to the moral order.

By identifying a causal basis for the development of moral panics, this book has shown that concepts of criminality wax and wane historically, but do so within a moral regulatory framework. Concepts of criminality are intrinsically linked to concepts of morality—good, bad and evil—while morality is linked to particular (sexed) bodies.

The key question that arises from this discussion is why female criminality poses such a moral dilemma at particular historical times, given that the vast majority of criminal offences are committed by men or male adolescents, with women and girls featuring relatively infrequently in crime statistics. For example, even though there is a growing perception that female criminality has increased in the last 20 years or so,¹ for those who received pre-court disposals or appeared as defendants in the Magistrates' Courts and the Crown Court, for all offences in England and Wales in 2011, males significantly outnumbered females:

- (i) 54,809 females compared to 176,674 males (1: 3.2) were cautioned;
- (ii) 30,272 females compared to 97,258 males (1: 3.2) received penalty notices for disorder;
- (iii) 351,150 females compared to 1,139,135 males (1: 3.2) appeared as defendants in the Magistrates' Courts;
- (iv) 289,093 females compared to 876,663 males (1: 3.0) were found guilty in the Magistrates' Courts;
- (v) 11,232 females compared to 85,859 males (1: 7.6) were defendants in the Crown Court; and
- (vi) 8,962 females compared to 72,476 males (1: 8.1) were found guilty in the Crown Court.²

While '[f]ewer than one in five of all arrests recorded by the police in 2010/11 and in the preceding four years involved females', and while the most common offence committed by both males and females was violence against the person, there were differences between the type and seriousness of offences for which adult and juvenile males and females were arrested (Ministry of Justice, 2012: 11). Men were more likely than women to be arrested and convicted of serious offences such as murder, sexual assault and armed robbery. While official crime statistics are not representative of all crime committed because of the problems of reporting, policing and detection, the above statistics are probably representative in relation to the sex of those who commit crime, based on victim crime surveys.³

Unlike today, in the mid- to late nineteenth century, women's official rates of murder sometimes exceeded those for men, as discussed in Chapter 3. This was despite the strict moral regulation and scrutiny under which women lived, loved, gave birth and survived. In light of the moral regulatory context surrounding the female body, designed to control women's innate licentiousness, it is not surprising that perceptions of women's criminality have, historically, been associated with the body, and that the level of moral concern and alarm surrounding the female body increases once that regulation is perceived to have broken down. From the Contagious Diseases Acts of the mid-nineteenth century to the crime of soliciting, female criminality has been constructed in light of perceptions of the moral female body, the standard bearer for all female behaviour, with the spectre of the immoral body justifying the stricter moral regulation of women and girls.

Paradoxically, the 'ordinariness' of female criminality when it is associated with the female body is evident in legislation that has historically criminalised soliciting by female prostitutes but did not, until recently, criminalise male prostitution and kerb-crawling by men.⁴ Until amendments in 2009,⁵ the Street Offences Act (1959) referred to the 'common prostitute' who was considered to be female, since other provisions referred to 'the woman' who had been dealt with under the Act. In other words, activities such as prostitution have been criminalised *because* of the perceived inherent immorality of the female body, not because prostitution itself resulted in particular harms to those involved. Instead, prostitution is seen as a harm to society because of the perceived immorality associated with the woman who engages in sex for payment, the 'fallen woman', whose fall from grace meant her body was irredeemably defiled and who threatened the moral order.

The harms that women may suffer as a result of engaging in prostitution (such as sexually transmitted diseases and violence) have never been a reason to morally regulate the sexually licentious male body. This may be contrasted with harms to men which, as discussed in Chapter 3, saw the enactment of the Contagious Diseases Acts in 1864, 1866 and 1869 to prevent the spread of sexually transmitted diseases among the military in particular military towns by increasing the moral regulation of women and girls deemed to be prostitutes.

Despite the moral overtones associated with female criminality, women are not commonly the subject of a moral panic unless their criminal behaviour is perceived to constitute an external danger to some part of the community. Compared with men, rarely do women abduct and rape, become serial killers, engage in gang fighting, or target children for

paedophile activities. Even when women are accused of committing the murders of their infant children, the folk devil represented by the 'bad' or 'mad' mother is insufficient to instigate a moral panic, as shown by the discussion in Chapter 4.

In other words, a particularly potent female folk devil, someone who signifies a danger to all, is required for moral entrepreneurs, the media and politicians to engage in the politics of moral panicking, as the case of Margaret Waters demonstrated in Chapter 3. And sometimes the sexing processes involved in the moral regulation of women and the development of a moral panic can be so powerful that the line between guilt and innocence is lost in the clamour to quell this devil incarnate, this gigantic fantasy of the human psyche.

Notes

1 Introduction: 'Dumb Brutes' and Murderous Mothers

1. Anonymous broadside ballad entitled '*Baby Farmers, Mothers Beware*' (London, 1871); cited in Chassaing (1999: 43).
2. The new institution of a police force was introduced in London in 1829 and was extended to the counties in 1856 (Critchley, 1978).
3. See Jordan (2007) for a description of the campaign against the Contagious Diseases Acts, which sought to stop the spread of venereal diseases in the military through regular forced internal examinations of all women believed to be prostitutes and civil detention for nine months for those diagnosed with a sexually transmitted disease. See Chapter 2 for the economic punishments imposed on unmarried mothers.
4. Adapted from Cossins (2003).

2 The Moral Panic Concept: Its History, Social Utility and Ability to Interpret Past Events

1. For a comparison of infant mortality rates in the world today, see www.indexmundi.com/g/r.aspx?c=as&v=29 (accessed 5 November 2013). Rates per 1,000 live births range from the highest (121.63) in Afghanistan to the lowest in Monaco (1.80) with the UK recording 4.56 (as at 1 January 2012).
2. Data from the Annual Reports of the Registrar-General, 1850–1900 show that the British infant mortality rate was approximately 150 per 1,000 live births for children under the age of one (Behlmer, 1979: 403). This was an underestimation, since many deaths soon after birth were recorded as stillbirths (and not counted) while many births were never registered.
3. As of 4 November 2013.
4. This is a page number in Roman numerals.
5. For example, shortly after the election of a new conservative government in Australia in September 2013, the Minister of Immigration announced that asylum seekers would now be referred to as 'illegal immigrants', which accompanied the introduction of a suite of punitive reforms to stem the flow of asylum seekers arriving from Indonesia.

3 Regulation of the Female Body: Was Infanticide a Moral Panic of the Nineteenth Century?

1. http://academic.brooklyn.cuny.edu/english/melani/novel_19c/thackeray/angel.html; <http://www.victorianweb.org/authors/patmore/angel/9.html>, accessed 8 October 2013.

2. It was not until the Registration Act of 1874 that a legal obligation to register the births and deaths of infants was imposed.
3. Taken from Jones, 1894: 9.
4. It was 'the unwritten rules of Trades' Unions and professional guilds of every degree, and the regulations of governmental departments' that excluded women from the trades and professions. The earnings of men, women, girls and boys in 1871 showed that boys earned 1.25 times more per week than women for high-skilled labour while men earned nearly 4.5 times more than women. Even for lower-skilled labour, men earned 2.8 times more than women. The proportion between the wages of men and boys was 3:1 compared to 1:1.4 for women and girls (CALPWIW, 1871b: 9).
5. Data from Jones (1894).
6. By contrast, murder today is overwhelmingly committed by men rather than women (Office for National Statistics, 2012), while homicide victims are overwhelmingly male. The age groups with the highest rate of murder are boys under the age of one (40 per million) and men aged 21 years (38 per million), although '[a] quarter of all murders are of men aged between 17 and 32' (Dorling, 2005: 28) who are more likely to be Black or Asian (Brookman, 2005). Even though a parent is significantly more likely to be the suspect in relation to a child death compared to other suspect categories, only about 25% of infant murders are committed by women (Mallicoat, 2012).
7. Lord Ellenborough's Act 1803; see also the Offences Against the Person Act 1828 and 1861; and Table 2.
8. The Elizabethan Poor Law (18 Eliz. 1, c.3 (1576)) 'urged magistrates to ferret out bastardy... and punish it severely' (Hoffer and Hull, 1981: 13). The Poor Law Enforcement Act of 1609 declared: '[e]very lewd woman which shall have any bastard which may be chargeable to the parish, the justices of the peace shall commit such woman to the house of correction, to be punished and set to work, during the term of one whole year' (James 1, c.4).
9. The Poor Law Amendment Act 1834 (4 & 5 Will IV c. 76) received Royal Assent on 14 August 1834 and established the legal and administrative framework for a new poor relief system, albeit one that was punitive and harsh. Later amendments to the 1834 Act ameliorated some of its harsher effects (2&3 Vic. c.85 and 7&8 Vic. c.101).
10. The Commission of Inquiry for South Wales resulted in the enactment of the Poor Law Amendment Act 1844. The Poor Law Amendment Act 1868 restored the ability of parish guardians to institute proceedings against fathers at the Court of Petty Sessions. By 1872, the Bastardy Laws Amendment Act (35 & 36 Vic, c.65) consolidated all legislation concerning the maintenance of illegitimate children.
11. In 1875, a report found that illegitimate babies in England and Wales had 'double the mortality risk of those born in marriage' (Levene, 2005: 34).
12. Out of the 361 inquests into the deaths of infants in 1866 for Central Middlesex, juries returned only 79 murder verdicts and one verdict of manslaughter (Rose, 1986: 65).
13. A god associated with child sacrifice, Moloch was worshipped by the Phoenicians.
14. Anonymous, undated, printed by H. Disley, Printer, 57 High Street, St Giles, London.

15. Anonymous, 'For the Murder of Richard Chesham, Her Husband by Poison', 1846–1854, Hodges, Printer, Wholesale Toy Warehouse, 31 Dudley Street, 7 Dials (<http://ballads.bodleian.ox.ac.uk/static/images/sheets/20000/16512.gif>, accessed 19 September 2013).
16. The Stamp Duties Act 1855 repealed the Stamp Act 1712.
17. Members of the new Committee were W. Tyler Smith (President of the Harveian Society), Dr Drysdale, Brendon Curgenvan, Ernest Hart, Mr Sedgwick, Dr Hardwicke and Benson Baker (Tyler Smith, 1867: 21).
18. Data from BMJ, 21/3/1868, p.276. For the period 1851–1860, of the four million deaths recorded in England and Wales, nearly 50% were children under the age of five years (BMJ, 25/3/1871, p.317).
19. Tuberculosis of the abdominal lymph glands caused by cows' milk infected with tuberculosis, characterised by bodily wasting.
20. Hansard, House of Lords Debates, 28 July 1868, vol. 193 cc1896–7.
21. The facts of the Waters case are taken from the transcript of the Waters trial: (www.oldbaileyonline.org, version 7.0, accessed 15/2/2013), September 1870, trial of Margaret Waters (35) Sarah Ellis (28) (t18700919–769)).
22. See <http://cameochemicals.noaa.gov/chemical/1056>, accessed 5 March 2013.
23. See www.webmd.com/vitamins-supplements/ingredientmono-806-PODOPHYLLUM.aspx?activeIngredientId=806&activeIngredientName=PODOPHYLLUM, accessed 5 March 2013. It may cause nausea, vomiting, dizziness, headache, spasms, fever, visual changes and hallucinations, low blood pressure, bone marrow problems, paralysis, coma, liver problems and kidney problems.
24. Congestion of the brain is also known as brain swelling as a result of increased volume in the cerebral blood vessels.
25. *The Lancet London: A Journal of British and Foreign Medicine, Surgery, Obstetrics, Physiology, Chemistry, Pharmacology, Public Health and News*, vol. 1, pp.396–398.
26. Taken from Chassaing, 1999: 42–43.
27. Table copied from CALPWIW, 1871b: 11; data supplied by the Rescue Society to the Committee.
28. Men's conjugal rights were said to be based on the doctrine that 'marriage absolves a husband from the duty of self control' while marriage turned a woman into 'a slave': 'neither law nor custom allows her to defend herself against the ignorance, or recklessness, or brutality of her husband' (CALPWIW, 1871b: 28).
29. In 1872, reforms were made to the Bastardy laws (Bastardy Laws Amendment Act), which made it easier for women to recover maintenance from the fathers of their illegitimate children until the child reached 16 years and increased the maximum amount a father would be required to pay to 5s.
30. The NAPSS 'was an influential forum for the development of social policy between the 1850s and 1880s to which many notable Victorians gave papers and addresses. Leading politicians, intellectuals, bureaucrats, churchmen and businessmen were among its members. It was influential in many different areas – legal reform, penal policy, education, public health and commercial relations – and provides vivid insight into Victorian social and institutional development' (Dr Lawrence Goldman: www.arts-humanities.net/projects/victorian_social_

reform_bibliography_published_papers_social_science_association_1857_86, accessed 19 February 2013).

31. The Women's Suffrage Journal was founded in March 1870.
32. The Children's Act of 1908 was the first legislation in England and Wales to place out-of-home carers under government supervision. Homrighaus (2003; 2010: 12) concluded that these reforms took decades to achieve because of the 'scope of the social reforms required to eliminate baby farming', and the re-education of legislators about their roles and responsibilities from small government (collection of taxes and protection of property through criminal laws) to big government (intrusion into the private home).
33. By 1908, the Infant Life Protection Act had morphed into the Children's Act which was the first state-sanctioned intrusion into private homes for the purposes of protecting the lives and welfare of children in the UK (Lewis, 1980; Behlmer, 1982; Cooter, 1992) by placing out-of-home carers under government supervision.

4 The Moral Regulation of Infanticidal Mothers

1. *R v Clark* [2000] EWCA Crim 54; *R v Clark* [2003] EWCA Crim 1020; *R v Anthony* [2003] EWCA Crim 952; *R v Cannings* [2004] EWCA Crim 1; *R v Patel*, 30 April–11 June 2003 (Reading Crown Court).
2. See http://www.who.int/gho/child_health/mortality/mortality_causes_region_text/en/index.html, accessed 8 February 2014.
3. Source of data: World Health Organisation, Global Health Observatory Data Repository; <http://apps.who.int/gho/data/view.main.gbdc-CH17?lang=en>, accessed 8 February 2014.
4. Office of National Statistics (UK), *Focus on: Violent Crime and Sexual Offences, 2011/12—Appendix Tables*, Table 2.10 (7 February 2013) <http://www.ons.gov.uk/ons/rel/crime-stats/crime-statistics/focus-on-violent-crime/rft-appendix-tables.xls>. Note that the data for 2011–2012 was incomplete.
5. Office of National Statistics (UK), *Focus on: Violent Crime and Sexual Offences, 2011/12—Appendix Tables*, Table 2.07 (7 February 2013) <http://www.ons.gov.uk/ons/rel/crime-stats/crime-statistics/focus-on-violent-crime/rft-appendix-tables.xls>. The relationship of parent to child (mother/father) was not available in this data.
6. For 2009–2010 to 2011–2012, under one year olds were over-represented as victims of homicide, constituting 3.0% of victims per age group while making up 1.3% of the population. Nonetheless, 20–24-year-olds were almost as vulnerable to homicide, constituting 11.5% of victims per age group while making up 6.9% of the population (Office of National Statistics (UK), *Focus on: Violent Crime and Sexual Offences, 2011/12—Appendix Tables*, Table 2.09 (7 February 2013) <http://www.ons.gov.uk/ons/rel/crime-stats/crime-statistics/focus-on-violent-crime/rft-appendix-tables.xls>).
7. But compare Porter and Gavin (2010) who cite higher numbers of female killers than male killers in relation to neonaticide and challenge the idea that most female assailants are mentally ill.
8. Amended by the Infanticide Act 1938, (c. 36) s.1; amended by the Criminal Law Act 1967 (c. 58) Sch 3, Pt III.

9. The 1938 Act is still current law in England and Wales with no plans to reform it, despite reviews by the Committee on Mentally Abnormal Offenders (1975) and the Law Commission (2006). Although it has been adopted in several other countries (Australia, Canada, Ireland, New Zealand, Denmark and Sweden) other countries, such as the United States, have no specific legislation dealing with infanticide (Rapaport, 2006).
10. More recent classifications of maternal filicide recognise the social circumstances in which child-murder occurs. d'Orbán (1979) identified six categories: (i) battering mothers, suffering high levels of social stress; (ii) mentally ill mothers; (iii) neonaticides who are typically unmarried with low levels of psychiatric disturbance; (iv) retaliating women who tend to be suicidal, and have chaotic personalities and marital problems; (v) unwanted children, with mothers either killing by neglect or aggression; and (vi) mercy killing. Oberman (2003: 495–499) describes five categories of maternal filicide: (i) neonaticide typically by young women who deny the fact of pregnancy and experience 'fear, if not terror' about it being discovered, who have chaotic family lives and a history of being abused; (ii) fatal child neglect where there is no intention to kill but the mother, typically single, poor and isolated, makes 'bad parenting decisions' by leaving a child unattended; (iii) abuse-related filicide where the mother kills her child during an episode of violent abuse; (iv) assisted or coerced filicide where the mother typically fails to protect her child from harm from an abusive partner; and (v) purposeful filicide where there is a clear intent to kill. Most of these mothers are mentally ill, isolated and unable to fulfil their maternal roles. Compared to maternal child-killing, paternal filicide is more likely to be associated with fatal child abuse, rather than mental illness, and more likely to involve non-biological children (Stanton and Simpson, 2002: 7).
11. After 11-year-old Jacob Wetterling disappeared in October 1989, Minnesota enacted stronger sex offender registration requirements, which were later enacted nationally when the provisions of the Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act were incorporated into the Federal Violent Crime Control and Law Enforcement Act 1994. This legislation required all states to introduce sex offender registration schemes, which included life-long registration for the most serious convicted offenders. Such registration schemes now operate in nine different countries (Vess, Day, Powell and Graffam, 2013). Twelve years later, the Adam Walsh Child Protection and Safety Act of 2006 created a national database of registered sex offenders through the United States.

Twelve-year-old Polly Klaas, dubbed 'America's child' by the media, was abducted and murdered in 1993 by an offender with a lengthy criminal history. As a result, a Habitual Offenders Bill was introduced into the Californian legislature, closely followed by the Californian 'three strikes' law which imposed mandatory, lengthy sentences on habitual criminals. One year later, America was shocked by the rape and murder of Megan Kanka by a twice-convicted sex offender who upon his release had moved into the same street as Megan's family. As a result of the extensive media coverage and campaigning from the Kanka family about their lack of knowledge of a convicted offender in the neighbourhood, the New Jersey legislature passed legislation

known as Megan's Law within a month of the discovery of Megan's body and before the offender was tried. The aim of the law was to implement a notification system whereby local communities would be informed if a convicted sex offender moved into their neighbourhood.

Two years later, the US Congress passed Megan's Law as an amendment to the Federal Violent Crime Control and Law Enforcement Act 1994. Megan's Law required every US state to enact a public notification scheme to notify communities about the presence and address of a released sex offender in their neighbourhood. In many US states this information is freely available on the internet.

Megan's Law had worldwide ramifications, with community notification or disclosure schemes introduced in a number of other countries including England and Wales. Sarah's Law, or the child sex offender disclosure scheme, was introduced in the wake of the murder of eight-year-old Sarah Payne by a convicted sex offender. Unlike Megan's Law, Sarah's Law only allows parents and caregivers to make an application to the police for the child sex offence record of a particular person. The disclosure of such information is not guaranteed, while the recipient must keep any disclosed information confidential. On 23 December 2013, *The Guardian* reported that although only one in seven such applications are approved by the police, the scheme had 'unmasked' 700 paedophiles living in Britain since April 2011.

12. *R v Cannings* [2004] EWCA Crim 1 at [9], per Judge LJ.
13. *R v Cannings* [2004] EWCA Crim 1, at [8], per Judge LJ, quoting Professor Berry.
14. Others have questioned the validity of the study by Carpenter et al. (2005); see Bacon (2005); Hall (2006); DiMaio (2005).
15. Meadow's belief in 'a hidden epidemic' of child abuse also manifested in his 'discovery' of Munchausen's Syndrome by Proxy in which he proposed that mothers sought attention by fabricating symptoms of illness in their children (Le Fanu, 2005: 250).
16. See *Buchanan v State of Nevada* 119 Nev. 201, 69 P.3d 694 2003; *State of Tennessee v Ward* 138 S.W.3d 245 (Tenn. Ct. Crim. App. 2003).
17. This issue is still controversial. Fleming et al. (2000) (also known as The Confidential Enquiry into Stillbirths and Deaths in Infancy (CESDI) studies) estimated that 6.4% of the 346 SIDS cases they investigated were due to maltreatment as the main cause of death, with maltreatment being a contributing or alternative cause of death in another 8.1% of cases. On the other hand, Pollack (2006) found that there was little support for a high prevalence of covert homicide among SIDS deaths. See also Carpenter, Waite, Coombs, Damen-Willems, McKenzie, Huber and Emery, 2005.
18. *R v Cannings* [2004] EWCA Crim 1 at [18], per Judge LJ, quoting Dr Rushton.
19. *R v Cannings* [2004] EWCA Crim 1 at [20], per Judge LJ, quoting Professor Golding.
20. *R v Cannings* [2004] EWCA Crim 1 at [21], per Judge LJ, quoting Dr Rushton.
21. Facts of the case taken from *R v Clark* [2000] EWCA Crim 54.
22. *R v Cannings* [2004] EWCA Crim 1 at [22], per Judge LJ.
23. *R v Clark* [2000] EWCA Crim 54 at [9], per Henry LJ.
24. *R v Clark* [2000] EWCA Crim 54 at [108], per Henry LJ.
25. See also *R v Clark* [2000] EWCA Crim 54 at [128], per Henry LJ.

26. *R v Clark* [2003] EWCA Crim 1020 at [15]–[16], per Kay LJ.
27. Clare Montgomery and James Gregory, *The Queen v Sally Clark*, Skeleton Argument on Behalf of Sally Clark, In the Court of Appeal (Criminal Division), In the Matter of a Reference by the Criminal Cases Review Commission, p.28 (2002/3824Y3).
28. BBC News, 'Baby Killer was Lonely Drunk', 9 November 1999 (http://news.bbc.co.uk/2/hi/uk_news/512099.stm, accessed 1 March 2014; emphases added).
29. *R v Clark* [2000] EWCA Crim 54 at [151], per Henry LJ.
30. *R v Clark* [2000] EWCA Crim 54 at [126], per Henry LJ.
31. *R v Clark* [2000] EWCA Crim 54 at [157], per Henry LJ; citing *The Times*.
32. *R v Clark* [2000] EWCA Crim 54 at [162], per Henry LJ.
33. *R v Clark* [2000] EWCA Crim 54 at [238]–[239]; [242], per Henry LJ.
34. *R v Clark* [2003] EWCA Crim 1020 at [2], per Kay LJ.
35. *R v Clark* [2003] EWCA Crim 1020 at [55], per Kay LJ. Williams was later found guilty of incompetence in the conduct of the post-mortem examinations on Clark's infant sons (Richard Ford, *The Times*, 28/5/2005).
36. *R v Clark* [2003] EWCA Crim 1020 at [65], per Kay LJ.
37. *R v Clark* [2003] EWCA Crim 1020 at [89]–[93], per Kay LJ.
38. *R v Clark* [2003] EWCA Crim 1020 at [133]–[136], per Kay LJ.
39. *R v Clark* [2003] EWCA Crim 1020 at [138]–[171], per Kay LJ.
40. *R v Clark* [2003] EWCA Crim 1020 at [100]–[102], per Kay LJ.
41. *R v Clark* [2003] EWCA Crim 1020 at [173]–[175], per Kay LJ.
42. *R v Cannings* [2004] EWCA Crim 1 at [16], per Judge LJ.
43. *Meadow v GMC* [2006] EWCA 146.
44. See www.gmc-uk.org/guidance/ethical_guidance/expert_witness_guidance.asp.
45. <http://www.sallyclark.org.uk/November2007.html>, accessed 7 May 2014.
46. Adapted from Cossins (2013).
47. Facts taken from *R v Cannings* [2004] EWCA Crim 1.
48. *R v Cannings* [2004] EWCA Crim 1 at [42] per Judge LJ.
49. An apparent life-threatening event (ALTE) is 'defined as an episode that is frightening to the observer and is characterized by some combination of apnoea . . . , color change, . . . change in muscle tone (usually diminished), and choking or gagging' (National Institute of Health, 1986).
50. *R v Cannings* [2004] EWCA Crim 1 at [129], per Judge LJ.
51. *R v Cannings* [2004] EWCA Crim 1 at [10]–[11], per Judge LJ.
52. *R v Cannings* [2004] EWCA Crim 1, at [131], per Judge LJ; quoting Professor Meadow; emphasis added.
53. *R v Cannings* [2004] EWCA Crim 1 at [150], per Judge LJ.
54. *R v Cannings* [2004] EWCA Crim 1 at [134], per Judge LJ.
55. *R v Cannings* [2004] EWCA Crim 1 at [138]–[142], per Judge LJ.
56. *R v Cannings* [2004] EWCA Crim 1 at [148], per Judge LJ.
57. *R v Cannings* [2004] EWCA Crim 1 at [152], per Judge LJ.
58. *R v Cannings* [2004] EWCA Crim 1 at [175], per Judge LJ.
59. *R v Cannings* [2004] EWCA Crim 1 at [161], per Judge LJ.
60. *R v Cannings* [2004] EWCA Crim 1 at [156]–[160], per Judge LJ.
61. *R v Cannings* [2004] EWCA Crim 1 at [170], per Judge LJ.
62. *R v Cannings* [2004] EWCA Crim 1 at [177], per Judge LJ.

63. *R v Cannings* [2004] EWCA Crim 1 at [178], per Judge LJ.
64. *R v Cannings* [2004] EWCA Crim 1 at [179], per Judge LJ.
65. *R v Cannings* [2004] EWCA Crim 1 at [31]–[35], per Judge LJ.
66. The facts are taken from *R v Anthony* [2005] EWCA Crim 952.
67. *R v Anthony* [2005] EWCA Crim 952 at [69], per Judge LJ.
68. *R v Anthony* [2005] EWCA Crim 952 at [89], per Judge LJ; emphasis in original.
69. *R v Anthony* [2005] EWCA Crim 952 at [81], per Judge LJ.
70. *R v Anthony* [2005] EWCA Crim 952 at [85], per Judge LJ.
71. *R v Anthony* [2005] EWCA Crim 952 at [85], per Judge LJ.
72. *R v Anthony* [2005] EWCA Crim 952 at [91]–[92], per Judge LJ.
73. *R v Anthony* [2005] EWCA Crim 952 at [96]–[97], per Judge LJ. Since juries and judges rely on the objectivity of expert evidence, the Law Commission (2011: 8, 9) recently recommended a new ‘reliability-based admissibility test for admitting expert evidence in criminal proceedings’ which ought to operate in tandem with ‘a more critical approach on the part of some judges to the evidence placed before them’ (see, further, Cunliffe, 2011; Betts, 2013). Based on this test, not only should an expert be familiar with all the published literature in their discipline, he or she would need to be able to explain the methodological limitations of the studies relied on for his or her opinions. Judges must also address the heuristic influence of expert evidence and consider the extent to which certain evidence may encourage heuristic decision-making.
74. *R v Cannings* [2004] EWCA Crim 1 at [164]–[165], per Judge LJ.

5 The Implications of the Body for Female Criminality

1. Nonetheless, for the period 2006–2007 to 2010–2011, there was a 13% decrease in the arrests of females (and a 7% decrease in the arrests of males) (Ministry of Justice, 2012, accessed 15 June 2014).
2. Ministry of Justice (2012), accessed 15 June 2014.
3. See <http://www.ons.gov.uk/ons/rel/crime-stats/crime-statistics/period-ending-december-2013/stb-crime-stats-dec-2013.html>, accessed 15 June 2014.
4. It is now an offence under s51A of the Sexual Offences Act 2003 for any person to solicit another person for the purposes of obtaining their sexual services. This provision was enacted by the Policing and Crime Act 2009, c.26.
5. Policing and Crime Act (2009), c.26.

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Index

Note; Locators followed by 'n' refer to notes.

- abortion, 4, 8, 47, 73, 79, 81, 84, 115, 117–19, 122–3, 162–3
- Acorn, A. E., 239
- Acton, W., 65, 66, 69, 97
- Adam Walsh Child Protection and Safety Act of 2006, 266 n11
- adopted children, 2. 115, 143 156
- Alison, A., 85
- Allen, J., 18, 67
- Altheide, D. L., 20, 25, 52
- Altick, R., 109
- America's child', 266 n11
- Anderson, P., 107
- Anderson, R. J., 82, 83, 85, 86
- animal mothers, 1
- Anthony, Donna case
mad/bad dualism, 176
multiple infant death cases, 169–70, 245–8
paediatric evidence, 220–3, 241
prosecutorial narratives, 206
trials, 207, 213–16, 219–20
- Arnot, M., 117, 143, 154, 159, 161, 163
- Association for the Promotion of Social Science (NAPSS), 98, 154, 163
- asylum seekers, 22, 28, 262 n5
- 'Baby Farmers, Mothers Beware'
(Anonymous ballad), 262 n1
- baby-farmers
campaign against, 13
case studies, 2, 5, 111–14, 121–2, 131, 135, 142–3, 156–7, 161
characteristics, 18
economic crime, 8, 83
feminist CALPWIW on, 151–2
infant deaths and, 77, 86, 92, 94, 98, 121, 160, 169, 212
moral panic, 153
murderous practices, 123–4
newspapers on, 68, 115, 137, 141
in nineteenth century, 16, 55–6, 213
police investigations, 165–6
regulation, 150, 155, 158–9, 168, 251
terminology, 1
underground activities, 91, 119, 163
in Victorian period, 138
- baby-farming
BMJ campaign against, 96–100, 110–11, 143
CALPWIW context, 145, 149
causal theory, 159–64
economic benefit, 18, 67–8, 73, 84, 91
feminist opposition, 157
folk devil, 100, 255
in nineteenth century, 14, 74
media reaction, 56, 114–19, 141–2
moral campaign (1861–72), 2, 154–6
moral panic, 91–4, 130–3, 136, 139–40, 150–1, 158–9
police investigation, 165
public condemnation, 114
working-class women, 67, 75, 121, 156
see also case studies
- Bacon, C. J., 218, 219, 267n. 14
- Baker, J., 117, 178, 193, 196, 197
- Bartley, P., 155
- Bartrip, P. W. J., 121
- Bastardy laws, 97, 263 n10, 264 n29
- Batt, J., 224, 225, 229, 230, 231, 232, 235
- Batty Tuke, J., 177, 196
- Beal, S. M., 219, 220
- Beckwith, J. B., 216, 217, 220
- Begley, S., 221

- Behlmer, G. K., 17, 67, 70, 76, 78, 94, 95, 96, 111, 113, 114, 115, 151, 154, 158, 159, 164, 262n. 2, 265n. 33
- Ben-Yehuda, N., 19, 20, 21, 25, 30, 35, 36, 37, 39, 41, 42, 43, 44, 45, 47, 48, 50, 93, 105
- Bennett, S., 205
- Berkowitz, C., 219
- Berry, P. J., 216, 267n. 13
- Best, G.
- Betts, S., 215, 216, 218, 222, 237, 269n. 73
- Birch, H., 214
- Blackstone, W., 87, 184
- Blundell, H. K., 219, 220
- Boetzkes, E., 187, 253
- Bourget, D., 174
- Bowlby, J., 200
- Brandon, M., 173
- British infant mortality rate, 262 n2
- British Medical Journal (BMJ) doctors
 baby-farming, 74, 94, 96–7, 110–14, 121, 130–1, 143, 152, 158
 on character of working-class women, 99–100
 feminists on, 149
 folk devil, 100
 on illegitimacy rates, 70, 155
 infanticide, 71, 95, 97–8, 105
 on infant mortality rate, 71
 investigations, 166
 as moral entrepreneurs, 114–21, 123, 157, 160–4
 political movement, 154, 156
 professional publications, 154
- Brookman, F., 173, 215, 216, 263n. 6
- Brownlow, J., 61
- Buckingham, D., 209
- Bucknill, J. C., 177, 180, 196
- Butler, A., 171, 172, 207, 208, 210
- Butler, J., 10, 11, 60, 61, 143
- Byard, R. W., 217
- Campbell Clark, A., 177, 180, 185
- Cannings, Angela case
 circumstantial evidence, 214
 as ‘monstrous’ mother, 206
 moral panic, 207
 multiple infant murder, 170
 paediatric forensic pathology, 215–16, 219–21, 223
 trial judgement, 240–5
- Carlen, P., 3, 10
- Carmichael, G. A., 73, 75
- Carpenter, M., 61
- Carpenter, R. G., 218, 219, 247, 267n. 14
- case studies
 Anthony, Donna, 169–70, 176, 206–7, 213–16, 219–20, 220–3, 241, 245–8
 Cannings, Angela case, 170, 206–7, 214–16, 219–23, 240–5
 Clark, Sally, 170, 175–6, 215–16, 219–21, 223–40
 Patel, Trupti, 170, 207, 248–9, 251–3
 Waters, Margaret, 18, 110, 123–37, 139–43, 161, 165, 170
 Winsor, Charlotte, 18, 100–5, 110–13, 122, 156–60
- Chaiken, S., 238, 239
- Chapman, A. H., 204, 226
- Charman, E. A., 23, 239
- Chassaigne, P., 51, 107, 108, 262n. 1, 264n. 26
- Chen, S., 238
- child abuse
 contentious theories, 255
 demographic factors, 174, 175
 female perpetrators, 205
 as folk devil, 22
 male perpetrators, 172
 maternal, 256
 moral panic, 207–14
- child sexual abuse, 21, 47, 203, 208–9, 211
- child-murder
 baby farming and, 94
 BMJ on, 97
 conviction rate, 83–5
 female perpetrators, 205
 legal and social explanation, 191
 media attention, 18, 136
 medicalisation, 187
 by mothers, 205, 250, 254
 national verdicts, 96
 nineteenth century, 6

- child-murder – *continued*
 professional, 104
 in twentieth century, 174, 209,
 255–5
- Children's Act of 1908, 265 n32
- Clarke, G., 198
- Clark, Sally case
 convictions, 170
 medical interpretations, 176
 moral panic, 207
 paediatric forensic pathology,
 215–16, 219–21
 prosecutions, 175
 trials, 223–40
 unnatural mothers, 206
- Clouston, T. S., 177
- Cody, L. F., 62
- Cohen, S., 2, 3, 4, 7, 18, 19, 20, 21, 22,
 23, 24, 29, 30, 31, 33, 34, 38, 41,
 42, 48, 49, 53, 105, 154, 208
- Collier, R., 10
- Collins, D., 209
- Commission of Inquiry for South
 Wales, 263 n10
- Committee on Mentally Abnormal
 Offenders, 266 n9
- The Confidential Enquiry into
 Stillbirths and Deaths in Infancy
 (CESDI), 243, 267 n17
- Conley, C., 83
- Connell, R., 9, 10, 40, 45
- Conrad, P., 199, 200
- Contagious Diseases Acts, 61, 148,
 210, 260, 262 n3
- Coombs, R. R., 267n. 17
- Cooter, R., 265n. 33
- Cornwall, B., 33–4
- Corrigan, P., 27
- Cossins, A., 10, 12, 40, 54, 72, 74, 160,
 208, 209, 211, 216, 257, 262n. 4
- Cradock, G., 221, 222, 223
- Cregan, K., 185
- crime stories, 9, 50–1, 108, 131, 133
- Crimmins, S., 254
- Critcher, C., 2, 14, 19, 21, 25–9, 32,
 34, 37–54, 93, 94, 105, 139, 153,
 157, 159, 207–13
- Critchley, T. A., 262n. 2
- Cruikshank, W. H., 205
- Cunliffe, E., 221, 222, 269n. 73
- Curgenven, J. B., 17, 77, 98, 99,
 113–14, 117, 151, 264n
- Currie, E., 93
- D'Cruze, S., 60, 191
- Dagistanli, S., 19
- Daly, K., 9, 10
- Damen-Willems, C., 267n. 17
- Damme, C., 183
- Davey, J., 172
- David, M., 18
- Davies, M., 10
- Day, A., 266
- De Vries, J., 69, 72
- de Young, M., 19
- Deutsch, H., 201, 204
- deviance
 areas of, 19
 categories, 53
 commercial business and, 164
 definition, 18
 media focus, 51
 moral panic and, 21, 32, 36–7, 55
 sexed bodies, 7
 social control, 25
 social threat, 36
 twentieth century, 52
 women's, 188, 199, 254
 youth, 26
- DiMaio, D. J., 220
- DiMaio, V. J. M., 217, 220, 267n. 14
- Dobson, V., 191, 192
- Donajgrodzki, A. P., 163
- Dorling, D., 263n. 6
- Drucker D. B., 220
- Duncan, J., 219
- Eagly, A. H., 238
- Edwards, S., 3
- Eigen, J., 85, 190
- Elias, N., 29
- the Elizabethan Poor Law, 183, 263 n8
- Emery, J. L., 219, 221, 267n. 14
- Emmerichs, M. B. W., 79, 82–4, 106
- English, D. J., 208
- Ericson, R. V., 50
- Erikson, E. H., 200
- Ewigman, B. G., 173

- The Fear of Being a Woman: A Theory of Maternal Destructiveness (Rheingold), 202
- Febvre, L., 105
- Federal Violent Crime Control and Law Enforcement Act, 266 n11
- Feinman, C., 176
- fell-butchers, *see* baby-farmers
- female criminality
- body implications and, 257–61
 - cultural responses, 10
 - infanticide, 7–8
 - medicalisation, 176
 - men's criminality vs, 56
 - in nineteenth century, 105
- feminists, 11, 72, 74, 143, 149–51, 163–4
- flicide
- maternal, 202
 - nineteenth century, 5
 - paternal, 174
 - perpetrators of, 173
 - psychotic, 205
 - SIDS death and, 219
- Finkel, N. J., 210, 238
- Fitzjames Stephen, J., 85, 179
- Flügel, J. C., 204
- Fleming, P. J., 217, 220, 223, 243, 267n. 17
- folk devils, 4, 7, 14, 20–2, 24, 33–4, 37, 39–40, 45, 49, 52, 56, 209, 212, 239, 258
- Forna, A., 168
- Foucault, M., 177, 199
- Freud, A., 203, 205
- Freud, S., 201
- Froggatt, P., 220
- Fromm, E., 200
- Fu, L., 219
- Gardner, G. E., 204
- Garland, D., 19, 20, 32, 34–7, 40, 41, 43, 49, 50, 94
- Garner, H. H., 206
- Gatens, M., 9–13, 160, 258
- Gavin, H., 174, 265n. 7
- Gender
- body vs, 10
 - CALPWIW on, 148, 164
 - class identity and, 58
 - division of labour, 7–8, 68, 88
 - feminists on, 11
 - medical theories, 199
 - moral panics about, 33, 46
 - sexed bodies approach, 9, 11–13
 - social construction of, 39
 - social welfare reform in Britain, 162
 - traditional stereotypes, 206
- Gladstone, William, 121
- Goc, N., 26, 175, 206, 251, 253, 254, 256
- Golding, G., 221, 222, 267n. 19
- Gooch, R., 177, 193, 195, 197
- Goode, E., 19–21, 25, 35, 39, 42–5, 47, 48, 50, 93, 105
- Goodman-Delahunty, J., 215, 216, 218, 222
- Goodwin, J., 205
- Gorham, D., 64
- Graffam, J., 266n. 11
- Gramsci, A., 40
- grassroots model, 46–7
- Greene, E., 238, 239
- Greenwood, J., 68, 100, 111, 112, 131
- Grosz, E., 10, 11
- gun ownership, 47
- Guntheroth, V. G., 220
- Habitual Offenders Bill, 266 n11
- Hahn Rafter, N., 9
- Hall, D. M. B., 218, 222, 267n. 14
- Hall, S., 19, 23, 24, 37, 39, 40, 43, 94
- Haller, D., 67, 89
- Hariman, R., 107
- Harris, J. S., 198
- Harris, M., 100, 104, 110
- Hart, E., 96–100, 111, 113–23, 141, 150–2, 156, 264n. 17
- Hartman, M. S., 79, 82
- Hartnell, E., 59, 62, 64, 65
- Harveian Society, 84, 98–9, 113–14
- Hay, C., 19
- Hay, P. J., 192
- Heidensohn, F., 3, 9, 13

- Henriques, U. R. Q., 74, 76, 88,
89, 90
- Hewitt, M., 87–90, 154
- Hier, S. P., 4, 18, 19, 20, 21, 23, 24, 25,
26, 27, 28, 29, 30, 31, 32, 33,
34, 35
- Higginbotham, P., 17
- Hill, R., 219, 231, 232
- Hilton, J. M. N., 221
- Hirschmann, V. J., 205
- Hoffer, P. C., 3, 87, 183, 184
- homicide victims, 78, 82, 263 n6
- Homrighaus, R. E., 18, 26, 65, 92, 116,
154, 162, 265n. 32
- Honess, T., 239
- Honeyman, K., 68, 72
- Hood-Williams, J., 10
- Hopwood, J. S., 193, 198
- hostility, 21, 25, 44, 52, 176, 201,
203–4
- Huber J., 267n. 17
- Hull, N. E. H., 3, 87, 183, 184, 263n. 8
- Hunt, A., 26, 27, 29, 31, 34, 47, 48, 50,
53, 58, 76, 93, 178
- Hunter, W., 76, 178
- Hymel, K., 219
- ideal mother, 168, 182, 201
- illegitimacy
BMJ on, 70, 98
CALPWIW on, 73
during Industrial Revolution, 69
economic consequences, 183
extra-marital sex, 6
infanticide vs, 83, 103, 116, 149,
163, 185–6, 197
medicalization, 195
as moral failing, 18, 74
moral panic, 74–5, 87, 165, 258
Poor Laws and, 91, 156, 183
prevalence of, 113, 174, 257
social reality of, 2, 89, 155
unmarried mother, 7, 148
working-class and, 17
- immorality, 2, 53–4, 60–2, 73, 89, 116,
134, 141, 154, 156, 180, 182,
207, 260
- Infant Life Protection Act, 152, 158,
161, 164, 166, 265 n33
- Infant Life Protection Society (ILPS),
143–4, 151–2
- infant mortality
alternative explanations for, 118
baby-farming and, 154, 156, 162
BMJ doctors' on, 160
CALPWIW on, 148–50, 152
causes, 116, 144, 148
criminal laws, 147
fatalism, 91
Hart's on, 98, 120–1
Harveian Society of London on,
98, 114
of illegitimate children, 56
media reports on, 131, 142
in middle classes, 3, 207
moral panic, 95, 158
national crisis, 114
nefarious activities of
baby-farmers, 119
in nineteenth century, 2, 8, 16–17,
168, 170, 209
in rural areas, 71
under one year, 70
unnatural motherhood, 99
violent causes, 77–8
in working class, 72, 96, 161
- infanticide
BMJ on, 71, 95, 97–8, 105
female criminality and, 7–8
definition, 5
illegitimacy vs, 83, 103, 116, 149,
163, 185–6, 197
moral panic, 74–87, 95–9
motherhood and 218
in nineteenth century incidence, 4,
7–8, 87, 156, 166–7, 170, 176–7,
186, 206–7, 253–4
sexed female body and, 1, 7, 9, 91,
110, 169, 187, 198, 213, 251–2
statistics, 170–5
in twentieth century, 214–15
working-class women, 114, 117,
149, 155, 185, 195
see also case studies
- Infanticide Act 1938, 265 n8
- interest groups, 22, 47, 50, 52
- Irgens, L. M., 220

- Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act, 266 n11
- James, A., 5, 6, 166, 183, 184, 207, 263n. 8, 268n. 27
- Jefferson, T., 10
- Jenkins, P., 19–22, 33, 43, 47, 49, 158, 208–11
- Jones, H. R., 68, 70, 71, 77, 78, 130, 166, 263nn. 3–5
- Jordan, J., 59, 61, 162, 163, 210, 245, 248, 262n. 3
- Joyce, H., 231, 232
- Jung, C. G., 201, 202
- Kauppi, A., 213
- Kellett, R. J., 186
- Kellum, B. A., 183
- Kemp, C. H., 212, 255
- Kilday, A-M., 3, 26, 69, 74, 76, 82, 92, 93, 175, 183, 184, 186, 189
- killer mother, 201
- Kitzinger, J., 37
- Knelman, J., 26, 50, 51, 57, 79, 84, 105–10, 115, 138, 155, 178
- Kramer, K. J., 188
- Krischer, M. K., 173, 174
- Krous, H. F., 217
- Krzanich, A., 26, 43
- Lacey, N., 10–12, 162
- Lake, P., 87, 185
- Lankester, E., 6, 7, 95, 96, 111, 151
- Larner, C., 93
- Laster, K., 8
- Law Commission 2006, 266 n9
- Le Fanu, J., 220, 255, 267n. 15
- Levene, A., 57, 61, 69, 74–6, 87, 91, 158, 263n. 11
- Lewis, J., 265n. 33
- Linders, A., 34
- Longmate, N., 17
- Loudon, I., 180
- Lundström, R., 26
- Lynch, A., 43
- Macdonald, J., 193
- MacKenzie, F. W., 179, 193, 196
- MacLeod, M. D., 178, 180, 195, 196
- Maheswaran, D., 239
- Mallicoat, S. L., 263n3 6
- Man Burrows, G., 195
- Marcus, S., 163
- Marland, H., 178, 194
- Martin, H-J., 105
- maternal filicide, classification, 266 n10
- Matheson, J. C. M., 189
- Mathis, J. L., 200, 201
- Maudsley, H., 85, 177, 178, 179, 181, 187, 192, 194–6, 250
- McCorkle, R. C., 19
- McIlroy, A. L., 198
- McKenzie, A., 267n. 17
- McRobbie, A., 23, 24, 26, 35, 37, 39, 45, 48
- Meadow, R., 220, 221, 223–6, 231, 232, 234, 236, 237, 239, 240, 242–51, 267n.15
- media
- baby farming, 141–2
 - child-murder, 18, 136
 - deviance, 51
 - infant mortality, 131, 142
 - morality, 139–40
 - motherhood, 175, 254
 - nineteenth century women, 52, 105–6, 175
 - Patel, Trupti case, 253
 - sexed female body, 253–5
 - Waters, Margaret case, 110, 157
 - Winsor, Charlotte case, 2, 100–5
- Medical Act of 1858, 112
- medicalisation, 176, 199–200
- Megan's Law, 266 n11
- Messerschmidt, J., 10, 40
- Messerschmidt, J. W., 40
- Meyer, C., 170, 176
- middle-class women, 58, 74, 155, 216
- Miethe, T. D., 19
- Miller, D., 37
- momism, 201
- Moon, R., 219
- Moore, I., 60–2
- Moore, R.

- moral regulation
 infanticidal mothers, 182–92
 vs moral panic, 4–5, 26–33, 74–87,
 95–9
- morality
 casualties of war, 17
 class identity and, 58, 69
 contraception issues, 153
 criminal justice system and,
 177, 179
 cultural variation, 21
 health and, 97, 116–17
 individualities and, 200
 media focus, 139–40
 modes of conduct and, 28
 moral panic, 31–2, 37, 53–5, 258–9
 moral panic theory, 14
 motherhood and, 202–3, 254
 nineteenth century, 88
 sexed concept, 2, 54, 60, 87, 91,
 156, 160, 178, 182
 symbolic language, 40
 twentieth century, 41
 Victorian values of, 66
- Morrison, W. D., 65
- Morrissey, B., 213
- Mortensen, P., 192, 193
- Morton, J. H., 192, 198
- The Mother, Anxiety and Death
 (Rheingold), 202
- motherhood
 career conflicts, 226, 241
 cultural suspicions, 162, 167, 176,
 252, 255
 darker side, 206
 infanticide and, 218
 irresponsible, 2
 Jungian concepts, 201
 justice system, 249–51, 256
 media focus, 175, 254
 middle-class, 216
 modern-day, 170
 moral regulation, 168, 214
 natural, 117, 138
 norms, 182, 222, 233–4
 single, 145
 social conditions, 190, 200
 twentieth century, 214
 unmarried, 41, 70, 87
 unnatural, 99, 159, 181, 213
 Victorian concepts, 57, 154
- Munchausen's Syndrome by Proxy,
 225, 246, 267 n15
- Muncie, J., 26
- Murphy, L. B., 200
- Naylor, B., 226, 252, 253
- Nead, L., 58, 59, 61, 153
- Nelson, C., 196
- Newburn, T., 9, 10
- nineteenth century
 baby-farming, 67–8, 84, 91–4, 113,
 131, 139, 162, 168, 212–13
 children death, demography, 70, 74
 concept of motherhood, 201
 criminal law, 6, 169
 description of puerperal insanity,
 180, 193
 homicide statistics, 82
 infanticide, 4, 7–8, 87, 156, 166–7,
 170, 176–7, 186, 206–7, 253–4
 media portrayal of women, 52,
 105–6, 175
 medical theories, 187–8, 191–2, 194,
 196, 199
 moral campaigns in England and
 Wales, 4
 moral regulation female body, 53–6,
 57–66
 murder trials., 214–15
 paedophile, 209
 prostitution, 66
 safety of children, 67–8
 sexed female body, 3, 153, 181
 single women pregnancy, 76
 trading of children, 2
 women's criminality, 79, 105, 204
 working-class women, 154, 163
- 1938 Act, 189–1
- Nobles, R., 232, 239
- Nolan J., 173, 215, 216
- Nutt, T., 75
- Oberman, M., 170, 176, 183, 266n. 10
- Offences Against the Person Act of
 182, 73, 80, 81, 185, 263 n7

- offspring, 6, 61, 75, 85, 89, 95–6, 142,
 148–9, 152, 159, 164, 182–3, 191,
 198, 201
 Oldridge, D., 87
 Oren, J., 219
 Outhwaite, R. B., 183
 Oyen, N., 219, 220
- Parsons, T., 199
 Patel, Trupti case
 ‘bad’ mother narrative, 251–2
 media portrayal, 253
 moral panic, 207
 multiple infant death cases, 170
 trial judgement, 248–9
 Patmore, C., 62–4, 178, 201
 Pearce, J. M., 23
 Person Act 1861, 73, 80–1
 Peterson, D. R., 219
 Peterson, M. J., 112
 Pinchbeck, I., 87–90, 154
 police force, 163, 262 n2
 Policing and Crime Act 2009,
 269 n4, n5
 Pollack, H. P., 263n. 17
 Poor Law Amendment Act 1834,
 263 n9
 Poor Law Amendment Act 1844,
 263 n10
 The Poor Law Commissioners,
 88–90
 Porter, T., 174, 265n. 7
 Powell, M., 266n. 11
 pregnancy
 baby farmers and, 117
 biological complications, 203
 emotional effects, 182
 financial disaster, 69
 Freud on, 205
 long process, 195
 malnutrition during, 71
 mental disorders, 177,
 182, 197
 overwork during, 149
 puerperal insanity and, 180,
 196, 198
 single women, 76
 women’s criminality and, 79
- Pritchard, C., 171–3, 175, 207,
 208, 210
 Pritchard, J. C., 180
 Probyn, E., 10
 processual model, 14, 38, 42, 46, 56,
 93, 95, 105, 157, 159
 prostitution
 BMJ campaign against, 97, 154
 class specific representation, 59,
 62, 163
 comparison with criminal women,
 65–6
 contagious disease, 148, 210
 as female criminality, 257, 260
 intrusive punishments, 5
 social threat, 61
 under-age, 74
 psychiatry, 175, 178–80, 190–1, 194,
 199, 202, 206, 215
 Puwar, N., 10
- Rapaport, E., 172, 173, 191, 216, 251,
 266n. 9
 Ravetz, J. R., 251
 Registration Act of 1874, 263
 Reid, A., 91
 Reid, J., 177, 180
 Reiner R., 49, 51
 Reinhart, C. M., 68
 Resnick, P. J., 5, 170, 204–6,
 254, 255
 Rheingold, J. C., 200–6, 254, 255
 Rich, A., 168, 254
 Riska, E., 199
 Roberts, D. E., 186
 Rock, P., 24
 Rogoff, K. S., 68
 Rohloff, A., 4, 18, 23, 26, 28, 29, 30,
 33, 34, 36, 42
 Rose, L., 3, 67, 69, 70, 73, 76, 83, 90,
 91, 95, 96, 112, 117, 122, 124,
 164–7, 263n. 12
 Rowbotham, J., 58
 Rubenhold, H., 50
 Ryan, W. B., 17, 85, 185
- Safford, A. H., 5, 6, 79, 98
 Salecl, R., 254
 Sales, B., 191, 192

- Saxbe, W. B., 128
 Sayer, D., 27
 Scher, I. L., 175
 Schiff, D., 232, 239
 Schmitz, E., 205
 Schnitzer, P. G., 173
 Seaborne Davies, D., 184–8
 Seager, C. P., 206
 Select Committee of the House of Commons, 166
 Sesardic, N., 232
 seven stages, processual model
 coping and resolution, 39
 emergence, 38
 experts, 38–9
 fade away, 39
 legacy, 39
 media inventory, 38
 moral entrepreneurs:, 38
 sexed bodies
 approach, 9, 11–12, 35, 162, 199–200, 257–8
 concept of evil, 213, 252, 259
 of deviance, 7
 moral panic process, 13–14, 56
 social practices, 13
 sexed female body
 conceptions, 62, 167, 215
 criminality and, 105–6, 257
 cultural meanings, 13
 infanticide and, 1, 7, 9, 91, 110, 169, 187, 198, 213, 251–2
 media's fascination, 253–5
 medicalisation, 200
 motherhood and, 175, 182, 206
 myths, 168
 nineteenth-century discourse, 3
 pathologies, 192
 qualities, 181
 role in moral regulation, 3–4, 55, 60, 160, 162, 165, 170, 190–1, 258
 values and conduct, 28, 57, 153, 177, 216
 Victorian moral values, 202
 Shanley, M. L., 157
 Sharpe, J. A., 7, 82
 she-devils, *see* baby-farmers
 Showalter, E., 175–8, 180, 192, 194, 195
 Sidebotham, P., 172–4
 Simon, D., 238
 Simpson, A., 205, 266n. 10
 Sinclair, K., 252
 Sindall, R., 93
 Smalldon, J. L., 193, 205
 Smith, R., 85, 86, 175–82, 239
 Smith, V. L., 17, 70, 77, 84, 91, 113, 116, 264n. 17
 social control, 4, 14, 19, 23–5, 29–32, 64, 153, 163–4, 199
 social practices, 9, 11–13
 Southall, D. P., 221, 246
 Sparrow, G., 176
 Spinelli, M. G., 170
 St Cyr, J. L., 19, 25, 34, 43
 Stamp Duties Act 1855, 264 n16
 stand-alone theories, 48
 Stanko, E. A., 9, 10
 Stanton, J., 205, 266n. 10
 Stevens, M., 196
 Stone, L., 7, 82
 Stratmann, L., 106, 109
 Sudden Infant Death Syndrome (SIDS).
 categories, 218
 causative cases, 220
 CESDI study, 243
 Clark's case, 223–5, 231–3, 236–7
 definition, 216
 familial, 240, 249
 recurrence of, 220
 smothering, 221
 victims of, 219
 Summers, A. M., 219
 Swain, S., 73, 92
 Symons, A., 64
 Taylor, A. S., 86, 183, 219
 teenage pregnancy, 47
 Terp, I., 192, 193
 Tester, K., 48
 Thompson, K., 18, 26, 34

- Thorn, J., 175
- Thornton, S., 23, 24, 35, 37, 39, 45, 49
- Thurman, J., 194
- Tomalin, C., 50, 155
- Trope, Y., 238
- Tuke, D. H., 177, 180, 196
- Tyler Smith, W., 17, 70, 75, 77, 84, 90, 91, 99, 116, 264n. 17
- Underdown, D. E., 87
- Ungar, S., 23–6, 31–3, 37, 39, 41, 42, 49
- unwritten rules of Trades, 263 n4
- Valdimarsdóttir, U., 192
- Vess, J., 11, 266n
- Victor, J. S., 47
- Victorian values
 - baby-farmers, 138
 - concept of womanhood, 57–9, 63, 65, 106, 139, 154, 156
 - crimes of morality, 66
 - female body, 14, 16, 153
 - illegitimacy, 74
 - mental disorders, 85, 178, 180
 - moral reform, 164, 176, 194, 258
 - murder and execution, 107
 - notion of superiority, 194
 - psychiatry, 202
 - wisdom, 76
- Waddington, P. A. J., 23, 24, 34, 35
- Walker, N., 184, 187, 188, 191, 193, 196
- Walklate, S., 9
- Walton, S., 34
- Ward, T., 186, 188–90, 255, 267n. 16
- ‘The Waste of Infant Life,’ (Curgenvén), 98
- Waters, Margaret
 - as baby-farmer, 18, 122, 151–2, 161, 165
 - BMJ doctors’ campaign, 153–6
 - conviction and execution, 157, 161, 170
 - financial gain, 154
 - media narratives, 110, 157
 - moral panic, 123–37
 - opposition to the medical experts claim, 143–50, 157
 - personification of evil, 160
 - police investigations, 84
 - trial analysis, 137–43
- Watkins, S. J., 231
- Watson, W. D., 188, 192
- Waugh, B., 50, 165, 166
- Weed, E., 10
- Welch, M., 46, 47
- West, C., 9
- Wiener, M. J., 85, 163, 164
- Wilczynski, A., 2, 191, 206, 214, 252
- Williams, C., 232, 234–237, 251
- Williams, G., 43
- Williams, S., 61, 75, 76
- Winsor, Charlotte case
 - arrest and conviction, 156–7
 - baby farming, 18
 - causal theory, 159
 - conviction, 101
 - media attention, 2, 100–5
 - moral entrepreneurs persistence, 112–13, 160
 - moral panic, 131, 165
 - police interest, 122
 - trials, 110–12
- Winter, R. J., 238, 239
- Woffinden, B., 226, 227
- Wolkind, S., 219, 243
- Women’s Suffrage Journal, 265 n31
- working-class women
 - character, 99
 - demonisation, 116, 158–9
 - farming conditions, 68, 91–2, 100, 156, 164
 - illegitimate births, 73–4, 165, 258
 - infanticide and, 114, 117, 149, 155, 185, 195
 - living conditions, 16, 66–7

- working-class women – *continued*
 moral campaign against, 7, 61, 96,
 164
 out-of-home care, 2, 4, 154
 poverty, 70, 72
 unnatural' behaviour., 3
 vs middle-class women, 58, 60,
 102, 163
Wright, S., 4, 18, 23, 26, 28–30, 33,
 34, 36
Wynter, A., 7, 86, 91, 111, 116
- Young, A., 252
Young, J., 18, 20, 21, 25, 33, 37, 49,
 50, 52, 92, 94, 155, 166
youth violence, 47
- Zedner, L., 58, 59, 64, 66, 106, 188
Zgoba, K. M., 211
Zilboorg, G., 198, 200, 204
Zimmerman, D. H., 9
Zola, I. K., 199