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Creators, Destroyers, and a Judge: Infanticide and Puerperal Insanity in Victorian English Courts

Christina Forst

Responsibility in criminal courts has always raised multiple legal issues. Culpability is a clear point of contention, as the intent behind crimes can often render a more lenient sentence. Asking a judge or jury to believe that there is no guilt often requires establishing some sort of caveat to the accused individual's mental condition. However, this also leads to the question of how to reasonably punish an individual who it is deemed successfully presents this case. British society had certain legal norms in such situations during the 18th and 19th centuries. As with any type of lessened culpability defense, popular notions of medicine were central to the verdicts.

There was a general understanding of the medical risks to women. Childbed diseases often developed, and puerperal fever was one of those diseases. As it is currently defined today, puerperal fever is a systemic bacterial infection often as a result of unsterile birthing procedures, degenerating into sepsis if not treated immediately.¹ Although the medical profession did not yet know about bacteria, there seemed to be a clear link between unclean doctors and the disease, as

¹See

<http://dictionary.reference.com/browse/puerperal+fever?s=t>

Christine Hallett notes in her article.² The disease was greatly feared among patients and their doctors, as treatment was often ambiguous.³ It was this anxiety toward the medical condition that created the anxious nature from which puerperal mania was conceptualized.⁴

In the current body of work, the connection between puerperal insanity, infanticide and medico-legal verdicts is weak. At times, there are strong links between two out of the three, but the clear cause-and-effect connection is not established. This paper will examine the perception of mother's mental health through infanticide verdicts. As cases from 1829 – 1913 show, the link between madness and culpability troubled the courts as they struggled to balance punishment with mercy. As a whole, the English judicial system was much more lenient towards women at this time compared to other country's judicial systems. However, this was not due to a general compassion or understanding of women's situations. Instead, these verdicts were determined by a social medico-legal understanding. The verdicts that make up this eighty-four year period case survey represent the influence of a social conception of female

²Christine Hallett, "The Attempt to Understand Puerperal Fever in the Eighteenth and Early Nineteenth Centuries: The Influence of Inflammation Theory," *Medical History* 49, no. 1 (January 2, 2005).

³ Christine Hallett, "The Attempt to Understand Puerperal Fever in the Eighteenth and Early Nineteenth Centuries: The Influence of Inflammation Theory," *Medical History* 49, no. 1 (January 2, 2005): 1.

⁴ In this paper, I will follow the primary source material in which puerperal "insanity", "madness", and "mania" are used interchangeably.

madness, especially that related to childbed derangement.

I. Medical Background of Puerperal Insanity

In order to understand the legal verdicts, the medical background of the influencing condition must be examined. Giving birth in the Victorian Era was by no means an easy task. The medical profession was essentially based on trauma (surgery) and the level of care for delivering mothers was nowhere near what is expected of doctors today. Doctors were often minimally trained and more excited about emerging “technology” than the health of mother or infant. Midwives were present at most births but were colloquially trained at best. Given the medical profession's state, it was no surprise that bearing a child posed an elevated risk of disease. Women were at risk before, during, and after childbirth. They were at the mercy of the medical field's limited medical knowledge. Without scientific backing, many assumptions were made by Victorian medicine. Frequently, these observations amounted to half-truths, where Victorians were able to deduce practical generalizations, even if the reasoning used to get there has since been shown to be faulty.

Puerperal insanity would prove to be one of Victorian medicine's faulty assumptions. Before explaining the reasoning behind such “insanity”, its medical background must be understood. Puerperal madness was often traced to puerperal fever. Puerperal fever first received its name in the early eighteenth century, but the general awareness of susceptibility of women to infections during childbirth was well known prior to

the illness being categorized and receiving a title.⁵ Within three days of delivery, the sick woman suffered from abdominal pain, fever and debility, but women could also have headaches, “cold fits”, and extreme thirst. The wide array of symptoms made puerperal fever complex and very difficult for medical doctors to diagnose.⁶ The disease became so prevalent that it would be classified as an epidemic by current medical standards.

The leap in logic that Victorian society made was to link puerperal fever as a causative element in puerperal madness. The fever was a discernible physical ailment known to the medical profession; there were potentially traceable origins. Puerperal madness was more ambiguous, as it was a psychological condition defined in a period with little understanding of mental processes. It was divided into two main categories: mania and melancholia.⁷ Mania was the more sensational of the two and was therefore recorded more often. This outright defiance of Victorian gender norms exhibited in the women’s behavior would have shocked any witnesses. The women were said to have displayed behavior such as schizophrenia with random outbursts, usually of indecent nature. Melancholia

⁵ Christine Hawlett, “The Attempt to Understand Puerperal Fever in the Eighteenth and Early Nineteenth Centuries: The Influence of Inflammation Theory,” *Medical History* 49, no. 1 (January 1, 2005), 1.

⁶ *Ibid.*, 2.

⁷ Dr. Hilary Marland, “Maternity and Madness: Puerperal Insanity in the Nineteenth Century,” Centre for the History of Medicine (April 2003). Online <http://www.nursing.manchester.ac.uk/ukchnm/publications/seminar_papers/maternityandmadness.pdf>: 1.

manifested itself in more introverted episodes. Melancholic women suffered in silence, sunk into depression or extreme isolationism, making the melancholia category harder to diagnose.⁸ Treatment for both manifestations remained uncertain, with most doctors simply recommending rest and quiet. Whatever category the mother fell into, mania or melancholia, the pressure put upon her could be displaced to her newborn child.

II. Social History of Puerperal Insanity

For all intents and purposes, puerperal madness was a societal construct. There was no medical backing; any pattern of predicting how a woman could “catch” this mania could not be determined. Many causes for puerperal insanity were posited; all rooted in contemporary gender stereotypes. The leading theory was that the trauma associated with childbirth left the women debilitated, propelling them towards this frenzied mania.⁹ But underlying this reasoning were perceptions that women were either not in possession of a strong will, thus falling prey to the disease. Given the current understanding of the psychological stress put on Victorian women relegated to their sphere of domesticity, there is overwhelming evidence that new mothers at this time were physiologically stressed prior to giving birth.

Women were often to blame for their own illness,

⁸ Ibid, 3.

⁹ Dr. Hilary Marland, “Maternity and Madness: Puerperal Insanity in the Nineteenth Century,” Centre for the History of Medicine (April 2003). Online <http://www.nursing.manchester.ac.uk/ukchnm/publications/seminar_papers/maternityandmadness.pdf>: 1.

with English culture stating that they had somehow fallen from grace. They had become much too malleable, exposed to this devil waiting in the wings. Females were already shown to be the weaker sex, compromised by indecision, and made passive by their weak wills.¹⁰ It should be noted that women's frailty was in relation to men, who could not understand birth. Pregnancy only made this weakness worse. The hormonal balance was upset and a woman was literally expelling the visible proof of the sexual encounter. "Pregnant women were considered to be subject to wild and depraved whims, quite unlinked to their 'normal' state."¹¹ During labor, women were thought to become unhinged, and if the chaotic experience was sufficiently intense or prolonged, they were likely to develop acute and even prolonged mental disease.

Among more recent work, historians place a strong emphasis on the sphere of domesticity – the concept that women needed to remain in the home or at least have those tendencies. Women were under pressure to conform to unrealistic ideals and labor undoubtedly raised expectations. With women relegated to their domestic sphere, they were living, sleeping and eating in a large prison cell. If they could not afford to be relegated to the domestic sphere, women faced even more anxieties about poverty, societal pressure and impropriety of working. Women needed to preserve themselves so that their husbands would be certain of the paternity of their children. Sexuality had to be

¹⁰ Janet Oppenheim, *Shattered Nerves: Doctors, Patients, and Depression in Victorian England* (New York: Oxford University Press, 1991), 184-185.

¹¹ Lisa Appignanesi, *Mad, Bad and Sad: Women and the Mind Doctors* (New York: W. W. Norton & Company, 2008), 79.

heavily repressed, abhorred even; women were supposed to be uninterested and essentially repulsed by any sexual advances.¹² Once becoming a woman by entering puberty, women were confined to a world in which their sexual needs and general cognizance of their womanhood could not be acknowledged for fear of the creation of shame.¹³ Motherhood itself was incredibly complex. Producing a child was the culmination of the sexual act itself but was also necessary, as it was believed to be the purpose of a woman. The wife-mother's purity was the key to domesticity. Making women too sexually empowered would disrupt the entire structure. They would not accept family life, not serve as an outlet for the husband's sexual needs and produce bastard children.¹⁴ This asexual female was also an outward representation of the family's success – the husband could prove his prowess and wealth and the children were raised as contributing members of society. Motherhood was understood in relation to every member of society except the mother herself. Weak-willed, incorrectly diagnosed, psychologically distressed – women were at a higher society risk for puerperal mania than they were for any other medical disease.

The consequences of the labeling of puerperal

¹² Janet Oppenheim, *Shattered Nerves: Doctors, Patients, and Depression in Victorian England* (New York: Oxford University Press, 1991), 202.

¹³ Elaine Showalter, *The Female Malady: Women, Madness, and English Culture, 1830-1980* (New York: Pantheon Books, 1985), 57.

¹⁴ Janet Oppenheim, *Shattered Nerves: Doctors, Patients, and Depression in Victorian England* (New York: Oxford University Press, 1991), 201.

mania would prove to be quite extreme. Puerperal insanity tended to manifest itself in the form of behaviors that proper society would have considered incredibly vulgar: women who developed this mental condition were indifferent to the ideas of politeness, decorum, dress, and behavior.¹⁵ In a society obsessed with keeping up appearances, anything less than refined would have been egregious. Other symptoms ranged from simply eccentricity to infanticide. It was this infanticide that was deeply disturbing to any observer, although not exclusively out of concern for the infant. The practice of infanticide was a moral panic, arising out of concern for the moral stability of motherhood.

III. Turning Towards Infanticide

Committing infanticide was surprisingly easy in Victorian England. Women were often attended by untrained midwives. Having a doctor present for childbirth was a luxury only the rich could afford. Midwives were usually inept, sometimes drunk and usually untrained.¹⁶ In order to make a little extra money, these midwives would sometimes encourage their patients (usually of a lower class) to sell their babies, either into slavery, servitude, or death.¹⁷

¹⁵ Elaine Showalter, *The Female Malady: Women, Madness, and English Culture, 1830-1980* (New York: Pantheon Books, 1985), 57.

¹⁶ Lionel Rose, *The Massacre of the Innocents: Infanticide in Britain 1800-1939* (London: Routledge & Kegan Paul, 1986), 85-90.

¹⁷ Baby farmers would dispose of the child for a fee. At time, midwives would blackmail their patients into handing their children over to these individuals. These women were often suspected of abortion, infanticide and various fake adoptions.

Underlying these popular concerns was the problem of illegitimacy. The idea of a mother, married or not, selling her child (the product of her femininity) created a moral panic among Victorians. The very future of society was hanging in the balance and Victorians felt their intense morality dying along with the child. Thus infanticide was well published, creating a perceived epidemic and increasing the awareness of infanticide, disproportionate to its actual occurrence.

The problem of infanticide created two different class based problems. It threatened the notion of the angelic homemaker. Women were seen as intended to be relegated to, and competent in, their domestic sphere, as previously stated. Infanticide contradicted the idea of that doting mother. The notion of womanhood held dependency and compassion as central ideas. This was not true for the sake of the feminine sex, but to show the relative health of Victorian society.¹⁸ A woman who violated the ideal of motherhood, effectively behaving the exact opposite way to their supposed nature, suggested that society was failing. This would undoubtedly make Victorians, especially men, very anxious. Women were already the weaker sex, and puerperal insanity signified that weakness while also commenting on the social well-being of the woman who contracted the disease. Becoming a murderess meant that women were deciding their fate. This had the potential to upset the gender norms, but it simply served to show how the woman had fallen

¹⁸ Samantha Pegg, "Madness Is a Woman': Constance Kent and Victorian Constructions of Female Insanity," *Liverpool Law Review* 30 (17 April 2010): 219-220.

prey to another decision maker – her neurosis.¹⁹ This idea of violating the previous established sexual and gender norms applied to those that could afford to be defined by those gender norms.

Being poor in Victorian society meant living in shame. It was the individual's fault for their economic hardship, an almost social Darwinism frame of thinking. With the addition of the New Poor Law into British jurisprudence in 1834, there was a sense that the poor should be held responsible for their economic situation, an attitude permeated the law. Social welfare was highly discouraged, ensuring that being poor felt like a punishment, so as to discourage dependency. Women were especially cheated out of benefits in the New Poor Law, which placed limitations on their rights to seek help from the father of an illegitimate infant.²⁰ A woman with illegitimate children was often in the helping profession, making very little money and completely dependent on her employer for food and shelter. Much like other social concerns, Victorians felt that these illegitimate children were threatening the very social order. It was believed that reproducing was a right held within society, one only made available to married women. Lower class reproduction threatened the wealth and security of the country.²¹ This distress of an entire society was put on unwed mother, already in a personally stressful situation. Modern psychology

¹⁹ *Ibid*, 220.

²⁰ Ann R. Higginbotham, "Sins of the Age': Infanticide and Illegitimacy in Victorian London," *Victorian Studies*, Indiana University Press 32, no. 3 (Spring, 1989): 320.

²¹ Rosemary Gould, "The History of an Unnatural Act: Infanticide and Adam Bede," *Victorian Literature and Culture* 25, no. 2 (1997): 269.

understands this not as a woman not succumbing to pressure, but as due to some psychological stress or manic episode. A woman was punished for her sexuality and economic situation; this double jeopardy left many women with no choice but to physically remove the source of their social displeasure by killing their own child. It was not uncommon to suffer such a break more violently than other women, as the infanticide rate among illegitimate infants was twice as high as infanticides among legitimate children.²² This was the ultimate fallen woman, with a manifestation of her sin, or lack of virtue. She would have to keep a permanent reminder, literal baggage. She had to choose between two sins, killing her child or living in sin with it.²³

VI. Case Survey of Infanticide

Many sources reference babies floating in the rivers, clogging drains and tossed in back allies. In order to establish a more realistic and less sensational picture of the occurrence of infanticide, a case survey was conducted. In order to complete said survey, samples of each type of infanticide case have been described in detail below: the study includes both married and unmarried women who were exonerated by virtue of insanity, found guilty with the caveat of insanity, or found guilty without mention of insanity. Verdicts from 1829 - 1913 are studied, as examining these decisions over the aforementioned eighty-four

²² Ann R. Higginbotham, "Sins of the Age': Infanticide and Illegitimacy in Victorian London," Indiana University Press 32, no. 3 (Spring, 1989): 321.

²³ Ibid, 322.

years allows a clear pattern to emerge. For the sake of length, example cases from the three verdict outcomes will be analyzed. Elizabeth Hodges and Adelaide Freedman were exonerated, Eleanor Martha Browning was guilty but insane, and Rebecca Smith was found guilty. The table below shows the total sample case size with the ultimate outcome of each woman's sentence.

Name	Verdict	Year
Sarah Allen	Not Guilty; Insane	1856
Mary Ann Beveridge	Not Guilty; Insane	1849
Maria Borley	Not Guilty; Insane	1854
Mary Ann Brough	Not Guilty; Insane	1854
Eleanor Martha Browning	Guilty; Insane	1913
Maria Chitty	Not Guilty; Insane	1852
Maria Clarke	Guilty; Sentence Commuted	1851
Ann Coultass	Not Guilty; Insane	1858
Eliza Dart (attempted infanticide)	Not Guilty; Insane	1878
Harriet Farrell	Not Guilty; Concealing the Birth	1829
Elizabeth Flew	Not Guilty; Insane	1850
Adelaide Freedman	Not Guilty; Insane	1869
Mary Ann Hamilton	Not Guilty; Insane	1862
Elizabeth Ann Harris	Guilty; Sentence Commuted	1862
Elizabeth Hodges	Not Guilty; Insane	1838
Esther Lack	Not Guilty; Insane	1865
Law, [female]	Not Guilty; Insane	1862
Emma Lewis	Not Guilty; Insane	1852
Mary McNeil	Not Guilty; Insane	1856
Martha Prior	Not Guilty; Insane	1848
Catherine Savell	Not Guilty; Insane	1854
Rebecca Smith	Guilty; Killed by Hanging	1849
Anne Cornish Vyse	Not Guilty; Insane	1862
Ann Wilson	Not Guilty; Insane	1861

Compiled using the "List of Cases" index in Roger Smith's book *Trial by Medicine and the Oil Bailey Proceeding Online* database, found at oldbaileyonline.org.

Elizabeth Hodges was the wife of a butcher. The family was at least minimally well off, as there was a surgeon present for Mrs. Hodges' births. It seems Mrs. Hodges delivered her first child with no complications. However, she would murder her second child in

1838.²⁴ She was subsequently indicted for the willful murder of her child, Sarah. Mary Ann Harvey, who attended Mrs. Hodges, gave testimony in the case. She said she was asked to come into the bedroom by Mr. Hodges and subsequently asked where the child was. When Mrs. Hodges replied that it was dead and in the copper, Mrs. Harvey found the child submerged in water in the copper.²⁵ Mrs. Hodges would later confess to her surgeon that she had smothered the child by placing a pillow over its face.²⁶ Prior to this act of infanticide, Mrs. Harvey testified that Mrs. Hodges had contemplated suicide – Mrs. Harvey once found an open razor in the bedroom.²⁷ Multiple witnesses testified to Mrs. Hodges stating that she was taken over by the devil, who possessed her to kill herself or her child. Her neighbor considered her to be in a bad state as there was a “visible change in her for the last six months, in the total neglect of her person, and never wishing to go out on any occasion, nor wishing to see any company at all.”²⁸ After she committed the murder, those that questioned her motives found Mrs. Hodges to be distant and uncooperative. Many witnesses blamed this type of behavior on Mrs. Hodges’s

²⁴ Old Bailey Proceedings Online (www.oldbaileyonline.org, version 6.0, 04 March 2012), January 1838, trial of ELIZABETH HODGES (t18380129-499).

²⁵ In this situation, a copper either means a pot for boiling water or a pot used as a latrine.

²⁶ Old Bailey Proceedings Online (www.oldbaileyonline.org, version 6.0, 04 March 2012), January 1838, trial of ELIZABETH HODGES (t18380129-499).

²⁷ *Ibid.*

²⁸ Old Bailey Proceedings Online (www.oldbaileyonline.org, version 6.0, 04 March 2012), January 1838, trial of ELIZABETH HODGES (t18380129-499).

milk deficiency problems. James Hayes, the surgeon who attended both births and the second child's death, believed Mrs. Hodges to be competent at the time of her trial. He stated that it was not uncommon for women during childbirth and shortly after to be "affected with a mania peculiar to that state – it is called puerperal mania – deficiency of milk, and the milk flowing upwards, would very probably cause such consequences."²⁹ He further testified that he has seen this problem frequently. Mrs. Hodges was ultimately found not guilty of the murder by reason of insanity.

Adelaide Freedman was also tried under similar circumstances. At the birth of her second child, her husband was away, traveling in Peru. After giving birth to a girl in 1869, Mrs. Freedman went to the local chemist, and asked for a powder that would help remove ink stains. This was not an uncommon request and the chemist observed nothing strange about his customer.³⁰ Mrs. Freedman then gave poison to her infant daughter and herself, informing the woman she was staying with that she wanted to die. The baby died; Mrs. Freedman was admitted to the hospital and was later found with a handkerchief around her neck - in an apparent suicide attempt.³¹ The attending nurse testified that this behavior led her to question Mrs. Freedman's sanity, stating that Mrs. Freedman had the look of puerperal mania, "which is a well-recognised form of insanity with women about the period of their confinement...this form of puerperal mania

²⁹ *Ibid.*

³⁰ Old Bailey Proceedings Online (www.oldbaileyonline.org, version 6.0, 04 March 2012), November 1869, trial of ADELAIDE FREEDMAN (30) (t18691122-36).

³¹ *Ibid.*

develops itself sometimes by acts of violence to the nearest and dearest, and to the offspring of the woman – there is no fixed period at which it arrived at intensity.³² Mr. Serjeant Sleigh further testified that women afflicted by this mania have been known to kill other people as a way of assuring their own death. He drew the important distinction between puerperal mania and homicidal mania, testifying that there were no outward symptoms of Mrs. Freedman's condition prior to the murder of her infant. Both Dr. Henry Letheby and Mr. Serjeant Sleigh believed that Mrs. Freedman suffered from an uncontrollable impulse when she poisoned her child.³³ This type of mania would thereby have allowed Mrs. Freedman to go to the chemist's shop, have a reasonable conversation with no outward signals of her condition, and buy the poison that would later kill her infant daughter. Adelaide Freedman was declared not guilty by reason of insanity.

In both Mrs. Hodges' and Mrs. Freedman's cases, they were married with another living child. Mrs. Hodges' defense centered on the sudden shift in her behaviors. She contended that her naming of the child and attentive care up to the time of the murder demonstrated an intention to keep the child. The suddenness of the change of attitude was evidence of the fever. She had a surgeon testify on behalf of her puerperal mania, as well as other witnesses who testified to her change in demeanor shortly before the murder. Mrs. Freedman's ability to be completely

³² Old Bailey Proceedings Online (www.oldbaileyonline.org, version 6.0, 04 March 2012), November 1869, trial of ADELAIDE FREEDMAN (30) (t18691122-36).

³³ *Ibid.*

reasonable while buying poison and then use that reasonably obtained poison in a murder-suicide plot was also seen as evidence of an abrupt alteration of mood attributable to the fever. These factors in both women's cases made their insanity plea strong. The mental condition of other women could not be as easily established. These women were more than likely single mothers, giving birth to the dreaded "bastard child."

Single mothers often could not produce witnesses that were able to testify to their mental state. Many had been in hiding for most of their pregnancies, concealing any evidence of the fact that they were with child. To bear an illegitimate child in Victorian England was indeed shameful. Despite the absence of these witnesses, most of these women did not receive a harsh sentence.

Harriet Farrell (1829) was believed to be single when she came into the service of Mr. and Mrs. Cook. Mr. Cook discovered Miss Farrell in a chair in the kitchen after she had been "so bad inside her all night."³⁴ After discovering blood on a kitchen table and chair, Mr. Cook found the body of the child inside the privy. Mr. Cook did not remove the body but instead called the police and told his wife what he had discovered. When Mrs. Cook questioned Miss Farrell about her birth, and supposed miscarriage, she denied it, and then fell silent.³⁵ It was only when the child was brought up from the privy, washed and examined by the doctor that Miss Farrell confessed she had deliv-

³⁴ Old Bailey Proceedings Online (www.oldbaileyonline.org, version 6.0, 04 March 2012), February 1829, trial of HARRIET FARRELL (t18290219-62).

³⁵ *Ibid.*

ered a child. The previous mental state of Miss Farrell is unknown, as she came to stay with the witnesses when she was already pregnant. The couple had previously suspected Miss Farrell of being pregnant and had questioned her multiple times; Miss Farrell claimed that she had caught a cold.³⁶ Ms. Farrell was charged with the “willful murder of her bastard child” but she was found not guilty of murder but guilty of concealing the birth.³⁷

The case of Mrs. Eleanor Martha Browning presents one of the few unusual verdict pairings among these sample cases. She was indicted for the willful murder of her infant female child in 1913. She was discovered on the landing of her rented home by her landlord, who saw blood on Mrs. Browning’s hands. When the landlord questioned her husband, Mr. Browning led him to the scene of the murder. The baby was lying on the floor, next to a knife.³⁸ The doctor who was called would later testify that the child’s throat had been cut. Mrs. Browning was found not responsible for her actions, guilty but insane at the time of the murder.³⁹ Subsequently, Mrs. Browning also had another child with her husband and was observed to be a fond mother.

The women found guilty of the crime of infanticide should be considered a distinct group, as there were

³⁶ Old Bailey Proceedings Online (www.oldbaileyonline.org, version 6.0, 04 March 2012), February 1829, trial of HARRIET FARRELL (t18290219-62).

³⁷ *Ibid.*

³⁸ Old Bailey Proceedings Online (www.oldbaileyonline.org, version 6.0, 05 March 2012), January 1913, trial of BROWNING, Eleanor Martha (29) (t19130107-26).

³⁹ *Ibid.*

not very many cases. Maria Clarke was convicted of killing her infant child in 1851. She buried her son alive and confessed to a relative who relayed the information to the police. The boy was later found under the turf.⁴⁰ Elizabeth Ann Harris (1862) was tried for the murder of her two illegitimate children, one child an infant and the other less than five years old.⁴¹ The reason these two women received commuted sentence of confinement for life have nothing to do with their circumstances and more with the society in which they committed their crimes. They benefited from a system that exhibited hesitation when it came to executing women. Although they were no doubt guilty of their crime, the explanation of puerperal insanity allowed a judge to lessen their sentences.

Perhaps the most noteworthy case in this sample group is the trial of Rebecca Smith, who was found guilty of infanticide and executed in 1849, as it represents the clear anomaly in this study. She was the only woman to be executed of those studied. Maria Clarke and Elizabeth Ann Harris both had their sentences commuted to confinement for life having committed similar crimes. However, the anomaly is quickly explained in this case when Mrs. Smith's circumstances are examined. She was much older than the other women and as a result had delivered eleven children. At the time of her hanging, the eldest daughter was the only living offspring – "all the rest, with the exception of two, the unhappy woman ac-

⁴⁰ Charles Dickens, "The Household Narrative of Current Events (for the Year 1851)," *A Monthly Supplement to Household Words* (1851): 87.

⁴¹ *A Prison Matron, Female Life in Prison* (London: Hurst and Blackett Publishers, 1862), 2: 257-259.

knowledge that she poisoned a day or two after their birth.”⁴² The individual crime of infanticide by poison was not uncommon, as seen in the case of Adelaide Freedman. The ten individual acts of poisoning in Mrs. Smith’s case did not sway the judge in this case. Also unique to this case was the fact that Mrs. Smith was forced to work in the fields, on account of her husband’s drunkenness. She would work in the field by day and do her household chores by night all the while with apparent child-murder on her mind; so as to spare her unborn children from the suffering such a life would create.⁴³ Therefore, Mrs. Smith’s case did not work within the framework of puerperal insanity; the framework of a limited leave of sense did not apply when Mrs. Smith’s sense had taken leave ten times. Even with the extreme desire to avoid executing women, Rebecca Smith represented a case that could not be explained away.

Most women in these studies received a verdict of not guilty by reason of insanity. The idea of puerperal insanity is mentioned in the witness testimony of the majority of these cases; it is not, however, used in the ultimate sentencing language of these women. Puerperal insanity was an idea that had permeated the vernacular of not only the legal profession but also ordinary people. Therefore the insanity mentioned in these verdicts would have been understood to be the “lay definition” of insanity; that is one not influenced

⁴² R. H. Horne, “Analysis of Crime,” *The Journal of Psychological Medicine and Mental Pathology* 3 (1850): 114.

⁴³ *Ibid.*, 115.

by the medical / psychological profession.⁴⁴ There was no involvement by any insanity specialists in these trials.⁴⁵ The meaning of this type of insanity was therefore established essentially by popular cultural norms. This social influence on the definition of puerperal madness would have an effect on the social stigma of infanticide. Such a conception would bring a humanitarian narrative to the judicial verdicts, one that took into account social action on behalf of women, including their will and intent for the social authority around them.⁴⁶ The emerging narrative is best exemplified by the multitude of not guilty verdicts.

The sentences of these women are the result of both social and judicial factors. Women were often found not guilty by reason of insanity, a standard legal basis for acquittal, as in the case of Mrs. Freedman and Mrs. Hodges (married women who gave birth to legitimate children). The judges' legal findings were based on perceived societal beliefs about the nature of puerperal insanity: its sudden and overwhelming onset and its speedy passing. Miss Farrell and others like her who killed their illegitimate children were limited by social opinion; the courts were constrained by society's construction of this sense of motherhood. However, the feminine frailty won out over the illegitimacy concern as they were found guilty of a lesser sentence that carried the same punishment as those

⁴⁴ Roger Smith, *Trial by Medicine: Insanity and Responsibility in Victorian Trials* (Edinburgh: Edinburg University Press, 1981), 151.

⁴⁵ *Ibid.*, 149.

⁴⁶ Mark Jackson, *New-Born Child Murder: Women, Illegitimacy and the Courts in Eighteenth-Century England* (Manchester: Manchester University Press, 1996), 119.

found not guilty. Only Mrs. Smith was sentenced to hanging. Her case did not properly fit the Victorian understanding of puerperal insanity, apparently because of the egregious circumstances.

Throughout England during this time, there was a general movement away from capital punishment. Many felt that the list of crimes punishable by death was too long, resulting in an overly broad application.⁴⁷ Among English courts, with judges and juries alike, there was a strong desire to keep women away from the gallows, especially mothers. The evidence suggests that the leniency described earlier was not out of sympathy for their women's mental state; instead, it involved much deeper social concerns regarding proper womanhood and, more importantly, motherhood. Using the verdict of insanity to acquit ultimately placed the fault for the crime with the woman herself; less as an individual but more as a member of a flawed sex. Society believed that the horrific crimes must reflect upon the state of childbirth, the frailty of females, and its expression in puerperal mania. Thus the adjudication of infanticide simultaneously blamed and excused womanhood for these acts. Women who committed infanticide existed in a purgatory – they had violated the ideal of motherhood, but also confirmed the idea of the delicate “creature” that society must protect.

There was a converging society's need to excuse these women with the contemporary perception of disease that provided a plausible excuse for their

⁴⁷ Brian P. Block and John Hostettler, *Hanging in the Balance: A History of the Abolition of Capital Punishment in Britain* (Winchester: Waterside Press, 1997), 44-46.

disturbing behavior. Puerperal insanity was not lasting, and it had a relatively definite expiration date. It was also thought to be “contracted” during a woman's transitional state. A nature already considered weak was thought to be at its most vulnerable during childbirth.⁴⁸ The witness testimony often given in these cases employs phrases such as “not quite right in the head,” “wild state,” “confusion,” and “not capable” to describe the women in witness testimony.⁴⁹ Such testimony would often serve as a narrative of the progress into insanity. The detailed explanation given by the nurse in Mrs. Freedman's case about the “well-recognized form of insanity” illustrates that one did not need to be a high ranking member of society to express the idea of puerperal mania. Thus there was no medical clarification needed, no medical tests, as there were with other conditions.⁵⁰ The colloquial understanding of the reasoning behind puerperal insanity, couched within the context of the female nature, almost always helped the woman's case for acquittal

⁴⁸ Roger Smith, *Trial by Medicine: Insanity and Responsibility in Victorian Trials* (Edinburgh: Edinburg University Press, 1981), 149-152.

⁴⁹ Old Bailey Proceedings Online (www.oldbaileyonline.org, version 6.0, 05 March 2012), January 1913, trial of BROWNING, Eleanor Martha (29) (t19130107-26), Old Bailey Proceedings Online (www.oldbaileyonline.org, version 6.0, 04 March 2012), November 1869, trial of ADELAIDE FREEDMAN (30) (t18691122-36), etc.

⁵⁰ For example, in order to determine if an infant was stillborn or alive at the time of birth, medical doctors would remove a lung sample and put it in water. If the sample floated, it meant that the lungs had filled with air and the infant had, at one point, been breathing. The reasoning behind this would often have to be described in detail to a jury.

by reason of insanity.

This line of reasoning led many to believe that the insane conduct connected with puerperal insanity was a temporary seizing of the senses, something that was entirely circumscribed. Thus, many judges considered it immoral to condemn a woman to death for her actions when in this condition.⁵¹ The often violent reversal of the role of motherhood convinced them that the culprit must be insane, to abandon her Victorian ideals so suddenly. They could not imagine a true mother would commit such an act. This Victorian society successfully blended a legitimate legal defense and a socio-medical popular notion, making this excuse available to women. This made the deed, and not the individual, insane, thereby reducing culpability and rendering an insanity verdict for most women.

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⁵¹ Roger Smith, *Trial by Medicine: Insanity and Responsibility in Victorian Trials* (Edinburgh: Edinburgh University Press, 1981), 159.