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**Infanticide in Victorian London. A Study Based on the Old Bailey's Proceedings  
and the Press, 1834 – 1901.**

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**Dzieciobójstwo w wiktoriańskim Londynie. Studium na podstawie Old Bailey's Proceedings i prasy brytyjskiej, 1834 – 1901.**

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## Summary in English

In recent years there has been a growing interest in the history of female offenders, especially in the history of infanticide. This crime has a long history as the practice of killing unwanted children of various ages by both men and women. Historians suggest that it was a familiar part of pre-modern and early-modern social life. Even though infanticide was condemned by Christianity almost from its origins, it seems to be a part of the history of most Christian nations. Infanticide has always been an emotive, debated and controversial practice, and has remained so to this day. The dissertation focuses on the problem of infanticide (killing children under 12 months old) in Victorian London between 1834 and 1901. The Victorian epoch was the period of industrial growth and significant changes within the society. At the end of the eighteenth century, the idea of Malthusianism was presented by the English Reverend Thomas Robert Malthus, who believed that the population growth should be limited mostly. Another significant process of this time was the Industrial Revolution which had changed the world completely. The birth of capitalism which was connected with the revolution led to the emergence of a new social class – the working class. Moreover, during the Victorian era, women's rights were extremely limited. Women were seen as those who belonged to the 'domestic sphere', and their main duty was to keep the house clean, put food on the table and raise children. It needs to be highlighted that the women from the upper or middle class had domestic servants who helped them with all their duties. However, women from the working class could not afford such a luxury. Usually, they had to work, raise children and do all household chores. All these factors led people, mostly women, to commit the crime of infanticide. In a world where too many children were seen as a burden and unmarried pregnant women had to face social exclusion, the act of murdering a new-born child was seen as the chance for a less problematic future.

The dissertation analyses the issue of infanticide based on the Old Bailey's Proceedings and the press. The main purpose of this research is to examine this phenomenon and its types. Another purpose is to establish the profile of the perpetrator. Contrary to the previous research on this topic, this one concentrates not only on single women who committed this crime but also on married women and male perpetrators. Furthermore, the dissertation also analyses the verdicts and sentences which were announced at Old Bailey and determines whether the courts were lenient and what was the

reason behind this. The research also includes the examination of medical professionals and their testimonies during the trial. It also attempts to explain the role of puerperal insanity in infanticide trials. Last but not least, the dissertation also addresses the social issues of the Victorian period which contributed to committing this crime.

The research approaches the problem of infanticide from the perspective of social history and draws on sources generated by the criminal justice system such as the records of Old Bailey, indictments and depositions. By using historical methods such as source criticism, the research analyses the court record and press articles and considers the validity of information contained therein. Furthermore, qualitative and quantitative methods were also used to analyse the primary sources. Another method which was used while examining the phenomenon of infanticide was a case study, which helped to illustrate various aspects of this crime.

The analysis of the gathered data shows that single women were not the only ones tried for infanticide. The analysis of the proceedings shows that the defendants can be categorised into four groups: single women, widows, married women and men. Married women and men constituted a minority of the accused, however, their motives, methods of killing or mental state differed from single mothers. The examination of the frequency and severity of sentences which were announced at the Old Bailey shows that the majority of defendants were found not guilty or were sentenced to lenient punishments. There were many reasons for that, such as deficiencies in forensic medicine at the time or the fact that infanticide was punishable by death, which was considered to be too severe. Moreover, the analysis of the data shows that the majority of people who committed this crime were lonely and did not have the support of their families or friends, because they left their homes to find a job in London, but that was not always the case. There were also exceptions where mothers, fathers or husbands of the defendants participated in the crime itself or the disposal of the infants' bodies.

It should be also noted that the research focused not only on maternal or paternal infanticide but also on baby farming. The analysis of this phenomenon shows that the well-being of infants and single mothers was a serious social issue, which was usually ignored by both the state and London authorities. The research also demonstrates the press was not only interested in infanticide as the social issue but also in reporting about the trials which took place at the Old Bailey. It is not possible to fully determine why some defendants

gathered more attention than others. However, the press articles contained the details that were deliberately omitted by the proceedings. The press depicted the behaviour of the accused or their appearance, and towards the end of the century, the sketches of the most scandalous infanticide offenders were more often included. It should be noted that the way the defendants were depicted by the press influenced the public opinion, who felt pity or strong dislike towards them.

The dissertation examined the complex phenomenon of infanticide in Victorian London. The research was based on a vast number of primary sources and showed that the offenders were not a homogenous group and that the types of this crime, methods and even verdicts and sentences varied and depended on many factors described in the dissertation.

## Summary in Polish

W ostatnich latach wzrastało zainteresowanie nad badaniami związanymi z historią przestępczości wśród kobiet, zwłaszcza dzieciobójstwem. Przestępstwo to, rozumiane jako praktyka zabijania niechcianych dzieci zarówno przez kobiety, jak i mężczyzn ma długą historię. Badania historyczne sugerują, że zjawisko to było szczególnie charakterystyczne dla okresu prehistorii, starożytności, średniowiecza oraz wczesnej nowożytności. Należy wspomnieć, że mimo iż dzieciobójstwo było od samego początku potępiane przez religię chrześcijańską, jest częścią historii chrześcijańskich narodów. Zbrodnia dzieciobójstwa od zawsze budziła wiele skrajnych emocji, dyskusji i kontrowersji. Tak jest do dziś. Niniejsza rozprawa doktorska koncentruje się na problemie dzieciobójstwa w wiktoriańskim Londynie w latach 1834 – 1901. Epoka wiktoriańska była czasem rozwoju przemysłowego oraz związanym z nim zmian społecznymi. Pod koniec XVIII w. angielski wielki brytan Thomas Robert Malthus opublikował pracę, w której przedstawił ideę maltuzjanizmu, w której dowodził on, że wzrost populacji powinien być ograniczony, głównie przez regulacje dotyczące wstępowania w związek małżeński. Innym znaczącym wydarzeniem tej epoki była rewolucja przemysłowa, która całkowicie zmieniła dotychczasowy świat. Narodziny kapitalizmu, nierozdzielnie związane z rewolucją, doprowadziło do powstania nowej klasy społecznej – klasy robotniczej. Ponadto, epoka wiktoriańska to również okres, kiedy prawa kobiet były znacznie ograniczone. Kobiety były postrzegane jak te, które należały do „sfery domowej”, a ich głównym obowiązkiem było utrzymywanie domu w czystości, gotowanie i wychowywanie dzieci. Należy podkreślić, że kobiety z wyższych sfer mogły sobie pozwolić na zatrudnienie służących do pomocy. Jednakże, kobiety z klasy robotniczej nie miały takiego luksusu. Zazwyczaj musiały pracować, wychowywać dzieci i wykonywać obowiązki domowe. Między innymi te czynniki przyczyniały się do tego, że niektóre kobiety decydowały się na dzieciobójstwo. W świecie gdzie zbyt wiele dzieci było widzianych jako ciężar, a niezamężne matki musiały się mierzyć z wykluczeniem społecznym, zabójstwo dziecka było widziane jako szansa na mniej problematyczną przyszłość.

Niniejsze badania opierają się przede wszystkim na analizie Old Bailey's Proceedings oraz artykułów prasowych. Głównym celem badań jest przedstawienie problemu dzieciobójstwa oraz ich typów. Rozprawa koncentruje się także na opracowaniu

profilu sprawców tego przestępstwa. W przeciwieństwie do wcześniejszych badań na ten temat praca ta skupia się nie tylko na niezamężnych kobietach, ale także na mężatkach i mężczyznach, którzy dopuścili się tej zbrodni. Ponadto, w pracy tej dokonano także analizy werdyktów i wyroków, które zostały ogłoszone w Old Bailey. Analiza ta daje odpowiedź na pytanie, czy sądy były rzeczywiście łagodne wobec dzieciobójców oraz co wpływało na takie decyzje. Badania obejmują także analizę udziału lekarzy w procesie i wpływ ich zeznań na ostateczny wyrok. Praca ta podejmuje również próbę wyjaśnienia roli „szaleństwa połogowego” i jego wpływu na wyroki sądowe. Rozprawa odnosi się również do kwestii społecznych okresu wiktoriańskiego, które również przyczyniły się do popełniania tej zbrodni.

Badania podchodzą do problemu dzieciobójstwa z perspektywy historii społecznej i opierają się na źródłach generowanych przez system sądownictwa karnego, takich jak sprawozdania z Old Bailey, akty oskarżenia i zeznania. Wykorzystując metody historyczne, takie jak krytyka źródeł, analizowano sprawozdania sądowe i artykuły prasowe oraz rozważano zasadność zawartych w nich informacji. Ponadto do analizy źródeł wykorzystano również metody jakościowe i ilościowe. Inną metodą, którą zastosowano podczas badania zjawiska dzieciobójstwa, było studium przypadku, które pomogło zilustrować różne aspekty tego przestępstwa.

Analiza zebranych danych pokazuje, że wbrew powszechnym przekonaniom, nie tylko niezamężne kobiety były sądzone za dzieciobójstwo. Badania pokazują, że dzieciobójców w wiktoriańskim Londynie można podzielić na cztery grupy: kobiety samotne, wdowy, mężatki oraz mężczyźni. Kobiety zamężne i mężczyźni stanowili mniejszość oskarżonych, jednak ich motywy, metody zabójstwa czy stan psychiczny znacznie różniły się od tych charakterystycznych dla kobiet niezamężnych. Należy także podkreślić, że badanie częstotliwości wyroków skazujących i ich surowości pokazuje, że większość oskarżonych została uznana za niewinnych lub skazana na łagodne kary. Było ku temu wiele powodów, między innymi, braki w medycynie sądowej lub fakt, że za dzieciobójstwo karano śmiercią – co uważano za zbyt surowe. Co więcej, analiza danych pokazuje, że większość osób, które popełniły to przestępstwo, była samotna i nie miała wsparcia rodziny lub przyjaciół. Było to spowodowane tym, że większość z nich opuściła swoje domy rodzinne, aby znaleźć pracę w Londynie. Zdarzały się również wyjątki, a



matki, ojcowie lub mężowie oskarżonych brali udział albo w samej zbrodni, albo w ukrywaniu ciał.

Należy również podkreślić, że badania koncentrowały się nie tylko na dzieciobójstwie popełnianym przez matki i ojców, ale też na zjawisku znanym jako „baby farming”. Analiza tego zjawiska pokazuje, że dobro niemowląt i samotnych matek było poważnym problemem społecznym, który był zwykle ignorowany zarówno przez władze państwowe, jak i londyńskie. Przeprowadzone badania pokazują także, że prasa była zainteresowana zarówno społecznym problemem, jakim było dzieciobójstwo, jak i relacjonowaniem sprawozdań z procesów, które miały miejsce w Old Bailey. Nie można w pełni ustalić, dlaczego niektórym oskarżonym poświęcano więcej uwagi niż innym. Czasami jedna artykuły prasowe zawierały szczegóły, które zostały celowo pominięte w sprawozdaniach z sesji sądowych. Dziennikarze opisywali zachowanie oskarżonych podczas procesu oraz ich wygląd, a pod koniec wieku coraz częściej zamieszczano szkice przedstawiające oskarżonych. Należy także zauważyć, że sposób, w jaki oskarżeni byli przedstawiani przez prasę, wpływał na opinię publiczną, która odczuwała wobec nich litość lub silną niechęć.

W rozprawie przeanalizowano złożone zjawisko dzieciobójstwa w wiktoriańskim Londynie. Badania zostały oparte na znaczącej liczbie źródeł i wykazały, że dzieciobójcy nie stanowili jednorodnej grupy, a rodzaje tego przestępstwa, metody, a nawet wyroki i kary różniły się i zależały od wielu czynników, które zostały opisane w dysertacji.

## Table of Contents

Summary in English.....	4
Summary in Polish.....	7
List of Tables .....	12
List of Figures .....	13
List of Abbreviations .....	14
Introduction.....	15
Research on Infanticide.....	20
Methodology .....	27
Sources .....	28
Structure of the dissertation.....	33
Chapter 1 .....	35
1.1. Life in the Victorian era .....	35
1.2. Economy and Society.....	37
1.3. Social problems .....	45
1.4. Unwed mothers, bastardy and the New Poor Law .....	48
1.5. Child mortality .....	57
1.6. Family and marriage.....	60
1.7. Females' vulnerability and the surplus women problem .....	66
Chapter 2.....	71
2.1. Infanticide in Victorian London.....	71
2.2. Infanticide: Definition and Legal Context .....	71
2.3. Old Bailey of London and infanticide trials, 1834–1901 .....	81
2.4. Profile of perpetrators.....	88
2.5 Single women.....	91
2.6 Widows.....	99
2.7 Married women .....	100
2.8 Men.....	110
Chapter 3.....	121
3.1 Infanticide in court .....	121

3.2. The severity of the sentences handed down at the Old Bailey .....	127
3.3. Medical expertise .....	129
3.4. Concealment of birth in the court.....	131
3.5. Manslaughter .....	143
3.6. Murder .....	153
3.7. Insanity and infanticide offenders .....	163
Chapter 4.....	176
4.1. Baby farming in Victorian London .....	176
4.2. The birth of baby farming .....	178
4.3. BMJ’s investigation and campaign against baby farming .....	185
4.4. Margaret Waters and Sarah Ellis, 1870.....	188
4.4. Infant Protection Act and its implementation .....	206
4.5. The end of the century – Jessie King and Amelia Dyer.....	212
Conclusions.....	224
Bibliography .....	231
Primary Sources .....	231
Archival sources .....	231
Old Bailey Proceedings .....	232
The Digital Panopticon.....	239
Newspapers & Periodicals.....	240
Official publications .....	258
Books and novels published in the 19 <sup>th</sup> century .....	260
Secondary Sources .....	260
Books .....	260
Articles.....	269
Unpublished PhD dissertations.....	280
Websites.....	281
Appendix.....	283

## **List of Tables**

Table 1. All infanticide trials which took place at the Old Bailey, 1834–1901.....	85
Table 2. Sentences pronounced at the Old Bailey against female defendants, 1834–1901. .....	127
Table 3. Sentences pronounced at the Old Bailey against male defendants, 1834–1901. .....	128
Table 4. Sentences pronounced at the Old Bailey – verdict guilty of concealment of birth, 1834–1901. ....	134
Table 5. Sentences pronounced at the Old Bailey – verdict guilty of manslaughter, 1834– 1901. ....	144
Table 6. Sentences pronounced at the Old Bailey – verdict guilty of murder, 1834–1901. .....	154
Table 7. Sentences pronounced at the Old Bailey – verdict temporary insane at the time of committing the crime, 1834–1901.....	170

## List of Figures

Figure 1. Concealment trials at the Old Bailey of London, number of cases per decade..	87
Figure 2. Murder trials at the Old Bailey of London, number of cases per decade.....	87
Figure 3. Gender differences in indictment for infanticide and concealment at the Old Bailey of London, 1834 – 1901.....	91
Figure 4. The occupation of female offenders tried at the Old Bailey of London, 1834– 1901.....	93
Figure 5. Marital status of female offenders, 1834 – 1901.....	102
Figure 6. Reward poster, Clerkenwell, 1871.....	124
Figure 7. Anonymous letters sent to Metropolitan Police in 1870.....	189
Figure 8. Illustrated Police News, Saturday 09 July 1870.....	197
Figure 9. Illustrated Police News, Saturday 15 October 1870.....	205
Figure 10. Amelia Dyer - Illustrated Police News – Saturday 25 April 1896.....	215
Figure 11. Amelia Dyer - Weekly Dispatch (London) - Sunday 03 May 1896.....	216
Figure 12. Amelia Dyer and Mary Ann Palmer’s letters, The National Archive Kew....	220
Figure 13. Polly Palmer - Weekly Dispatch (London) - Sunday 03 May 1896.....	221
Figure 14. Suspected causes of infants’ death, Old Bailey 1834 - 1901.....	283

## **List of Abbreviations**

BMJ – British Medical Journal

CALPWIW - Committee for Amending the Law in Point Where It Is Injurious to Women

CO – Colonies, General: Original Correspondence

CRIM – Central Criminal Court

HO – Home Office

ILPS - Infant Life Protection Society

LCO – Lord Chancellor's Office

MEPO – Metropolitan Police Office

PCOM – Prison Commission

## Introduction

In May 1873, Mary Shirley, a 23 years-old domestic servant from Brixton, was tried at Old Bailey of London<sup>1</sup> for the wilful murder of her daughter. Earlier that year, on April 9, one of the lodgers from the house where she worked went to the kitchen and found a small knife covered in blood. There were also bloodstains on the floor. After informing the owner of the house about that, the constable and doctor were sent for. Mary was found in her bed, unwell. She admitted that she had given birth to a child. The child was found in the copper, covered in coal dust. Mary stated that she had gone to get some coal when the childbirth suddenly occurred. She thought that she had at least three more weeks before it would happen. The child's body was examined by a surgeon who found numerous skull fractures and a knife wound around the neck. According to his diagnosis, the child had bled to death. However, there was no clear evidence whether the baby was born dead or alive and whether the wounds were sustained during the unassisted birth. Due to the inconclusive evidence, Mary was found not guilty of murder but guilty of concealing the birth and sentenced to two years imprisonment.<sup>2</sup> Her case was not extraordinary; on the contrary, it was a typical scenario for the Victorian infanticide offenders. Official documents from the 19th century, court records, prison registers, and newspaper articles recorded hundreds of suspects such as Mary Shirley and hundreds of children abandoned in coppers, cupboards or parks.

The dissertation focuses on the problem of infanticide in Victorian London. Its primary objective is to examine the scale of this phenomenon and its types. Another goal is to establish the profile of the perpetrators of the crime. Unlike previous works on this topic, this research focuses not only on unmarried women who committed such acts, but also includes the analysis of married women and male perpetrators. The study also delves into the analysis of the verdicts and sentences trying to determine whether the courts were indeed lenient and reasons behind it. Furthermore, this dissertation addresses the social and economic problems of English society, such as poverty and social stigma, which often

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<sup>1</sup> The Old Baily, also known as Central Criminal Court (since 1834) was named after the street where it was located.

<sup>2</sup> *Old Bailey Proceedings Online* ([www.oldbaileyonline.org](http://www.oldbaileyonline.org), version 8.0, 10 August 2023), May 1873, trial of MARY SHIRLEY (23) (t18730505-369).

contributed to the incidence of infanticide. It also attempts to explain the issue of puerperal insanity and its roles in infanticide trials. The comprehensive examination of English society, the motivations for crime, court records and media coverage will provide a thorough study of the problem of infanticide in Victorian London. It should also be noted that in this dissertation, infanticide is defined as the murder of a child up to 12 months of age by its mother, father or any other person associated with them.

The research analyses the proceedings at the Old Bailey between 1834 and 1901. The dissertation focuses on the Victorian period, because it was a time of great social and economic changes. Although the Victorian era was perceived by contemporaries as a time of internal stability, technological development and economic growth, in reality it was turbulent. Nineteenth-century England grappled with numerous social problems, including poverty, inadequate housing, poor health, child mortality, child labour, and the challenges of single motherhood, often accompanied by the moral suffering of prostitution and infanticide. These were issues that had persisted in British society for centuries, but remained pertinent throughout the nineteenth century. It was also a period of industrialisation – a process that took place in Great Britain for the first time in history, approximately between 1760 and 1840.<sup>3</sup>

Traditionally, this process is known as the ‘Industrial Revolution’. The term means a sudden and drastic change, but nowadays historical research indicates that even though the changes brought by industrialisation were dramatic and unevenly affected different social groups, they occurred more gradually and evolutionary than in a revolutionary way.<sup>4</sup> Inextricably linked to this was the phenomenon of urbanisation, i.e., the process of people leaving the countryside to live in the cities. Alongside industrialisation and urbanisation, other difficulties emerged, such as class division, anomie and job insecurity due to employment fluctuations. These changes compelled people to migrate to large cities in search of work, which led to the loosening of family ties. In addition to social and economic

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<sup>3</sup> S. L. Steinbach, *Understanding the Victorians. Politics, Culture and Society in nineteenth-century Britain*, New York 2016, p. 85.

<sup>4</sup> For more information, see R. C. Allen, “Why the industrial revolution was British: commerce, induced invention, and the scientific revolution,” *The Economic History Review*, vol. 64, no. 2, 2011, p. 357; J. De Vries, “The Industrial Revolution and the Industrious Revolution,” *The Journal of Economic History*, vol. 54, no. 2, 1994, pp. 249–254; D. Cannadine, “The Present and the Past in the English Industrial Revolution 1880–1980,” *Past & Present*, no. 103, 1984, pp. 131–172; M. Berg, P. Hudson, “Rehabilitating the Industrial Revolution,” *The Economic History Review*, vol. 45, no. 1, 1992, pp. 24–25.



transformations, the legal landscape also changed during this period. Parliament passed new laws on infanticide and poverty, which particularly impacted illegitimate children and their mothers.<sup>5</sup> The Victorian period was not marked by a single important event. For the purpose of this dissertation, the year 1834 was considered the starting point of the Victorian era. That year, Parliament made significant changes to the laws regarding poor relief and unmarried mothers, which also had an impact on the occurrence of infanticide.<sup>6</sup> The research concludes in 1901, which is the year of Queen Victoria's death and the beginning of the Edwardian period.

The research focuses on London because it was the fastest-growing city in the world at the time, with a population of 2.8 million inhabitants by the 1860s.<sup>7</sup> It was a city of stark contrasts, where both the wealthy and extremely poor coexisted on a daily basis. London served as a hub where young women from surrounding towns sought employment as servants. However, rapid population growth posed constant housing challenges, leading to poverty and overcrowding, which in turn contributed to an increase in crime, including infanticide.<sup>8</sup> Furthermore, London was the capital and seat of the Central Criminal Court. Therefore, the research focuses on this specific area.

It is worth noting that this dissertation considers all court sessions between 1834 and 1901. Furthermore, the research focuses exclusively on cases involving murders of children under twelve months of age including those where legitimate infants were killed. Additionally, it should be emphasised that this analysis included both married female offenders and male perpetrators of this crime, a group often excluded in previous research

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<sup>5</sup> Please see chapters 1 and 2.

<sup>6</sup> For more information, see A. Hunt, "Calculations and Concealments: Infanticide in Mid-Nineteenth Century Britain," *Victorian Literature and Culture*, vol. 34, no. 1, 2006, pp. 75-78; A. R Higginbotham, "'Sin of the Age': Infanticide and Illegitimacy in Victorian London," *Victorian Studies*, vol. 32, no. 3, 1989, pp. 320 – 322; L. Marks, "Medical care for pauper mothers and their infants: poor law provision and local demand in east London, 1870-1929," *The Economic History Review*, vol. 46, no. 3, 1993, pp. 522-524; A-M. Kilday, *A History of Infanticide in Britain c. 1600 to the Present*, London 2013, pp. 120 – 121; L. Rose, *The Massacre of the Innocents. Infanticide in Britain 1800 – 1939*, London 1986, pp. 26, 46; R. Sauer, "Infanticide and Abortion in Nineteenth-Century Britain." *Population Studies*, vol. 32, no. 1, 1978, p. 89; G. K. Behlmer, "Deadly motherhood: infanticide and medical opinion in mid-Victorian England," *Journal of the History of Medicine and Allied Sciences* vol. 34,4, 1979, p. 418.

<sup>7</sup> S. Jenkins, *A Short History of London. The Creation of the World Capital*, London 2019, pp. 151–195; J. White, *London in the 19<sup>th</sup> Century*, London 2008, pp. 9–90.

<sup>8</sup> J. White, *London in the 19<sup>th</sup> Century*, London 2008, pp. 383–404; D. Thomas, *The Victorian Underworld*, London 1999, pp. 11–40.

as insignificant. Therefore, the aim of this dissertation is to present a comprehensive and previously unexplored history of infanticide in Victorian London.

It should be noted that infanticide has a long history as the practice of killing unwanted children of various ages by both men and women. This crime was not a new phenomenon that suddenly appeared in Victorian England. On the contrary, it has been a part of human history since its beginnings. Moreover, it was not always considered a crime. The origins date back to prehistoric times, when infanticide often took the form of child sacrifice. Archaeologists have determined that the oldest examples of child sacrifice date back to the city of Jericho in 7000 BC.<sup>9</sup> Child sacrifice by exposure was also certainly practised by the Vikings, Irish Celts, Gauls and Phoenicians.<sup>10</sup> Furthermore, infanticide was present in the civilisations of ancient Greece and Rome. The Ancient Greeks and Romans primarily disposed of sick, weak, or disabled children because they could pose an economic burden for both the family and the state. In ancient Greece and Rome, the father had to recognise the child after its birth. If he decided not to do so, the child was abandoned and thus sentenced to death.<sup>11</sup> Attitudes towards infanticide and child exposure, which is defined as the abandonment of a child and its exposure to atmospheric agents such as cold that are most likely to cause its death, began to change under the influence of Christianity

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<sup>9</sup> S. Walker, "Child Abuse in Ancient Times", in book: *Children Forsaken: Child Abuse from Ancient to Modern Times*, 2021, pp. 22–23. (online <https://www.scribd.com/read/513114278/Children-Forsaken-Child-Abuse-from-Ancient-to-Modern-Times>: access 15<sup>th</sup> November 2021); R.J. Kellet, "Infanticide and Child Destruction – the Historical, Legal and Pathological Aspects," *Forensic Science International*, vol. 53, no. 1, 1992, p. 2.

<sup>10</sup> For more information, see: S. Walker, op. cit., p. 33; J. Rives, "Human Sacrifice among Pagans and Christians," *Journal of Roman Studies*, vol. 85, 1995, pp. 65–66; B. Lincoln, "The Druids and Human sacrifice" in: *Languages and Cultures*, edited by M. A. Jazayery and W. Winter, Berlin, New York, 2010, pp. 381–396; S. McLeod, "Human Sacrifice in Viking Age Britain and Ireland," *Journal of the Australian Early Medieval Association*, vol. 14, Australian Early Medieval Association, 2018, pp. 71–88.

<sup>11</sup> J. Evans-Grubbs, "Infant Exposure and Infanticide" in: *Oxford Handbook of Childhood and Education in the Classical World*, ed. J. Evans-Grubbs and T. Parkin, December 2013, (online [https://www.academia.edu/8884185/Infant\\_Exposure\\_and\\_Infanticide\\_Oxford\\_Handbook\\_of\\_Childhood\\_and\\_Education\\_ed\\_Judith\\_Evans\\_Grubbs\\_and\\_Tim\\_Parkin](https://www.academia.edu/8884185/Infant_Exposure_and_Infanticide_Oxford_Handbook_of_Childhood_and_Education_ed_Judith_Evans_Grubbs_and_Tim_Parkin): access 15<sup>th</sup> November 2021; R. H. Feen, "The Historical Dimensions of Infanticide and Abortion: The Experience of Classical Greece," *The Linacre Quarterly*: vol. 51, no. 3, 1984, pp. 248–253; C. Patterson, "'Not Worth the Rearing': The Causes of Infant Exposure in Ancient Greece," *Transactions of the American Philological Association (1974–2014)*, vol. 115, 1985, pp. 103–123; D. Sneed, "Disability and Infanticide in Ancient Greece," *Hesperia: The Journal of the American School of Classical Studies at Athens*, vol. 90, no. 4, 2021, pp. 747–772; W. V. Harris, "Child-Exposure in the Roman Empire," *Journal of Roman Studies*, vol. 84, 1994, pp. 1–22; M. Obladen, "From Right to Sin: Laws on Infanticide in Antiquity," *Neonatology*, vol. 109, no. 1, 2016, pp. 56–61.

in late antiquity. Child exposure was gradually banned, and infanticide was considered not only as a crime, but also as a sin.<sup>12</sup>

This trend continued over the following centuries, e.g., in medieval England, infanticide cases were handled by ecclesiastical rather than secular courts.<sup>13</sup> Nonetheless, in the subsequent centuries, the power of ecclesiastical courts diminished and gradually those accused of infanticide were tried in secular courts, a process that ended during the Reformation.<sup>14</sup> Nevertheless, it is important to emphasize that infanticide in Britain was not a separate crime, and those who killed their children were accused with either murder or manslaughter.<sup>15</sup> This crime was strongly associated with illegitimacy, and women who committed it were usually punished not only for murder but also for extramarital fornication. This approach remained unchanged until 1922, when Parliament passed the *Infanticide Act*, which attempted to make the punishment more appropriate to the crime. For the first time, legislators took into account the mental state of women who murdered their newborn children.<sup>16</sup> The final attempt to modernize the infanticide law was made in the 1930s. The parliament passed the *Infanticide Act* in 1938 and since then it has been established that:

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 of the act or omission the balance of her mind was disturbed by reason of her not having fully recovered from the effect of giving birth to the child or by reason of the effect of lactation consequent upon the birth of the child, then, [if] the circumstances were such that but for this Act the offence would have amounted to murder [or manslaughter], she shall

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<sup>12</sup> Y. Monnickendam, “The Exposed Child: Transplanting Roman Law into Late Antique Jewish and Christian Legal Discourse,” *American Journal of Legal History*, vol. 59, no. 1, 2019, pp. 18–28; M. Obladen, “From Right to Sin...”, op. cit., pp. 56–61.

<sup>13</sup> B. A. Kellum, “Infanticide in England in the later Middle Ages,” *History of childhood quarterly*, vol. 1, no. 3 1974, pp. 367–88. B. A. Kellum also argues that the juries during the Middle Ages were very lenient towards the women who killed their children because the lives of young children were not so valuable as the lives of adults. That theory was revised by Sara M. Butler. In her recent studies, she proved that infanticide was considered a felony and was treated by the courts and juries as it. Even though it is clear that the gender and marital status of the accused influenced the final decision of the court. For more information, see: S. M. Butler, “A Case of Indifference?: Child Murder in Later Medieval England,” *Journal of Women’s History, Special Issue: Domestic Violence in History*, vol. 19, no. 4, 2007, pp. 59–82.

<sup>14</sup> R.J. Kellet, op. cit., p. 4.

<sup>15</sup> A-M. Kilday, op. cit., pp. 16; 187.

<sup>16</sup> *Ibidem*, pp. 187–188.

be guilty of felony, to wit of infanticide, and may for such offence be dealt with and punished as if she had been guilty of the offence of manslaughter of the child<sup>17</sup>.

## Research on Infanticide

In the 1960s, American physician Henry Kempe made a significant contributions to raising awareness of child abuse through his work on what he termed “battered child syndrome.”<sup>18</sup> Kempe’s research and advocacy have been instrumental in drawing attention to child abuse as a significant issue. However, it is important to note that infanticide itself, as a historical and anthropological phenomenon, has been studied for a long time, even before the 1960s. Researchers have explored the cultural, psychological, and societal factors that contribute to infanticide across different cultures and time periods. Infanticide has been practiced for a variety of reasons, including economic constraints, social norms, gender imbalances, and even as a form of population control in some societies. One of the scientists who conducted research on these issues was Maria Pries. During her research she identified factors that have since become regular aspects of child murder: unrelieved poverty, the shame of unmarried motherhood, and lack of emotional engagement between mothers and their infants<sup>19</sup>. Other early works focused mainly on the medieval period. Some of them led to the conclusion that killing infants was not considered as serious as the killing an adult. Sarah Butler recently returned to this issue and concluded that there was no difference in the treatment of child murderers during the Middle Ages.<sup>20</sup>

In the 1970s and 1980s, scholars approached the problem of infanticide from the perspective of social history and the history of crime. They based their research on sources generated by the justice system. This approach led to a focus on perpetrators, court trials and the place of infanticide in the criminal history. Scholars like Rolf Sauer<sup>21</sup> and Elizabeth

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<sup>17</sup> *Infanticide Act 1938*, (online: <https://www.legislation.gov.uk/ukpga/Geo6/1-2/36/section/1>, access 15<sup>th</sup> August 2023).

<sup>18</sup> H. Kempe, F. N. Silverman, B. F. Steele, W. Droegemueller, H. K. Silver, “The Battered Child Syndrome,” *Child Abuse & Neglect*, vol. 9, pp. 143–153.

<sup>19</sup> M. W. Piers, *Infanticide: Past and Present*, New York, 1978, pp. 13–126.

<sup>20</sup> S. M. Butler, “A Case of Indifference?: Child Murder in Later Medieval England,” *Journal of Women’s History, Special Issue: Domestic Violence in History*, vol. 19, no. 4, 2007, pp. 59–82.

<sup>21</sup> R. Sauer, *op. cit.*, pp. 81–93.

R. Hansen<sup>22</sup> focused on child mortality in England and on the problem of infanticide as a form of population control. Other works focused mainly on unmarried women as the perpetrators of crime, medical opinion, and the legal system.<sup>23</sup>

Since the late 1980s, we have observed an increase in the number of publications on the history of infanticide, focusing mainly on female perpetrators. At this time, historiography was particularly interested in the motivations of the women accused of crime and examined all factors such as shame and social stigma, economics, and insanity. Research into the medical understanding of infanticide has focused on the mental health of the accused mother and the medical difficulty of proving the cause of death.<sup>24</sup> At that time, the book *The Massacre of the Innocents. Infanticide in Britain, 1800–1939* by Lionel Rose was published. It was the first monograph devoted to the history of the infanticide in modern times.<sup>25</sup> Nowadays, this research is slightly criticised because the author focused mainly on the economic factors as the motives for infant murder, only slightly touching on social stigma or mental issues. Nonetheless, this work remains a foundation for infanticide researchers.

By the mid-1990s, the history of infanticide had become an established part of historical discourse. During this time, some scholars developed a different approach to the subject, adopting a literary methodology, and examined contemporary writings such as novels, poems and ballads to establish connections between the crime of infanticide and social anxieties about motherhood and gender. The most significant exemplars of this new form of writing about the history of infanticide are Jennifer Thorn<sup>26</sup> and Josephine McDonagh.<sup>27</sup> Furthermore, in 1990, Mark Jackson published his book *New-Born Child*

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<sup>22</sup> E. R. Hansen, “‘Overlaying’ in 19th-Century England: Infant Mortality or Infanticide?,” *Human Ecology*, vol. 7, no. 4, 1979, pp. 333–352.

<sup>23</sup> G. K. Behlmer, op. cit., pp. 403–427.

<sup>24</sup> C. B. Backhouse, “Desperate Women and Compassionate Courts: Infanticide in Nineteenth-Century Canada,” *The University of Toronto Law Journal*, vol. 34, no. 4, 1984, pp. 447–478; Ch. L. Krueger, “Literary Defences and Medical Prosecutions: Representing Infanticide in Nineteenth-Century Britain,” *Victorian Studies*, vol. 40, no. 2, 1997, pp. 271–294; A. R. Higginbotham, “‘Sin of the Age...’”, op. cit., pp. 319–337.

<sup>25</sup> L. Rose, op. cit., 1986.

<sup>26</sup> *Writing British Infanticide: Child-Murder, Gender, and Print, 1722–1859*, ed. by J. Thorn, London, 2003.

<sup>27</sup> J. McDonagh, *Child Murder & British Culture, 1720–1900*, Cambridge, 2003.

*Murder: Women, Illegitimacy and the Courts in Eighteenth-Century England*.<sup>28</sup> This work is so important that since then he has been a supporter of using the term ‘newborn child murder’ instead of ‘infanticide’ when writing about this phenomenon. The terminology is described in details in Chapter 2.

Research on the connection between illegitimacy and *The New Poor Law* should also be mentioned. This is significant because it showed how the position of unmarried mothers changed after the new law came into force, and partly also how it was related with an increase in infanticide. They also focused heavily on the fate of illegitimate children. Most notable are Ursula R.Q. Henriques<sup>29</sup>, Thomas Nutt<sup>30</sup>, Lisa Forman Cody,<sup>31</sup> and Samantha Williams.<sup>32</sup> There is also a separate group of researchers who focused on the fate of illegitimate children in London and the Foundling Hospital. In particular, the following names should be mentioned: Ginger Frost,<sup>33</sup> Claire Phillips,<sup>34</sup> Jessica A. Sheetz-Nguyen,<sup>35</sup> and Helen Berry.<sup>36</sup>

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<sup>28</sup> M. Jackson, *New-Born Child Murder: Women, Illegitimacy and the Courts in Eighteenth-Century England*, Manchester, 1996; see also: *Infanticide: Historical Perspectives on Child Murder and Concealment, 1550–2000*, edited by M. Jackson, London, 2002.

<sup>29</sup> U. R. Q. Henriques, “Bastardy and the New Poor Law,” *Past & Present*, no. 37, 1967, pp. 103–129.

<sup>30</sup> T. Nutt, “Illegitimacy, Paternal Financial Responsibility, and the 1834 Poor Law Commission Report: The Myth of the Old Poor Law and the Making of the New,” *The Economic History Review*, vol. 63, no. 2, 2010, pp. 335–361; *Illegitimacy in Britain, 1700–1920*, edited by A. Levene, T. Nutt, S. Williams, London, 2005.

<sup>31</sup> L. F. Cody, “The Politics of Illegitimacy in an Age of Reform: Women, Reproduction, and Political Economy in England’s New Poor Law of 1834,” *Journal of Women’s History*, vol. 11, no. 4, 2000, pp. 131–156.

<sup>32</sup> S. Williams, “Unmarried mothers and the new poor law in Hertfordshire,” *Local Population Studies*, vol. 91, no. 1, 2013, pp. 27–43; Eadem, “The Maintenance of Bastard Children in London, 1790–1834,” *The Economic History Review*, vol. 69, no. 3, 2016, pp. 945–71; Eadem, *Unmarried Motherhood in the Metropolis, 1700–1850: Pregnancy, the Poor Law and Provision*, London, 2018.

<sup>33</sup> G. Frost, “‘Your Mother Has Never Forgotten You’: Illegitimacy, Motherhood, and the London Foundling Hospital, 1860–1930,” *Annales de démographie historique*, vol. no. 127, no. 1, 2014, pp. 45–72.

<sup>34</sup> C. Phillips, “Child Abandonment in England, 1741–1834: The Case of the London Foundling Hospital,” *Genealogy* vol. 3.3, no. 35, 2019, pp.1–11.

<sup>35</sup> J. A. Scheetz-Nguyen, “Calculus of Respectability: Defining The World Of Foundling Hospital Women and Children In Victorian London,” *Annales de démographie historique*, vol. 114, no. 2, 2007, pp. 13–36; Eadem, *Victorian Women, Unwed Mothers and the London Foundling Hospital*, London, 2012.

<sup>36</sup> H. Berry, *Orphans of the Empire. The Fate of London’s Foundlings*, Oxford, 2019, pp. 55–58.

The most important publication on the phenomenon of infanticide in recent years is *A History of Infanticide in Britain c. 1600 to the Present* by Anne-Marie Kilday.<sup>37</sup> The author examines the history of this crime from early modern period up to now. She tries to compare cases of infanticide in Scotland, Wales and England, focusing mainly on the methods of murder and motives of the unmarried female offenders. Much of the book is focused on the early modern period and infanticide in Scotland, but it remains the most up-to-date research on the subject overall. In addition to this work, modern scholarship continues to focus on the legal and medical aspects of infanticide, the history of this crime in selected countries and its relationship with the press. It is worth mentioning Arlie Loughnan's work *Manifest Madness: Mental Incapacity in the Criminal Law*, which examines the gender dimension of madness and crime.<sup>38</sup> Other research studies worth mentioning are presented in Rachel Dixon's book. It examines the use of expert evidence in child murder trials at the Old Bailey.<sup>39</sup> As mentioned above, research on the history of infanticide in various countries has been increasing in recent years. Most notable are Deborah A. Symonds's research on infanticide in early modern Scotland,<sup>40</sup> Elaine Farrell's book on infant murders in post-famine Ireland,<sup>41</sup> and Shirley A. Smith's work on Wales.<sup>42</sup> Other researchers who have written about infanticide in Ireland include Cliona Rattigan<sup>43</sup> and James Kelly.<sup>44</sup>

In addition to books devoted to the history of infanticide in Britain and Ireland, there are also works on other regions. For example, research on female infanticide in China

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<sup>37</sup> A.-M. Kilday, op. cit., 2013.

<sup>38</sup> A. Loughnan, *Manifest Madness: Mental Incapacity in the Criminal Law*, Oxford, 2012; Eadem, "The 'Strange' Case of the Infanticide Doctrine," *Oxford Journal of Legal Studies*, vol. 32, no. 4, 2012, pp. 685–711.

<sup>39</sup> R. Dixon, *Infanticide. Expert Evidence and Testimony in Child Murder cases, 1688–1955*, New York, 2022.

<sup>40</sup> D. A. Symonds, *Weep Not for Me. Women, Ballads, and Infanticide in Early Modern Scotland*, Pennsylvania, 1997.

<sup>41</sup> E. Farrell, *'A Most Diabolical Deed'. Infanticide and Irish Society, 1850–1900*, Manchester, 2013.

<sup>42</sup> S. A. Smith, *'Out of Sight, Out of Mind'. Infanticide, Baby Farming and Abortion in South and West Wales, 1870–1922*, Cardiff, 2021.

<sup>43</sup> C. Rattigan, *'What else could I do?': Single Mothers and Infanticide, Ireland 1900–1950*, Dublin, 2012.

<sup>44</sup> J. Kelly, "'An Unnatural Crime': Infanticide in Early Nineteenth-Century Ireland," *Irish Economic and Social History*, vol. 46, no. 1, 2019, pp. 66–110.

deserves mention<sup>45</sup>. A similar issue was explored in detail by Rashmi Dube Bhatnagar, Renu Dube and Reena Dube in their book *Female Infanticide in India: A Feminist Cultural History*.<sup>46</sup> Turning to Asia, the work of Fabian Drixler on the phenomenon of infanticide in Japan is noteworthy.<sup>47</sup> *Infanticide and Abortion in Early Modern Germany* by Margaret Brannan Lewis is another valuable contribution to this topic, focusing on early modern Germany.<sup>48</sup> It is also worth mentioning Sara Beam's book on infanticide in Geneva in the early modern period.<sup>49</sup> Additionally, Kristen Johnson Kramar's research on infanticide in Canada in the twentieth century is a notable addition to the literature.<sup>50</sup>

Other significant works which focusing on some aspects of infanticide include Hilary Marland's book on insanity and childbirth<sup>51</sup>, as well as Cath Quinn's work<sup>52</sup> and Alison C. Pedley's book on mothers who killed and were sentenced to asylum for mental issues.<sup>53</sup> Also worthy of attention are works which examined child death in Victorian

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<sup>45</sup> M. T. King, *Between Birth and Death: Female Infanticide in Nineteenth-Century China*, Stanford, 2014.

<sup>46</sup> R. Dube Bhatnagar, R. Dube, R. Dube, *Female Infanticide in India: A Feminist Cultural History*, New York, 2005.

<sup>47</sup> F. Drixler, *Mabiki: infanticide and Population Growth in Eastern Japan, 1660–1950*, Berkeley, 2013.

<sup>48</sup> M. Brannan Lewis, *Infanticide and Abortion in Early Modern Germany*, London, 2016.

<sup>49</sup> S. Beam, *The Trial of Jeanne Catherine: Infanticide in Early Modern Geneva*, Toronto, 2021.

<sup>50</sup> K. Johnson Kramar, *Unwilling Mothers, Unwanted Babies: Infanticide in Canada*, Vancouver, 2005.

<sup>51</sup> H. Marland, *Dangerous Motherhood. Insanity and Childbirth in Victorian Britain*, New York, 2004; Eadem, "At Home with Puerperal Mania: the Domestic Treatment of the Insanity of Childbirth in the Nineteenth Century," *Outside the Walls of the Asylum: the History of Care in the Community 1750–2000*, ed. by P. Bartlett, D. Wright, London, 1999, pp. 45–65; Eadem, "Destined to a Perfect Recovery": the Confinement of Puerperal Insanity in the Nineteenth Century," *Insanity, Institutions and Society, 1800–1914: a Social History of Madness in Comparative Perspective. Studies in the Social History of Medicine*, ed. by B. Forsythe, J. Melling, London, 1999, pp. 137–156; Eadem, "Under the Shadow of Maternity: Birth, Death and Puerperal Insanity in Victorian Britain," *History of Psychiatry*, vol. 23, no. 89, pt 1, 2012, pp. 78–90; Eadem, "Getting Away With Murder? Puerperal Insanity, Infanticide and the Defence Plea," *Infanticide. Historical Perspectives on Child Murder and Concealment, 1550–2000*, London, 2017, pp. 168–192.

<sup>52</sup> C. Quinn, "Images and Impulses: Representations of Puerperal Insanity and Infanticide in Late Victorian England," in: *Infanticide. Historical Perspectives on Child Murder and Concealment, 1550–2000*, ed. by M. Jackson, London, 2017, pp. 193–215.

<sup>53</sup> A. C. Pedley, *Mothers, Criminal Insanity, and the Asylum in Victorian England. Cure, Redemption and Rehabilitation*, London, 2023.



England<sup>54</sup> or the issue of illegitimacy.<sup>55</sup> Other researchers, such as Aeron Hunt<sup>56</sup>, Paige Mathieson,<sup>57</sup> Christina Forst,<sup>58</sup> or Peter Charles Hoffer and Natalie E. H. Hull,<sup>59</sup> analysed various aspects of infanticide in their works. Several other important works have examined the representation of women who committed the murder in the English press<sup>60</sup> or the local press narratives of infanticide in England and Australia.<sup>61</sup> There is also a work focusing on the contemporary media representation of infanticide that may help to understand this issue in our times.<sup>62</sup> Another significant study is the work of Annie Cossins, who analysed the concept of moral panic concerning infanticide in the 1860s and today.<sup>63</sup>

In addition to the works mentioned above, it is worth mentioning research related to the practice of ‘baby farming’. Notably, Margaret L. Arnot had conducted significant research in this area, examining the connection between the baby farming scandal and the

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<sup>54</sup> S. Seaton, *Childhood and Death in Victorian England*, Bransley, 2017; C. Dyhouse, “Working-Class Mothers and Infant Mortality in England, 1895–1914,” *Journal of Social History*, vol. 12, no. 2, 1978, p. 248–267; R. Millward, F. Bell, “Infant Mortality in Victorian Britain: The Mother as Medium,” *The Economic History Review*, vol. 54, no. 4, 2001, pp. 699–733; N. Williams, Ch. Galley, “Urban-Rural Differentials in Infant Mortality in Victorian England,” *Population Studies*, vol. 49, no. 3, 1995, pp. 401–420; A. Kemkes, “Smothered” Infants-Neglect, Infanticide or SIDS? A Fresh Look at the 19th Century Mortality Schedules,” *Human Ecology*, 37, 2009, pp. 393–405; E. R. Hansen, op. cit., pp. 333–352; D. L. Russell-Jones, “Sudden infant death in history and literature,” *Archives of Disease in Childhood*, vol. 60, no. 3, 1985, pp. 278–281.

<sup>55</sup> *Legitimacy and Illegitimacy in Nineteenth-Century Law, Literature and History*, ed. by M. Finns, M. Lobban, J. Bourne Taylor, Basingstoke 2010; K. Gibson, *Illegitimacy, Family, and Stigma in England, 1660–1834*, Oxford, 2022.

<sup>56</sup> A. Hunt, op. cit. pp. 71–94.

<sup>57</sup> P. Mathieson, “Bad or Mad? Infanticide: Insanity and Morality in Nineteenth-Century Britain,” *Midlands Historical Review*, vol. 4, 2020, (online [http://www.midlandshistoricalreview.com/20200513\\_badormad/#\\_ftn106](http://www.midlandshistoricalreview.com/20200513_badormad/#_ftn106); access: 20th September 2023).

<sup>58</sup> Ch. Forst, “Creators, Destroyers, and a Judge: Infanticide and Puerperal Insanity in Victorian English Courts,” *Historical Perspectives: Santa Clara University Undergraduate Journal of History, Series II*, vol. 17, Article 7, 2012, pp. 1–23.

<sup>59</sup> P. C. Hoffer, N. E. H. Hull, *Murdering Mothers: Infanticide in England and New England 1558–1803*, New York, 1981.

<sup>60</sup> J. Knelman, *Twisting in the Wind. The Murderess and the English Press*, Toronto, 1998.

<sup>61</sup> N. Goc, *Women, Infanticide and The Press, 1822–1922. News Narratives in England and Australia*, New York, 2016.

<sup>62</sup> B. Barnett, *Motherhood in the Media: Infanticide, Journalism, and the Digital Age*, London, 2016.

<sup>63</sup> A. Cossins, *Female Criminality. Infanticide, Moral Panics and The Female Body*, London, 2015.

adoption and implementation of Infant Protection Act.<sup>64</sup> Another researcher who analysed the issue of baby farming is Ruth Ellen Homrighaus.<sup>65</sup> In addition to the authors mentioned, Joanne Pearman's PhD dissertation also provides valuable insights into the practice of baby farming and the associated measures of social and state control.<sup>66</sup> This phenomenon was also studied in Australia by Annie Cossins.<sup>67</sup> It is also worth adding that two biographies of one of the most notorious British baby farmers – Amelia Dyer, have been written. One by Alison Rattle and Allison Vale<sup>68</sup> and the other one by Angela Buckley.<sup>69</sup> Another noteworthy work on this phenomenon is Joshua Stuart-Bennett's book, in which he describes aspects of motherhood and respectability in Victorian and Edwardian London and how unwanted children could threaten women's position.<sup>70</sup>

It should also be noted that although many aspects of infanticide have been examined, there is little research regarding infanticide in Victorian London. There is a 1989 article by Ann Rowell Higginbotham examining this crime during the period in question. Moreover, the evidence for this article is based on twelve sample years between 1839 and 1906 and relates to murder trials of illegitimate children under the age of 5.<sup>71</sup> Higginbotham is also the author of unpublished doctoral thesis entitled *The Unmarried Mother and Her Child in Victorian London, 1834–1914*, where in one of the chapters she also analyses the

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<sup>64</sup> M. L. Arnot, "Infant Death, Child Care and the State: The Baby-Farming Scandal and the First Infant Life Protection Legislation of 1872," *Continuity and Change*, vol. 9, no. 2, 1994, pp. 271–311.

<sup>65</sup> R. E. Homrighaus, "Wolves in Women's Clothing: Baby-Farming and the British Medical Journal, 1860–1872," *Journal of Family History*, vol. 36, no 3, 2001, pp. 350–372; Eadem, *Baby farming: the care of illegitimate children in England, 1860–1943*, University of North Carolina, 2003, (Unpublished PhD dissertation).

<sup>66</sup> J. Pearman, *Bastards, Baby Farmers, and Social Control in Victorian Britain*, University of Kent, 2017, (Unpublished PhD dissertation).

<sup>67</sup> A. Cossins, *The Baby Farmers: A Chilling Tale of Missing Babies, Shameful Secrets and Murder in 19th Century Australia*, Sydney, 2013.

<sup>68</sup> A. Rattle, A. Valle, *Amelia Dyer Angel Maker. The Women who Murdered Babies for Money*, London, 2007.

<sup>69</sup> A. Buckley, *Amelia Dyer and the Baby Farm Murders*, Reading, 2016.

<sup>70</sup> J. Stuart-Bennett, *Motherhood, Respectability and Baby-Farming in Victorian and Edwardian London*, London, 2022.

<sup>71</sup> A. R. Higginbotham, "'Sin of the Age...'", op. cit., pp. 319–337.

issue of infanticide together with abortion and suicide, but the murder of newborns is not the main aim of her research.<sup>72</sup>

## **Methodology**

The research approaches the issue of infanticide from the perspective of social history perspective, using sources generated by the Old Bailey records. This approach resulted in the analysis focusing mainly on the perpetrators of the crimes and on the analysis of judgments and sentences.

The study, using historical methods, such as source criticism, analysed the content of press articles and assessed the validity of the information contained therein. This method also serves as a basis for examining court records. Data analysis has provided information regarding the credibility and judicial proceedings.

Moreover, quantitative and qualitative methods were also used to analyse court proceedings. The quantitative method helped determine the most common murder methods, the average age of perpetrators and the frequency of the trials or verdicts and sentences. The second method allowed for identifying the profile of perpetrators and analysing the leniency of the court.

Quantitative and qualitative methods were also used to analyse press articles. Using qualitative methods, the phases of interest in the topic of infanticide were examined (the peak of interest in the 1860s). By using qualitative methods, the research made it possible to understand the basic causes, opinions, and motivations of journalists writing about infanticide.

Another method helpful in analysing the perception of infanticide and its perpetrators is Lasswell's communication model. This model describes the act of communication by defining who said it, what was said, in what channel it was said, to whom it was said, and with what effect. This approach provided a comprehensive analysis of press articles.

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<sup>72</sup> A. R. Higginbotham, *The Unmarried Mother and Her Child in Victorian London, 1834–1914*, Indiana University, 1985 (Unpublished PhD dissertation), pp. 205–268.

A large number of diverse sources were used in writing this dissertation. In addition to court records, it also includes press articles, contemporary magazines, medical texts and parliamentary and state records. The dissertation includes a comprehensive analysis of a significant amount of the primary sources, but also adopts a case study approach. Individual examples have been chosen to illustrate and emphasise various aspects of infanticide present in this research.

One of the most significant issues emerging during this research is the presence of extreme emotions and opinions related with infanticide, which manifest whenever this topic is discussed. This study attempts to remain completely objective when describing perpetrators and episodes of infanticide in Victorian London. However, it acknowledges that the source material used is not impartial and it recognises the potential for prejudice or bias. It is also worth noting that there is the potential for inaccuracies in recorded cases of infanticide due to the nature of the offence, making detection and investigation difficult.

## Sources

The research of this dissertation is based primarily on the Old Bailey Proceedings. Until the nineteenth century, there was no standard method for reporting of court cases. The files contain account of the trials that took place at the Old Bailey. In the beginning, stories about criminals or court trials were published in the form of ballads, chap-books, short biographies of criminals or last speeches of the dying.<sup>73</sup> The first published account of a group of trials held at the Old Bailey came from the 1674 session. Initially it took the form of a pamphlet and contained only information about the most sensational and scandalous trials. Early editions of the proceedings were very short and did not contain much details about the trials. This began to change in the eighteenth century when the testimonies started to be included. It is not surprise that it was included in the most interesting or entertaining trials, such as those containing obscene language. Further changes in the format of the proceeding were introduced in 1729. The publication expanded and started to include testimonies of prosecutors, witnesses, defendants, as well as

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<sup>73</sup> C. Emsley, T. Hitchcock, R. Shoemaker, "The Proceedings – Publishing History of the Proceedings," *Old Bailey Proceedings Online* ([www.oldbaileyonline.org](http://www.oldbaileyonline.org), version 7.0, 21 August 2023).

comments and questions from judges.<sup>74</sup> This was possible due to the employment of people who took notes during the trials.

At the end of the eighteenth century, public interest in the publication slowly began to wane, but the City was more interested in controlling the content of the proceedings. It was expected that a true and accurate narrative would be presented. It should be noted that the proceedings were used by the City Recorder as a formal record. On their basis, for example, a report to the King was constructed concerning the data of people who were sentenced to death but should be pardoned.<sup>75</sup> As the City expected, the proceedings slowly became the official record of the trials and stopped to be an amusing publication for the masses. The reports were more detailed and included information about each trial at the Old Bailey. In 1834 The Central Criminal Court Act was passed by the Parliament. The name of the court was changed to Central Criminal Court (still commonly known as ‘Old Bailey’ due to the street name on which it is located). The jurisdiction of the court was enlarged. From that year on, except from the London area, also the criminal cases from Middlesex were tried there. It was also a period when the city of London tried to stop the publication of the proceeding because it was too expensive for them. Moreover, in the nineteenth century, the press became more popular in society, and because they also published reports of trials, the proceedings containing many legal details were not as popular and did not sell well.

The idea of ceasing the publication of the proceedings was blocked by the Home Secretaries, who found the publication very useful and dealt with appeals or legal precedence on this basis.<sup>76</sup> By the end of the nineteenth century, the proceedings were read mainly by lawyers and legal experts and were used in London's crime statistics and by the Home Secretaries. The accounts became more detailed and contained much more information about the trials than initially. However, since they did not focus on thriller stories, they did not have much value for the average reader. The end of publication was determined by the adoption of the Criminal Appeal Act in 1907. From then on, the taking of full shorthand notes from the trials became mandatory with the appointment of a

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<sup>74</sup> C. Emsley, T. Hitchcock, R. Shoemaker, op. cit., *Old Bailey Proceedings Online* (www.oldbaileyonline.org, version 7.0, 21 August 2023).

<sup>75</sup> Ibidem.

<sup>76</sup> Ibidem.

shorthand writer by the Lord Chancellor, his fees being paid by the Treasury.<sup>77</sup> The City was only responsible for printing the proceedings and did not have to hire people to take notes. However, it did not last long, because the last edition of the proceedings was published in 1913.

Although the Old Bailey Proceedings remain the best source for research on trials and crime in London, they have some deficiencies. The publication had to contain accurate information because the court was an open place and everyone could attend the sessions. If the information contained in the proceedings was false, their publication would end very quickly. However, the most crucial deficiency of the proceedings is the fact that they were redacted. Even if the trial note taker managed to gather the majority or all of the information presented during the trial, not all of it was published. It should be noted that, for example, some trials were published with very detailed information, while others contained only the defendant's data, a shortened version of the indictment, and the verdict and sentence. This is particularly noticeable in infanticide trials, where sometimes there is no record of the details about the trial. Nevertheless, even though the account of the trial is quite detailed, it does not contain all the information. The publishers have edited the following parts of the trial:

1. Witness testimony – it is the most fully reported part of the trial, although defence testimony was usually redacted;
2. The prosecution – the indictment of the defendant was only shortly summarized in the proceedings, and the publication usually did not contain the opening statement by the prosecution's counsel;
3. Defence – this is probably the most edited part of the proceeding. Very often, the defendants did not have much to say, but their statements usually did not appear in the publication. Furthermore, the proceedings did not contain the statements of defense counsel, and the testimony of defence witnesses were often summarized, while in the case of the prosecution it included it in its entirety. The reason for such action was quite simple – the city authorities did not want to provide the potential criminals with an effective alibi or defence line;

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<sup>77</sup> C. Emsley, T. Hitchcock, R. Shoemaker, op. cit., *Old Bailey Proceedings Online* ([www.oldbaileyonline.org](http://www.oldbaileyonline.org), version 7.0, 21 August 2023).

4. Legal arguments – the arguments between prosecution, defence and judges over the law, precedence, courtroom procedures or evidence were omitted. In 1805, the City banned the publication of legal arguments for fear that criminals might learn some tricks or methods there to avoid justice. Previously, publication of these aspects was also limited, mainly to reduce publication costs;
5. The judge’s summing up – while often excluded from publication, could provide valuable insights as judges occasionally attempted to influence the jury’s decision, making it worth including in the proceedings;
6. Jury decision making – there is no information on how the jury decided on the verdict, how long it took or whether they had any conversation with the judge;
7. Sentencing & punishment – a defendant found guilty of the capital offence had the possibility of addressing the court, but this was very rarely reported in the publication. Additionally, the sentencing judge’s speech was mostly not reported either. Moreover, there is no information whether the sentence was executed or not. Information on this topic can be found in The National Archives or in newspapers (the biggest online database for them is The British Newspapers Archive).<sup>78</sup>

During the research, this edition of the proceedings should be taken into consideration. Publications from the nineteenth century usually contain many details about the crime, the defendant and witnesses. The statements of the judge or prosecution and defence have been deleted. It can also be noted that the proceedings mainly covered the detailed statements against the accused, and positive testimony was usually summarised. Therefore, it should be noted that the proceedings ought to be examined in conjunction with other sources. In this dissertation, preserved court, state and prison records relating to certain trials and defendants were examined as supporting evidence. However, the only source that covered news from the court during the Victorian period was the press.

During this period, the popularity of the press continued to grow. There were many reports describing the atmosphere of the courtroom, the trial, the defendants and the testimonies of witnesses. The expansion of the press in the nineteenth century was possible thanks to technical developments that enabled the printing of thousands of copies and the long circulation of newspapers in society, thanks to which copies reached many people in

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<sup>78</sup> C. Emsley, T. Hitchcock, R. Shoemaker, op. cit., *Old Bailey Proceedings Online* (www.oldbaileyonline.org, version 7.0, 21 August 2023).

the following days.<sup>79</sup> The next important step in the development of the press was the abolition of stamp duty in 1855. This allowed for a lower selling price for copies and enabled the newspapers to reach a larger audience. The press in nineteenth-century Britain was divided into national and local. It should be noted that the criminal trials were reported in both the local national press. It is impossible to explain why some trials gained enormous coverage while others were ignored. There is no doubt that the trials that shocked public and concerned serial killers received more commentary.

Nonetheless, when examining infanticide trials in the Victorian period, it is evident that there were no rules that made the typical case of that crime interesting. Sometimes, in the cases of very similar trials, one was reported and the other was not even mentioned. It should also be noted that the articles were anonymous, therefore it was also not possible to examine the editorial policy in reporting about the infant murder or to determine whether the journalist's personal views had an impact on the way the crime and carinal were depicted.<sup>80</sup> Articles during this period were usually quite short and summarised the events, verdict and sentence. They most often reported on the final stages of the investigation and trial, so the outcomes of the trails at the Old Bailey were often mentioned.

However, there have also been examples of some cases being followed since the hearing before the magistrate up the trial at the Old Bailey. These included the cases of Emily Newber, a young nurse who killed her employer's child<sup>81</sup> or Frances Perach, a young maid accused of drowning her child but was found innocent.<sup>82</sup> Even with some limitations,

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<sup>79</sup> L. Brown, *Victorian News and Newspapers*, Oxford, 1985, pp. 26–53.

<sup>80</sup> For more information see: D. J. R. Grey, *Discourses of Infanticide in England, 1880–1922*, School of Arts Roehampton University, University of Surrey, 2008, pp. 37–46, (Unpublished PhD dissertation).

<sup>81</sup> *London Evening Standard*, December 18, 1893, p. 6. (online, <https://www.britishnewspaperarchive.co.uk/viewer/BL/0000183/18931218/058/0006?browse=False>, access: 7<sup>th</sup> September 2023); *Morning Post*, December 25, 1893, p. 6. (online, <https://www.britishnewspaperarchive.co.uk/viewer/BL/0000174/18931225/094/0006?browse=False>, access: 7<sup>th</sup> September 2023); *Leeds Times*, December 23, 1893, p. 3. (online, <https://www.britishnewspaperarchive.co.uk/viewer/BL/0000336/18931223/018/0003?browse=False>, access: 7<sup>th</sup> September 2023); *Globe*, February 05, 1894, p. 7. (online, <https://www.britishnewspaperarchive.co.uk/viewer/BL/0001652/18940205/075/0007?browse=False>, access: 7<sup>th</sup> September 2023).

<sup>82</sup> *Kentish Mercury*, February 23, 1894, p. 2. (online, <https://www.britishnewspaperarchive.co.uk/viewer/BL/0001652/18940205/075/0007?browse=False>, access: 7<sup>th</sup> September 2023); *Globe*, February 20, 1894, p. 7. (online, <https://www.britishnewspaperarchive.co.uk/viewer/BL/0001652/18940220/090/0007?browse=False>, access: 7<sup>th</sup> September 2023); *Morning Post*, March 21, 1894, p. 6. (online,



the press is considered a useful source which, in connection with proceedings at the Old Bailey, can help establish detailed accounts of the trials. Contrary to the proceeding, some press articles referred to the defence lawyer's statements or the defendants' testimonies and behaviours. Some of them even reported the judge's final summary or the time the jury spent debating the verdict. Furthermore, sometimes there are no details about the Old Bailey trial (other than the name, incitement and the verdict), and the press articles provide the details about the crime itself. It should be taken into consideration that the articles were written not only to report events, but also to stir emotions in the recipient. Therefore, when examining them, the description of the offenders should be considered. Moreover, articles may contain some spelling errors. They may have been caused by a lot of noise in the courtroom, the Central Criminal Court was open to everyone and was usually quite crowded. Nonetheless, in summary, the proceeding and the press are the sources that complement each other and allow us to examine the phenomenon of infanticide in a more complete context.

### **Structure of the dissertation**

The dissertation consists of summaries in English and in Polish, a list of tables, a list of figures, a list of abbreviations, an introduction, four chapters, a conclusion, a bibliography and an appendix.

The first chapter defines the term 'Victorian' and presents the economic and social changes that took place in England during the Industrial Revolution and the Victorian period. This chapter also discusses the social issues of the period, the introduction of the *New Poor Law* and the *Bastardy Clauses*, and their connection to infanticide. This chapter discusses the position of women, marital and family life. The second chapter analyses changes in the law of infanticide in the nineteenth century. Furthermore, it examines data from the Old Bailey Proceedings. It analyses the frequency of trials in each decade and the differences between a murder indictment and a concealment. In this chapter, the author

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<https://www.britishnewspaperarchive.co.uk/viewer/BL/0000174/18940321/047/0006?browse=False>, access: 7<sup>th</sup> September 2023); *London Evening Standard*, April 05, 1894, p. 2. (online, <https://www.britishnewspaperarchive.co.uk/viewer/BL/0000183/18940405/010/0002?browse=False>, access: 7<sup>th</sup> September 2023); *London Evening Standard*, April 05, 1894, p. 2. (online, <https://www.britishnewspaperarchive.co.uk/viewer/BL/0000183/18940405/010/0002?browse=False>, access: 7<sup>th</sup> September 2023).

analyses the profiles of the offenders, categorising them into four groups: unmarried mothers, widows, married mothers and men. This chapter examines their behaviour, social position and modus operandi. The third chapter of the dissertation focuses on the verdicts and sentences announced during the Old Bailey trials. The author analyses the frequency of murders, manslaughters, concealment of convictions and acquittals. The chapter also examines the plea of insanity brought before the court and the leniency of the courts. The final chapter of the dissertation focuses on baby farming and analyses the trials of Margaret Waters and Amelia Dyer, two of the most infamous baby farmers in English history.

It should be also noted that all the tables and graphs which are part of the dissertation were compiled by the author based on the data from Old Bailey's Proceedings. Additionally, in the bibliography for all sources except the list of proceedings, the alphabetical arrangement was used. The list of proceedings was arranged chronologically, as such an arrangement is more clear and logical to follow.

## Chapter 1

### 1.1. Life in the Victorian era

The Victorian era was a time of social and economic change. Traditionally, the time frame of this period refers approximately to the years of Queen Victoria's reign (1837–1901). According to Colin Matthew, the adjective 'Victorian' was used by contemporaries as early as 1839 to describe their epoch and remains in use today.<sup>83</sup> According to Encyclopaedia Britannica it is defined as:

(...) the period between approximately 1820 and 1914, corresponding roughly but not exactly to the period of Queen Victoria's reign (1837–1901) and characterized by a class-based society, a growing number of people able to vote, a growing state and economy, and Britain's status as the most powerful empire in the world.<sup>84</sup>

The beginning of that period was marked by numerous transformations that took place at the turn of the 1820s and 1830s, i.e., economic changes related to the Industrial Revolution, a social revolution characterized by the transition from a hierarchical to a class-based society, and the political revolution that brought a new middle-class to power.<sup>85</sup> The Industrial Revolution, with its social, political and moral changes, began in the eighteenth century and reached its full flower in the nineteenth century, but its significant effects became visible in the 1830s; therefore, this decade is considered the beginning of the Victorian era. For the purpose of this dissertation, the author decided to treat the year 1834 as the beginning of the Victorian era, because then Parliament changed the law regarding the poor relief and unmarried mothers, which also had an impact on the crime of infanticide.<sup>86</sup>

Queen Victoria's reign was not a homogeneous or stable epoch. It can be divided into three periods: early, middle and late. The early period, which ended with the Great

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<sup>83</sup> C. Matthew, "Introduction: the United Kingdom and the Victorian century, 1815–1901," *The Nineteenth Century 1815–1901*, ed. by C. Matthew, Oxford, 2000, p. 37. According to A. Briggs the adjective 'Victorian' came into use in 1851, the year of the Great Exhibition. A. Briggs, *A Social History of England*, London, 1987, p. 268.

<sup>84</sup> S. Steinbach, "Victorian Era". *Encyclopedia Britannica*,. (online <https://www.britannica.com/event/Victorian-era>, access: 27<sup>th</sup> August 2020).

<sup>85</sup> M. Hewitt, "Why the Notion of Victorian Britain Does Make Sense," *Victorian Studies*, vol. 48, no. 3, 2006, pp. 397–398, F. M. L. Thompson, *The Rise of Respectable Society. A Social History of Victorian Britain 1830–1900*, Glasgow, 1988, pp. 13–20.

<sup>86</sup> For more information, see A. Hunt, op. cit., pp. 75–78; A. R Higginbotham, "'Sin of the Age...'", op. cit., pp. 320–322; L. Marks, op. cit., pp. 522–524; A-M. Kilday, op. cit., pp. 120–121; L. Rose, op. cit., pp. 26, 46; R. Sauer, op. cit., p. 89; G. K. Behlmer, op. cit., p. 418.

Exhibition,<sup>87</sup> was a time of great hardship and social protests, but also of development. The symbol of this is the *Hungry Forties*, a decade marked by a food crisis caused by potato blight. The crisis affected the Scottish Highlands particularly hard, and it hit Ireland even harder, where the population fell from approximately 8.4 million in 1844 to 6.6 million in 1851. In the late 1830s, the Chartist movement, whose aim was to improve the economic conditions of the working-class and introduce changes to electoral law, emerged. Another symbol of the early period was the transition from the horse-drawn carriage to the steam-driven engine, and, obviously, the rapid development of the railway, which made transport much faster and cheaper.

The mid-Victorian period lasted from 1851 to 1870. It was a time of economic progress, social stability and cultural diversity. During this period, the United Kingdom was the richest country in the world, with income *per capita* 50 per cent higher than France.<sup>88</sup> Furthermore, living conditions for most people seemed to have improved. Wages rose faster than food prices, and society was finally able to benefit from the achievements of the Industrial Revolution. But even during that prosperous time, full of optimism and faith in scientific progress, there was room for some pessimism. In 1859 Charles Darwin's *Origin of Species* and John Stuart Mill's *Essay on Liberty* were published. Undoubtedly, the most controversial book published at that time was Darwin's work. This shocked not only members of the Anglican Church and other religious groups, but also leaders of the scientific community. Surprisingly, it was Mill's work that raised many more questions about contemporary society. He analysed the relationship between authority and liberty, criticised social conformity and emphasized the importance of individuality. Charles Dickens, one of the greatest novelists, also noticed and described in his novels problems of Victorian society, which Victorians often wanted to keep out of view. Although the mid-Victorian period was the most stable and flourishing part of Victoria's reign, it was also full of doubts and questions about religion and the functioning of the state or society.

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<sup>87</sup> The Great Exhibition of the Works of Industry of all Nations was held in 1851, London. It was organised under the leadership of Prince Albert and Royal Society for the Encouragement of Arts, Manufactures and Commerce. It was the first of a series of World's Fair exhibitions popular in the nineteenth century. During the exhibition the greatest scientific and technical achievements of the first half of the nineteenth century were presented. For more information, see L. Picard, *The Great Exhibition*, 2009. (online: <https://www.bl.uk/victorian-britain/articles/the-great-exhibition>: access 15<sup>th</sup> December 2020).

<sup>88</sup> A. Briggs, *op. cit.*, p. 271.

The economic downturn in industry and ‘high farming’ at the turn of the 1860s and 1870s marked the beginning of the late-Victorian period. This time was characterised by changes, such as introduction of compulsory education at primary level. This reform aimed to reduce the cultural gap between the working and middle classes. Furthermore, this period witnessed demonstrations by the unemployed and a growing number of suffragettes fighting for women’s rights. In the last years of Queen Victoria’s reign, there was also growing criticism of “Victorianism” and its essential elements, such as self-help or respect, which manifested themselves in industry, abstinence and thrift. It can be noted that the critique of mid-Victorian ideas, values and even native architectural styles heralded a new era, the beginning of which was marked by the death of Queen Victoria in January 1901.

## **1.2. Economy and Society**

The economic growth that occurred during the Victorian period was undoubtedly the result of industrialisation. It was a time when several inventions appeared, such as the spinning jenny, the flying shuttle, and the steam engine. They emerged in different periods and significantly improved the production processes of various goods. The changes brought by technological inventions led to the creation of factories. Cotton fabrics were the first to be produced there. It should be noted, however, that many goods were still manufactured in the workshops or at homes. Even though the new machines made work somewhat faster and easier, it was still difficult for the labourers. They worked from sunrise to sunset, and sometimes even longer, without any insurance and for very low wages.

At that time, industrialisation was inextricably linked to urbanisation. Rural people began to leave their homes and go to cities, where they hoped to find work. From that moment on, industrial cities were filled with thousands of mostly unskilled workers, not only men but also women, who struggled every day to survive. Both phenomena also led to an increase in the number of people living in cities, which resulted in overpopulation, as well as the “housing problem”, which in turn emerged from the ratio of low wages and high rents.<sup>89</sup> Many members of the working-class lived in overcrowded lodgings, were

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<sup>89</sup> D. Ward, “The Victorian Slum: An Enduring Myth?,” *Annals of the Association of American Geographers*, vol. 66, no. 2, 1976, pp. 324–325; S. Morris, “Market Solutions for Social Problems: Working-Class Housing in Nineteenth-Century London,” *The Economic History Review*, vol. 54, no. 3, 2001, pp. 527–528.

exhausted from long hours of work and were susceptible to numerous infectious diseases, such as typhus, cholera, smallpox or tuberculosis.

Another consequence of the Industrial Revolution was pollution, which also affected human health. It is worth noting that urban sewage system was developed during the Victorian period. It helped to remove the causes of diseases from cities, e.g., the number of cholera cases deteriorated due to that solution,<sup>90</sup> but unfortunately most of the sewage was pumped directly into rivers, where the poorest washed their clothes, and sometimes themselves. In addition, it should be noted that the fumes from factories polluted the air, which was the cause of, among others, lung diseases. Even though people gradually became aware of the problem of environmental pollution, there were no effective ways to fight it.<sup>91</sup>

The changes and innovations brought by the Industrial Revolution affected various parts of Britain at different times. The country was regionally diverse, so, for example, different economic sectors dominated in different parts. As a result, regions such as Lancashire and the West Riding of Yorkshire, where the textile industry dominated, or the mining regions such as Durham, Northumberland, Glamorgan and Monmouth, industrialised much faster than agricultural regions or service-oriented metropolitan areas. The process of industrialisation was considered to have been completed by 1850, but even then and in later years some parts of Britain were slightly affected by it.<sup>92</sup>

The Industrial Revolution affected not only the British economy, but also society. The world in which many people had lived for so long began to disappear. Nevertheless, people in Britain experienced these changes unevenly. Those who lived in Manchester or near other large cities in the north of England noticed dramatic differences in their

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<sup>90</sup> For more information about cholera epidemic see M. Black, "The Experience of the First Sanitary Revolution: Are There Lessons for Today's Global Sanitation Crisis?," *Waterlines*, vol. 27, no. 1, 2008, pp. 65–66; R. J. Evans, "Epidemics and Revolutions: Cholera in Nineteenth-Century Europe," *Past & Present*, no. 120, 1988, pp. 123–146.

<sup>91</sup> Public health and pollution in Victorian England are discussed in M. Sigsworth, et al. "The Public's View of Public Health in Mid-Victorian Britain," *Urban History*, vol. 21, no. 2, 1994, pp. 237–250; B. Pontin, "Integrated Pollution Control in Victorian Britain: Rethinking Progress within the History of Environmental Law," *Journal of Environmental Law*, vol. 19, no. 2, 2007, pp. 173–199; H. C. M. Scott. "Industrial Souls: Climate Change, Immorality, and Victorian Anticipations of the Good Anthropocene," *Victorian Studies*, vol. 60, no. 4, 2018, pp. 588–610; T. May, *An Economic and Social History of Britain, 1760–1990*, London, 1995, pp. 147–148.

<sup>92</sup> T. May, op. cit., London 1995, pp. 53–83.

surroundings. In just two generations this part of England was transformed into a place of factories and factory work unlike anything that had existed there before.<sup>93</sup> The difference between the industrial north and the mostly agricultural south was staggering to contemporaries. It was also reflected in Victorian literature. One of the best examples of that is Elizabeth Gaskell's novel *North and South*.<sup>94</sup>

The economy of Victorian period was a mix of agriculture, industry, services and finance. Although at that time Britain became the richest country in the world, national income was growing and the wages were higher, the Industrial Revolution also brought many issues that affected the life of society. In a world changing at an extremely rapid pace, the tension between old and new was more visible not only among political structures, but also among the lower social classes. The factory system established during this period led to the enrichment of part of the middle-class, and more importantly, it changed work habits and affected living conditions and social relations. Probably those effects of the Industrial Revolution were more revolutionary than its impact on the growth of production or the creation of wealth. Although factory workers did not yet constitute the majority of the population in the 1830s, the issues faced by society became noticeable in the following years.

One of those problems was women and child labour. From the mid-1830s, when factory inspectors began to pay more attention to their job duties, it turned out that half of steel mill workers were women. The number of women working in the textile industry

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<sup>93</sup> S. L. Steinbach, *op. cit.*, p. 87.

<sup>94</sup> E. Gaskell, *North and South*, Oxford, 2008, pp. 17–19, 58–60. *North and South* was published in 1854. It tells a story of Margaret Hale who, with her parents, moves from the south of England to Milton (a fictional place modelled on Manchester), an industrial city in the north. Describing the experiences of the main character, the author addresses the most important social issues of England at the time. She illustrated the relationships between factory workers and their employers, the first strikes, and showed the fear and resentment that the Industrial Revolution aroused in the inhabitants of southern England.

Except Elizabeth Gaskell, there were also others authors who depicted the Industrial Revolution and its effects in their novels e.g., Frances Trollope's *Michael Armstrong*, *The Factory Boy* (1839), Charles Dickens' *Oliver Twist* (1838) or *Hard Times* (1854), Charlotte Elizabeth Tonna's *Helen Fleetwood* (1841), Elizabeth Stone's *William Langshawe*, *The Cotton Lord* (1842), Charlotte Brontë's *Shirley* (1849) or Geraldine Jewsbury's *Marian Withers* (1851). For more information, see D. Cordea, *The Impact Of The Industrial Revolution In The Victorian Factory Novel. Social Realities Reflected through Fiction*, LAP Lambert Academic Publishing, 2014; M. A. Balkaya, *The Industrial Novels: Charlotte Brontë's Shirley, Charles Dickens' Hard Times and Elizabeth Gaskell's North and South*, Cambridge, 2015; J. M. Guy, "The Chimneyed City': Imagining the North in Victorian Literature", in: *The Literary North*, ed. by K. Cockin, London 2012, pp. 22–37.

continued to grow and by the end of the century they constituted over 60 per cent of all employees.<sup>95</sup> At the same time, children under the age of fourteen constituted 13 per cent of the factory's workforce. Though, the scale of this phenomenon was much larger, because children were employed not only in factories, but also in services or mines. The reasons for employing women and children in factories were obvious: they were paid less than men, and as a result of technological progress, their work was equally effective. Child labour was not unexpected for the people living in the nineteenth century, but the era of industrialisation witnessed the upsurge of this phenomenon.<sup>96</sup> Poor living conditions and low wages of most of the working-class resulted in people starting work at a very young age. Traditionally, most children started working around the age of 7–9 years. They usually helped their parents, but in some cases they were sent to work elsewhere. Parents decided to send their children to work because they needed money, and without extra income it would be hard for the family to survive.

As the Industrial Revolution progressed and more and more factories appeared, more and more attention began to be paid to the terrible conditions in which labourers worked. People also noticed that children worked excessively long hours (up to 12 hours a day) and could be severely punished for their mistakes. This situation promoted the introduction of new legal provisions. In 1833, Parliament passed the *Factory Act*, which improved working conditions for children in factories. The new law banned child labour under the age of 9 and child labour at night. It also prohibited children aged 9 to 13 from working more than nine hours, and children aged 13 to 18 – for twelve hours a day; the law also required that all children to be provided with two hours of schooling each day:

And be it further enacted, That from and after the Expiration of Six Months after the passing of this Act it shall not be lawful for any Person whatsoever to employ, keep, or allow to remain in any Factory or Mill as aforesaid for a longer Time than Forty-eight Hours in any One Week, nor for a longer Time than Nine Hours in any One Day, except as herein provided, any Child who shall not have completed his or her Eleventh Year of Age, or after the Expiration of Eighteen Months from the passing of this Act any Child who shall not have completed his or her Twelfth Year of Age, or after the Expiration of Thirty Months from the passing of this Act any Child who shall not have completed his or her Thirteenth Year of Age: Provided nevertheless, that in Mills for the

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<sup>95</sup> F. M. L. Thompson, op. cit., p. 23.

<sup>96</sup> J. Humphries, "Childhood and Child Labour in the British Industrial Revolution," *The Economic History Review*, vol. 66, no. 2, 2013, p. 400.



Manufacture of Silk, Children under the Age of Thirteen Years shall be allowed to work Ten Hours in any One Day.<sup>97</sup>

Further changes occurred in 1847, when another law was passed limiting the work of adults and children to 10 hours a day. However, it should be noted that the implementation of these laws was not immediate and many cases of abuses continued to occur throughout the Victorian era. At the end of the century, a decline in child labour could be observed. The reason was the introduction of compulsory elementary education in 1880, as well as the growing demand for educated employees. Therefore, the chance for education and the decreasing economic need for child labour create a chance for a better life, also for children from poor families.<sup>98</sup>

The industrialisation process also affected the structure of society. As Roy Porter claims:

(...) an eighteen-century Englishman got his public identity in relation to his birth, his property, his occupation, and his rank in the social order. Most women were defined by the honour of their presiding male. The power brought by wealth, rank, office, and status obscured equality under common law and within the family of men.<sup>99</sup>

This statement is partially true also in relation to nineteenth-century society, especially its beginnings, when people were also defined by their social status and wealth, and women only began to fight for their rights in the second half of the century. Society of nineteenth-century England was class-based, and everyone identified as a member of a particular class. The organisation of English society by class began at some point during the Victorian period.<sup>100</sup> This does not mean, however, that pre-Victorian society was not strictly hierarchical, but understanding social differences as something organised by class was a component of industrialised society.<sup>101</sup> Eighteenth-century English society was usually depicted as a pyramid, with a minority of the rich and powerful at the top and the

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<sup>97</sup> *Factories Act 1833*, (online <http://www.educationengland.org.uk/documents/acts/1833-factories-act.html>: access: 6<sup>th</sup> February 2021).

<sup>98</sup> T. Newman, "Workers and Helpers: Perspectives on Children's Labour 1899–1999," *The British Journal of Social Work*, vol. 30, no. 3, 2000, pp. 328–330.

<sup>99</sup> R. Porter, *English Society in the Eighteen Century*, London, 1982, p. 63.

<sup>100</sup> R. S. Neale, "Class and Class-Consciousness in Early Nineteenth-Century England: Three Classes or Five?," *Victorian Studies*, vol. 12, no. 1, 1968, pp. 12–13; A. Tyrrell, "Class Consciousness in Early Victorian Britain: Samuel Smiles, Leeds Politics, and the Self-Help Creed," *Journal of British Studies*, vol. 9, no. 2, 1970, pp. 102–104.

<sup>101</sup> S. L. Steinbach, *op. cit.*, p. 124.

poorest and most powerless at the bottom. People thought of themselves in terms of groups, e.g., “the middling sort”, and “the lower ranks”, or according to the sevenfold division of society suggested by Daniel Defoe, based on wealth and consumption:

1. the great, who live profusely;
2. the rich, who live plentifully;
3. the middle sort, who live well;
4. the working trades, who labour hard, but feel no want;
5. the country people, farmer, etc. who fare indifferently;
6. the poor, who fare hard;
7. the miserable, who really pinch and suffer want.<sup>102</sup>

Defoe’s characterisation of the English society emphasised that one’s social position was determined by one’s wealth. The highest in the hierarchy were the landowners, whose status was defined not only by the amount of land they possessed, but also their property titles. Advancement in the social order was almost impossible unless through the favourable marriage, but this also did not happen very often. Even people who managed to make a considerable fortune at the time could not buy themselves a position in the higher sphere or had only a slight chance to obtain a peerage.<sup>103</sup> Industrialisation significantly influenced this model of society. Although the society in Britain remained hierarchical, the people who lived then became class conscious. The industrialisation process created a vast opportunity for the ‘middling people’ to increase their wealth and strengthen their position.<sup>104</sup>

The new economic and social situation led to the emergence of the middle-class and its expansion in the following decades of the nineteenth century. The middle-class was very contrasted, because this social class included both manufacturers and factory owners, often of humble origin, clerks, office workers, all kinds of tradesman, as well as people providing professional services, such as doctors, clergy, schoolmasters or engineers. The income of middle-class family ranged from £100 to £1000 a year.<sup>105</sup> Despite the differences that existed between the divided members of this social class, they were very aware of their

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<sup>102</sup> Cited in: T. May, op. cit., p. 56.

<sup>103</sup> For more information, see R. Porter, op. cit., pp. 66–69.

<sup>104</sup> S. Gunn, “Class, Identity and the Urban: The Middle Class in England, C.1790–1950,” *Urban History*, vol. 31, no. 1, 2004, pp. 31–35.

<sup>105</sup> H. M. Boot, “Real Incomes of the British Middle Class, 1760–1850: The Experience of Clerks at the East India Company,” *The Economic History Review*, vol. 52, no. 4, 1999, pp. 639–640; S. L. Steinbach, op. cit., p. 128.

identity. It was especially noticeable among the members of the lower-middle-class who, even if sometimes earning less than skilled labourers, did everything to distinguish themselves from the working-class. The most significant elements of middle-class identity were free competition and individual effort. They also created a vision of an ideal family, motherhood and home, which was supposed to be a place for family, separated from business affairs. The doctrine of “separated spheres” introduced a model in which women were assigned to the private or domestic sphere and men to the public sphere. Ideas represented by the middle-class dominated British thought and everyday life. It happened even though the aristocracy remained the main political force until the end of the nineteenth century and despite the fact that the middle-class, although increasingly numerous, remained proportionally small. According to Trevor May, it accounted for only 10–20 per cent of the population at mid-century, and fell far short of the 40 per cent as it is today.<sup>106</sup>

Another social class that became self-conscious during the nineteenth century was the working class. Like the middle-class, it was also divided internally, with unskilled labourers at the bottom of the hierarchy. The working class constituted about 70 to 80 per cent of the population. The family income was usually under £100 per annum, but sometimes reached as much as £300 per year.<sup>107</sup> Traditionally, members of the working class started working at around the age of 11, but as Jane Humphries claims:

The vast majority of working-class autobiographies record age at starting work. They also usually provide a date of birth or its rough approximation, allowing stratification by cohort to span the chronology of the industrial revolution. The first cohort includes the earliest autobiographies with a cut-off birth date of 1790. The second and third cohorts cover the classic period of industrialization, from 1791 to 1820 and 1821 to 1850. The final cohort runs from 1851 until 1878. Cross-tabulations of age at starting work with cohort of birth reveals that age at starting work was lower for boys born in the two middle cohorts of the industrial revolution. In the sample as a whole, mean age at starting work first declined and then increased over time, falling from 11.5 in the first cohort to 10.28 and 9.98 in the middle cohorts, before rising again to 11.39 in the final cohort. This pattern is reflected in the cumulative frequency of age by which boys started work. By the age of 15, work was almost universal in all cohorts, but there were dramatic differences over time in the proportions working at younger ages. Very young working was rare in the first and fourth cohort but much more common in the middle period. Thus, while only a fifth of boys under 10 were at work before 1791 and after 1850, this proportion was almost doubled in the two middle cohorts.<sup>108</sup>

Since they started, they have worked for 12 or more hours a day, Monday through Saturday, for most of their lives. Their work was mainly manual, thus exhausting and

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<sup>106</sup> T. May, *op. cit.*, p. 230.

<sup>107</sup> S. L. Steinbach, *op. cit.*, p. 128.

<sup>108</sup> J. Humphries, *op. cit.*, p. 401.

usually dirty. Moreover, it was often very precarious. There was a high risk of accidents at work, and the people were left to fend for themselves because there was no employment insurance at that time. In addition to frequent injuries, long working hours led to exhaustion and very often resulted in death at a young age. Members of the working class could work as skilled or unskilled artisans, factory workers, or domestic servants. Wages varied and depended on the type of work and required skills. Ideally, the job would be permanent, respected and well paid, but unfortunately most positions were seasonal, part-time and very poorly paid. Due to the seasonal work, some women were forced by their circumstances to work as prostitutes during off-season. Many labourers could only find occasional work. Every morning they showed up at the docks or other places where they hoped to get hired, if only for a day.<sup>109</sup>

Unstable employment and difficulties in finding decent job meant that a significant part of the working class lived in constant uncertainty about what the next day would bring, and many of them could be left destitute. Due to the difficult financial situation, a working-class family considerably varied from a middle-class family. Even though the family model promoted by the middle class, in which the man earned money to support the family and the woman took care of the house, also became more popular among the working class, in practice it was impossible for them to achieve it. Most working-class women worked for at least part of their lives. Usually as maid (only before the marriage), in factories or at home on piecework. Without female's work, families could struggle to survive. However, women's work often led to neglect, especially malnutrition among infants requiring mother's milk, which was partially responsible for high child mortality. Many parents, aware of their poor situation as well as demanding and dangerous work, wanted their children to have a better life. This could be done by belonging to the lower-middle-class. Daughters of the working-class families could achieve this through marriage, but it was much more difficult for men. The only opportunity to improve life was compulsory education for children of both sexes, and obtaining it became somewhat easier after 1870, when the Parliament passed the first *Education Act*.<sup>110</sup>

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<sup>109</sup> For more information, see: G. Stedman Jones, *Outcast London. A Study in Relationship Between Classes in Victorian Society*, London, 2013, pp. 33–127.

<sup>110</sup> For more information, see W. H. G. Armytage, "The 1870 Education Act," *British Journal of Educational Studies*, vol. 18, no. 2, 1970, pp. 121–133; H. Roper, "Toward an Elementary Education Act for England and Wales, 1865–1868," *British Journal of Educational Studies*, vol. 23, no. 2, 1975, pp. 181–208; N. Middleton,

The situation of the working class began to improve in the 1870s, when Trade Unions were legalised to protect workers' rights.<sup>111</sup> It was also the time of rising real wages, and falling prices and working hours. That also meant that they finally had money to spend on better food, household furniture, and sometimes even on family vacations. However, despite the improvements in their standard of living and financial situation, this class remained the one that worked and lived in the worst conditions. As Susie L. Steinbach argues:

(...) at the end of the nineteenth century, famous social surveys of London in 1889 by Charles Booth and of York in 1899 by Seebohm Rowntree suggest that between one quarter and one-third of the working class in those cities were living in terrible poverty, with families crowded into small living spaces and often going hungry.<sup>112</sup>

Thus, even though after 1870 there was a slight improvement in the living conditions of the working class, many of them had no chance to change their lives and fell victim of the problems that plagued nineteenth-century England.<sup>113</sup>

### 1.3. Social problems

The Victorian era was a tempestuous period, even though contemporaries perceived it as a time of internal stability, technological development and economic growth. The nineteenth-century saw many disturbing social problems, such as poverty, poor housing conditions, poor health, appalling levels of child mortality, child labour, and single

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“The Education Act of 1870 as the Start of the Modern Concept of the Child,” *British Journal of Educational Studies*, vol. 18, no. 2, 1970, pp. 166–179; P. H. J. H. Gosden, “The Board of Education Act, 1899,” *British Journal of Educational Studies*, vol. 11, no. 1, 1962, pp. 44–60; A. C. O. Ellis, “Influences on School Attendance in Victorian England,” *British Journal of Educational Studies*, vol. 21, no. 3, 1973, pp. 313–326; F. M. L. Thompson, op. cit., pp. 135–143.

<sup>111</sup> Trade Union Act, 1871, (online <https://www.ilo.org/dyn/natlex/docs/ELECTRONIC/98373/117044/F1671923749/IRL98373.pdf>; access 8<sup>th</sup> January 2021); T. J. Hatton, et al. “The Union Wage Effect in Late Nineteenth Century Britain,” *Economica*, vol. 61, no. 244, 1994, pp. 435–456; W. A. Pelz, “The Rise of the Working Classes: Trade Unions and Socialism, 1871–1914,” *A People's History of Modern Europe*, London, 2016, pp. 83–102; G. Clark, “The Condition of the Working Class in England, 1209–2004,” *Journal of Political Economy*, vol. 113, no. 6, 2005, pp. 1310–1320.

<sup>112</sup> S. L. Steinbach, op. cit., p. 138.

<sup>113</sup> English society in the nineteenth century and the class system are discussed in R. S. Neale, op. cit., pp. 5–32; S. Gunn, op. cit., pp. 29–47; M. Thompson, “The Landed Aristocracy and Business Elites in Victorian Britain,” *Les noblesses européennes au XIX<sup>e</sup> siècle. Actes du colloque de Rome*, 21–23 novembre 1985. Rome: École Française de Rome, 1988, pp. 267–279; E. Ross, *Love & Toil. Motherhood in Outcast London, 1870–1918*, Oxford 1993, pp. 11–56; E. P. Thompson, *The Making of the English Working Class*, London, 2013; G. Stedman Jones, op. cit.; L. James, *The Middle Class. A History*, London, 2006.

motherhood accompanied by moral distress caused by prostitution and infanticide. These are issues that existed in British society in earlier centuries; however, they aggravated in the nineteenth century. With industrialisation and urbanisation other difficulties emerged, such as anomie and insecurity caused by employment fluctuations. As the century progressed, society became increasingly aware of the problems and tried to find solutions to them. One of them was the creation of statistical associations<sup>114</sup> that tried to diagnose the condition of society through various censuses. As a result of the activities of statistical societies, together with Royal Commissions, Parliament or investigators such as Henry Mayhew,<sup>115</sup> more and more people became aware of the problems surrounding them and were able to look for solutions, even if they did not bring satisfactory results.<sup>116</sup> For example, in response to Mayhew's work *London Labour and the London Poor*, some people decided to support the poor and donate money for this cause:

L. C. F. presents her compliments to Mr. Mayhew, and begs to enclose half of sovereign, to be disposed of as he may think proper, to any of the distressed persons mentioned in his account of the *London Poor*. She heartily wishes that she could make it more, but her circumstances do not admit of it at present, though she trusts ere long to be able to send another donation; and will also, when possible, subscribe to the *Friendly Association of Costermongers*, as described in Mr. Mayhew's work.<sup>117</sup>

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<sup>114</sup> In 1832, The Board of Trade set up a Statistical Office; the British Association established a statistical section in 1833, followed a year later by the Statistical Society of London was established. Its task was to prepare and publish *Facts Calculated to Illustrate the Condition and Prospects of Society*.

<sup>115</sup> Henry Mayhew (1812–1887) was an English journalist and sociologist, co-founder of the magazine *Punch*. His most famous work is a series of articles on the condition of the London working-class. It was first published as a series of articles in *The Morning Chronicle*, later was compiled into book form under title *London Labour and the London Poor*. See, Britannica, The Editors of Encyclopaedia, "Henry Mayhew," *Encyclopedia Britannica*, (online <https://www.britannica.com/biography/Henry-Mayhew>: access 9<sup>th</sup> January 2021).

<sup>116</sup> The data provided by statistical societies, sense of responsibility and moral duty that developed among the high society led to the creation of many charities whose task was to help the poorest and underprivileged. The restriction of the outdoor relief caused by the introduction of The New Poor Law in 1834 also contributed to emergence of charities. In the nineteenth century, among others, the Salvation Army, the Christian Social Union and the Charity Organisation Society were founded. It was also a time when social researchers such as Charles Booth or Seebohm Rowntree investigated and analysed the poor, their maternal and moral condition and prospects for the future.

For more information, see R. Humphreys, "Victorian Ideology, Early Attempts to Organize Charity, and the Beginnings of the Charity Organisation Society," *Sin, Organized Charity and the Poor Law in Victorian England*, London, 1995, pp. 50–63; G. Himmelfarb, "The Age of Philanthropy," *The Wilson Quarterly* (1976-), vol. 21, no. 2, 1997, pp. 48–55.

<sup>117</sup> H. Mayhew, *London Labour and the London Poor*, ed. by R. O'Day, D. Englander, London 2008, p. 578–579. Even though Mayhew disagreed with that kind of support because he believed that people should work to earn a living, it is still significant that his readers noticed the problem and wanted to help in some way.

Another problem that Victorian Britain had to face was its rapidly growing population. In 1831 there were approximately 24 million people living in Britain and Ireland, almost twice as many as in 1761. In 1871 the population was 30.5 million, in 1891 – 37.7 million, in 1901 – 41.5 million, and in 1911 – 45.3 million.<sup>118</sup> It was an impressive growth, but at least from the late 1870s it slowed down considerably, mainly due to the emigration of many people. Until the end of the Victorian period, infant and child mortality remained quite high, and the age at which women got married rose. It should be mentioned that until the 1890s, approximately 30 per cent of children died before their fifth birthday.<sup>119</sup> In the nineteenth century, medical knowledge and hygiene improved significantly, which also contributed to population growth. It was also a time of improved nutrition, agriculture became more efficient, and a noticeable decline in the incidence of plague and smallpox.

However, it seems that the key factor for the outstanding population growth was the falling age of marriage, which was noticeable in the first half of the nineteenth century; earlier marriages meant a longer reproductive period, and thus more children and larger families. Other reasons for this were ignorance, taboos regarding birth control methods and lack of contraceptives. The gradual decline in birth rates from the 1870s onwards and the decline in fertility were results of the widespread adoption of birth-control practices among most social classes, and knowledge about the birth control methods has since become more common. Furthermore, from the 1870s onwards, marriages became less frequent,<sup>120</sup> which led to another social problem in Victorian society, the so-called surplus women issue. Moreover, cost of living and class aspirations rose in the second half of the century. The desire to maintain an adequate standard of living and provide children with a good education led to a reduction in family size.<sup>121</sup>

Nonetheless, the continued population growth over the course of the century has raised some concerns among the public. First, there were concerns about whether the state

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<sup>118</sup> S. L. Steinbach, op. cit., p. 3.

<sup>119</sup> C. Dyhouse, op. cit., p. 248; S. L. Steinbach, op. cit., p. 3.

<sup>120</sup> P. Levine, “‘So Few Prizes and So Many Blanks’: Marriage and Feminism in Later Nineteenth-Century England,” *Journal of British Studies*, vol. 28, no. 2, 1989, pp. 154–155.

<sup>121</sup> *Ibidem*.

would be able to feed all its inhabitants. Consequently, when some of the Malthusians<sup>122</sup> came into power in the 1830s, they wanted to change the applicable law to reduce the birth rate. Moreover, the growing population has meant that more people found themselves in difficult situations and needed jobs, homes and state support. Even though child mortality remained quite high in Victorian England, life expectancy lengthened for those who survived infancy and early childhood during this period.<sup>123</sup> Life extension created new problems. First of all, elderly people from the poorest strata of society were unable to work at the end of their lives and could find themselves destitute. Successive governments were looking for solutions to emerging issues, and the *New Poor Law* was supposed to be an answer to some of the problems plaguing the country.

#### **1.4. Unwed mothers, bastardy and the New Poor Law**

Definitely one of the most serious issues of the Victorian period was the problem of poverty, which in the nineteenth century was also strongly connected with the growing number of illegitimate children<sup>124</sup> whose mothers sought help in parishes, which generated

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<sup>122</sup> A term used to describe the supporters of Thomas Malthus' theory, members of the Wig party, which came to power in 1830. They perceived the ideas of charity for the poor to be futile, as it only led to an increase in the number of the poor, who would need the state's help. Their theories underpinned the Poor Law Amendment Act of 1834.

L. F. Cody, op. cit., pp. 134, 137–138.

<sup>123</sup> S. L. Steinbach, op. cit., p. 4. The life expectancy varied between the social classes, and depending on where people lived or worked, but the extension of life in the Victorian period was noticeable.

<sup>124</sup> In his work *The Massacre of the Innocents. Infanticide in Britain 1800–1939*, L. Rose claims that the illegitimacy rate appeared to increase in the eighteenth century and continued in the nineteenth. However, official statistics on the number of illegitimate births should be treated with caution, as it was only in 1874 that the obligation to register births civilly was introduced in England. In 1836, Parliament passed the Act for Registering Births, Deaths, and Marriages in England, which began state registration of births, deaths and marriages (before these data were registered by churches), but it was not until 1874 that it was fully implemented, primarily through the introduction of fines for failure to register or late registration. It should also be noted that the Registrar General believed that the official records were underestimated by 10 per cent, but the Infant Life Protection Society claimed that the difference could be as high as 30 per cent. The absolute number of illegitimate births ranged from 40,000 to 44,000 per year, but if a 30 per cent underestimate will be taken into account, it means that about 65,000 unwanted children were born in mid-Victorian England. For more information, see L. Rose, op. cit., pp. 22–24; about registration of births see, D. V. Glass, "A Note on the Under-Registration of Births in Britain in the Nineteenth Century," *Population Studies*, vol. 5, no. 1, 1951, pp. 70–88; M. J. Cullen, "The Making of the Civil Registration Act of 1836," *The Journal of Ecclesiastical History*, vol. 25, no. 1, 1974, pp. 39–59; "First Annual Report of the Registrar-General on Births, Deaths, and Marriages in England, in 1837–8," *Journal of the Statistical Society of London*, vol. 2, no. 4, 1839, pp. 269–274.



a high costs for the country. In the early 1830s, discussion about the poor grew stronger. The significant rise in the cost of poor relief was intolerable for contemporaries and something had to be done about it. In 1834, Parliament passed the Poor Law Amendment Act (widely known as the *New Poor Law*). The new law completely abolished outdoor relief and allowed only unemployed people who went to work to receive state aid.<sup>125</sup>

The New Poor Law was widely criticised by contemporaries and was never fully implemented. Firstly, it could not be enforced in the northern industrial districts, where the main issue was seasonal unemployment rather than extreme poverty and continuous unemployment. Secondly, people sent to workplaces were classified into at least four groups: the aged, children, able-bodied males and able-bodied females. This led to the separation of children from their parents and wives from husbands. Even though the latter practice found support of Malthusians, who saw it as one of the best forms of population control, family disruption was widely criticised. For example, *The Times* was very critical of the introduced law and in thus reported on it, its implementation, abuses of the new system and the changes<sup>126</sup> announced by the Poor Law Commissioners. Although, as the editors of *The Times* wrote in 1842: “It is therefore only too probable that these changes may turn out as delusive as other pretended mitigations, of which we had heard before.”<sup>127</sup> Unfortunately, that statement was true. In the following years, readers also sent letters to

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<sup>125</sup> *An Act for the Amendment and better Administration of the Laws relating to the poor in England and Wales*, (online <http://www.workhouses.org.uk/poorlaws/1834act.shtml>: access 9<sup>th</sup> January 2021).

<sup>126</sup> See *The Times*, December 2, 1834, p. 2 (online <https://www.thetimes.co.uk/archive/article/1834-12-02/2/4.html>, access: 10<sup>th</sup> January 2021); *The Times*, December 4, 1841, p. 5 (online <https://www.thetimes.co.uk/archive/page/1841-12-04/5.html>, access: 10<sup>th</sup> January 2021); *The Times*, August 25, 1847, p. 4 (online <https://www.thetimes.co.uk/archive/article/1847-08-25/4/2.html>, access: 10<sup>th</sup> January 2021); *The Times*, October 23, 1886, p. 10 (<https://www.thetimes.co.uk/archive/article/1886-10-23/10/9.html>, access: 10<sup>th</sup> January 2021).

For the historical debate about The *New Poor Law* see M. Blaug, “The Myth of the Old Poor Law and the Making of the New,” *The Journal of Economic History*, vol. 23, no. 2, 1963, pp. 151–184; D. Roberts “How Cruel Was the Victorian Poor Law?,” *The Historical Journal*, vol. 6, no. 1, 1963, pp. 97–107; A. Brundage, D. Eastwood. “The Making of the New Poor Law Redivivus,” *Past & Present*, no. 127, 1990, pp. 183–194; P. Mandler, “Tories and Paupers: Christian Political Economy and the Making of the New Poor Law,” *The Historical Journal*, vol. 33, no. 1, 1990, pp. 81–103; Ch. Newman, “To Punish or Protect: The New Poor Law and the English Workhouse,” *International Journal of Historical Archaeology*, vol. 18, no. 1, 2014, pp. 122–145; E. T. Hurren, *Protesting about Pauperism. Poverty, Politics and Poor Relief in Late-Victorian England, 1870–1900*, London, 2015.

<sup>127</sup> *The Times*, March 9, 1842, p. 6; (online <https://www.thetimes.co.uk/archive/page/1842-03-09/6.html>: access 10<sup>th</sup> January 2021).

*The Times* in which they informed about the ineffectiveness of the law and growing pathologies.<sup>128</sup>

Undoubtedly, the most contested and the harshest part of the new legislation was the *Bastardy Clauses*.<sup>129</sup> In 1831, the government announced the appointment of a royal commission to examine the Old Poor Law. This was also the time when the bastard problem emerged, which was widely discussed not only by the commission but also among ordinary English citizens. Commissioners claimed that unmarried mothers were largely abusing the old laws, exposing parishes to significant expenses. The regulations regarding illegitimate children and their support were not homogeneous, but consisted of several royal documents. Under the *Act for the Setting the Poor on Work and for Avoiding Idleness* of 1576, illegitimate children were placed in the care of the parish which they were born. Its purpose was to force both the mother and the putative father to pay child support. If none of them fulfilled this obligation, they faced punishment, even imprisonment.

The sixteenth-century law made both parents responsible for supporting their children, but the situation changed two centuries later. The system of ‘filiation and maintenance’ (or ‘affiliation’) has been improved to reflect a clearer, gendered division of parental responsibility.<sup>130</sup> *An Act for the Relief of Parishes and other Places from such Charges as may arise from Bastard Children Born in the same* from 1733 announced that

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<sup>128</sup> For example, in 1841, the country guardian reported the inhuman ‘workhouse test’, on the basis of which it was necessary to decide who was eligible for assistance (*The Times*, June 18, 1841, p. 14; online <https://www.thetimes.co.uk/archive/article/1841-06-18/14/4.html>, access: 10<sup>th</sup> January 2021); Another letter, written in 1867, outlined the differences between legal theory and practice. The author observed that at that time workhouses were full of elderly, infirm and sick people (especially in large cities), so there was no place for the unemployed healthy people, hence something should have been done with it. (*The Times*, November 19, 1867, p. 10; online <https://www.thetimes.co.uk/archive/article/1867-11-19/10/6.html>, access: 10<sup>th</sup> January 2021). In 1879, in a letter written by a person who had been visiting the workhouse for 25 years, the readers can find information about children staying there who, when they were not at school, were left to themselves and did not even have toys. They were looked after by the pauper woman, who was there with her illegitimate children. According to the author, her “repulsive” appearance made her not the best example for them. The author of this letter was also worried about children’s future, because there was no chance of their adoption or any outside help. (*The Times*, September 10, 1879, p. 12; online <https://www.thetimes.co.uk/archive/article/1879-09-10/12/4.html>, access: 10<sup>th</sup> January 2021).

<sup>129</sup> The passage of the ‘bastard clause’, and particularly the part in which the putative father was deemed a victim and practically exempt from financial support for the child, was met with criticism not only from the press but also from the House of Lords. The opposition was led by the bishop of Exeter, Henry Phillpotts, , who widely criticised this new law. For more information, see T. Nutt, op. cit., pp. 335–336; U. R. Q. Henriques, op. cit., pp. 112–114.

<sup>130</sup> T. Nutt, op. cit., pp. 336–337.

“any Single woman [who] shall be delivered of a Bastard Child which shall be chargeable or likely to become chargeable” was to be brought by the parish to be examined on oath before two magistrates.<sup>131</sup> She then had to provide the father's name and from then on the man was responsible for the child and its financial support. According to this law, the mother also was supposed to pay for the maintenance of the child, unless she nursed the child by herself.

The law probably sanctioned what had been in practice for years, that mothers cared for children and fathers supported them financially.<sup>132</sup> It is also worth noting that under the laws of George II and George III (from 1809), when an unmarried woman became pregnant, it was enough for her to name the putative father and did not need any other proof to establish paternity.<sup>133</sup> According to the House of Lord Select Committee on the Poor Law in 1831 and the Poor Law Royal Commission of 1834, the law was notoriously abused. In their report, the commissioners portrayed men as the victims of evil women who usually falsely swore the paternity because they were only interested in men who were could pay child maintenance. Moreover, for some of them it was the way to find a husband. By claiming the pregnancy, they could force “the innocent and unfortunate” men into marriage.<sup>134</sup> The language of this report was very discriminatory towards women. They were described as immoral, vicious, despicable and greedy. As the Commissioners observed:

The mother, as a matter of course, requires the parish to support her child . . . [I]n almost every case the parish pays to the woman the sum, whatever it may be, that has been charged on the man, whether paid by him or not . . . To the woman, therefore, a single illegitimate child is seldom any expense, and two or three a source of positive profit. To the man, indeed, it is a burden unless, as is frequently, perhaps we might say most frequently, the case, he avoids it by flying to some part of the country

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<sup>131</sup> 6 George II c.31, “An Act for the Relief of Parishes and other Places from such Charges as may arise from Bastard Children Born in the same,” in: *Collection of Statutes Connected with General Administration of the Law; Arranged According to the Order of Subjects, with Notes by sir William David Evans, Knt*, In Ten Volumes, vol. VII, London 1836, p. 83.

<sup>132</sup> T. Nutt, *op. cit.*, p. 337.

<sup>133</sup> 6 George II c.31, “An Act for the Relief of Parishes and other Places from such Charges as may arise from Bastard Children Born in the same,” in: *op. cit.*, pp. 83–84.

49 George III c. 68, “An Act to explain and amend the Law of Bastardy, so far as relates to indemnifying Parishes in respect thereof,” in: *Collection of Statutes Connected with General Administration of the Law; Arranged According to the Order of Subjects, with Notes by sir William David Evans, Knt*, In Ten Volumes, vol. VII, London 1836, p. 85–87.

<sup>134</sup> See U. R. Q. Henriques, *op. cit.*, pp. 105–107.

where he is unknown, or so distant from the scene of his delinquency so as to make the expense of endeavouring to enforce payment a sufficient motive to leave him unmolested.<sup>135</sup>

Then the Commissioners highlighted that the sum which was paid to the unmarried mother was: “as great, in many, it is greater, than that for which a child can be put out to nurse, or than that which would be allowed by the parish if it were legitimate and its father dead.”<sup>136</sup> All of this led to the demoralization of women for whom extramarital relationships and illegitimate children were a chance for a better life. Women's misbehaviour resulted in an increasing number of illegitimate children, and consequently, the population of England continued to grow. The Commissioners decided that the best solution to this problem would be to transfer the financial responsibility for the child from the putative father to the mother. In consequence, in 1834, unwed mothers were held legally and economically responsible for their illegitimate children. It was considered that it was the unmarried woman who put herself in that situation, so she should take responsibility for her child.<sup>137</sup> The poor relief was limited only to those women who found themselves destitute. Although even then their only hope was to enter the workhouse, where living conditions were severe. According to Nassau William Senior, the government's social and economic adviser, the public relief should be based on the principle of lower eligibility.<sup>138</sup> This rule required three conditions to be met: “First, by making it more severe. Secondly, by letting it be worse paid. Thirdly, by rendering it degrading.”<sup>139</sup> The reasons for that were as follows:

There are only two modes of forcing a man to endure severe labour, – hope and fear. Strictly speaking, indeed, there is but one, – hope; for fear, though it may force great temporary exertion, has never been found a stimulus sufficient to produce the steady continued toil, which is the natural result of the hope of a proportionate reward.<sup>140</sup>

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<sup>135</sup> *Poor Law Commissioners' Report of 1834*, (online [https://oll.libertyfund.org/title/chadwick-poor-law-commissioners-report-of-1834#lf0169\\_head\\_042](https://oll.libertyfund.org/title/chadwick-poor-law-commissioners-report-of-1834#lf0169_head_042): access 20<sup>th</sup> January 2021).

<sup>136</sup> *Ibidem*.

<sup>137</sup> For more detailed information, see U. R. Q. Henriques, *op. cit.*, pp. 103–129; T. Nutt, *op. cit.*, pp. 335–361; L. F. Cody, *op. cit.*, pp. 131–156; S. Williams, “Unmarried mothers...”, *op. cit.*, pp. 27–43.

<sup>138</sup> S. Fujimura, “Nassau William Senior and the Poor Laws: Why Workhouses Improved the Industriousness of the Poor,” *History of Economics Review*, vol. 70, no. 1, 2018, pp. 55–56.

<sup>139</sup> N. W. Senior, *Remarks on Opposition to the Poor Law Amendment Bill by A Guardian*, London, 1841, p. 105.

<sup>140</sup> *Ibidem*, pp. 105–106.

Notwithstanding, after the baby was born, the mother and infant were separated. Abandoning a child in the workhouse was difficult because people working there tended not to allow women to leave without their children.<sup>141</sup> If an unmarried woman decided to leave the workhouse very soon after giving birth, she had to find a job and someone to care for her child while she was working. Left to their own devices, single mothers very often decided to abandon their child or to kill them. Such situations also occurred before the new law was adopted. The best example of that was the case of Catherine Welch [Welsh], who in 1828 was accused of murdering her male bastard, and after the trial at the Old Bailey was found guilty and hanged.<sup>142</sup> It can be assumed that after 1834 the situation worsened.

Contrary to the unmarried mothers' situation, bastardy clauses were much more favourable to men, as the previous regulations were completely abolished. Fathers were no longer punished for failing to pay child support. The mother could seek financial support from the putative father, but the jurisdiction to award it was shifted from petty sessions to the more formal Quarter Sessions court. The woman had to have irrefutable proof of paternity, otherwise the case was lost and she or the parish which represented her had to bear the legal costs.<sup>143</sup>

According to the Commissioners, the enactment of this law was intended to improve the behaviour and morality of women and reduce the number of illegitimate children, and thus, the population. It is apparent that their assumptions were influenced by Malthus's

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<sup>141</sup> G. Frost, "Your Mother...", op. cit., p. 46; see also, P. Thane, "Women and the Poor Law in Victorian and Edwardian England," *History Workshop*, no. 6, 1978, pp. 29–51; L. Marks, op. cit., pp. 524–529.

Admission and discharge procedures from the workhouse were quite strict. A person entering the workhouse for the first time had to be interviewed by a Relieving Officer, and then the formal admission was authorised by the Board of Guardians. A person who wanted to leave the workhouse could not do it without permission, because such an act resulted in a charge of theft of union property – the workhouse uniform. Only after completing all formalities could such a person leave the workhouse. For more information, see J. B. "Admission and Discharge from the Workhouse," *Charity Organisation Review*, vol. 2, no. 13, 1886, pp. 1–4; Ch. Newman, op. cit., pp. 122–145.

<sup>142</sup> Old Bailey Proceedings Online ([www.oldbaileyonline.org](http://www.oldbaileyonline.org), version 8.0, 21 January 2021), April 1828, trial of CATHERINE WELCH (t18280410-17). She gave birth in the workhouse, and after she left that place, the child died. It was found in a ditch, and according to the surgeon, the child was strangled before drowning, and the prisoner was also seen near the ditch. The prisoner denied murdering her child till the end, but she was found guilty and sentenced to death. Even though the mercy petitions were written, she was executed.

<sup>143</sup> *An Act for the Amendment and better Administration of the Laws relating to the poor in England and Wales*, (online <http://www.workhouses.org.uk/poorlaws/1834act.shtml>: access 21<sup>st</sup> January 2021); U. R. Q. Henriques, op. cit., p. 114.

thesis.<sup>144</sup> Unfortunately, the Commissioners did not take into account the fact that women's immoral behaviour was not the only reason for the birth of illegitimate children. It is obvious that most illegitimate children were born among the working-class, but the reason for that was not always moral laxity. For example, children born in customary marriages were treated as illegitimate. Usually, members of the working-class lived in such unions because they did not have money to obtain a marriage license.<sup>145</sup> Moreover, one recent study has shown that most single mothers in eighteenth-century London suffered "failed courtship or the breakdown of consensual unions brought on by unemployment, war or premature death."<sup>146</sup> The *Bastardy Clauses* were the most criticised part of the *New Poor Law*. It was highly unpopular not only with the public but also with the members of the House of Common and the House of Lords. Opponents of this law believed that after its introduction, the number of infanticide would increase significantly and it would be more difficult to prosecute men accused of seduction or breach of marriage. However, according to the Commissioners:

Desertion of children, with infanticide, were objections sometimes urged against the plan; but the great majority of clergymen, magistrates, and others, whom I examined on the subject, thought that the former would not be more frequent than at present; and that abortion and infanticide would be less frequent, not only from there being fewer cases to give rise to them, but because the man who in most instances is now the first to suggest these crimes, especially that of abortion, and to assist in their execution, would no longer have an interest in doing so; and the female left to herself, from maternal feelings, and natural timidity, would seldom attempt the destruction of her offspring.<sup>147</sup>

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<sup>144</sup> T. Nutt, op. cit., pp. 354–358. In his *Essay on the Principle of Population* Thomas Malthus claimed that the Old Poor Law had changed the approach towards unwed mothers and illegitimacy. This phenomenon was no longer shrouded in such disgrace as before. Malthus believed that illegitimate children should be deprived of state support. Their maintenance should be the responsibility of parents, especially mothers. The Old Poor Law stressed the father's financial responsibility, Malthus stressed the maternal responsibility for the child, and he provided Commissioners with a theoretical justification of shifting the burden of illegitimacy on mothers.

<sup>145</sup> *An Act for the Better Preventing of Clandestine Marriage*, announced in 1753, stated that, to be valid, a marriage had to be performed by the Church of England, Jews and Quakers, after bans had been published or a marriage license had been obtained. *The Marriage Act of 1836* allowed the legal registration of marriages by other religious groups and reinstated civil marriages. Due to the change of law, Catholics and atheists could legally marry. For more information, see R. Probert, "The Impact of the Marriage Act of 1753: Was It Really 'A Most Cruel Law for the Fair Sex'?", *Eighteenth-Century Studies*, vol. 38, no. 2, 2005, pp. 247–262; M. J. Cullen, op. cit., pp. 39–59; S. Parker "Marriage and the Law 1754–1927: The State Retreats?," *Informal Marriage, Cohabitation and the Law 1750–1989*, London, 1990.

<sup>146</sup> L. F. Cody, op. cit., p. 136.

<sup>147</sup> *Poor Law Commissioners' Report of 1834*, (online [https://oll.libertyfund.org/title/chadwick-poor-law-commissioners-report-of-1834#lf0169\\_footnote\\_nt268](https://oll.libertyfund.org/title/chadwick-poor-law-commissioners-report-of-1834#lf0169_footnote_nt268): access 23<sup>rd</sup> January 2021).

Such words may seem naive, but they perfectly reflect Victorian views on women and motherhood. Being a mother was a woman's sacred duty. She was the one who took care of the child in his earliest months and years and was constantly present in its life. Therefore, the mother could not make harm the child, especially for economic reasons. However, this ideal primarily depicted the life of middle-class women. The working-class mother or single mother did not fit this vision of motherhood. They could not devote themselves entirely to motherhood because they had to work. Without work, their families, their illegitimate children would starve. Thus, in extreme circumstances, infanticide or child abandonment seemed to be the only option. And the *Bastardy Clauses* haven't made life easier for women.<sup>148</sup>

In the following years, when the law came into force, it was met with anger from citizens. One manifestation of this was the stream of petitions addressed to Parliament. Even then, the Commissioners sought to defend themselves against criticism by providing data showing that the number of affiliation decisions had decreased. Unfortunately for the Commissioners, the rate of illegitimate births has not decreased, on the contrary, it has increased.<sup>149</sup> The apparent failure of the introduced reform and public dissatisfaction with it led to the change. In 1839, the cases of affiliation returned to petty sessions, but mothers still had to provide irrefutable evidence. In 1844 the 'Little Poor Law' was introduced, which took affiliation and maintenance out of poor law. From then on, unmarried mothers could apply for child support from a putative father. Financial support was limited to 10s. for the midwife, and 2s. 6d. weekly until the child was aged 13. Women who decided to do so were still obliged to present corroborative evidence to support their claims. But the new law once again marked the financial responsibility of the father, and if he refused to pay, he had to face the seizure of some property, and when it was insufficient, he had to face a three-month imprisonment combined with hard labour. Further legislative changes came in 1868 and 1872. The first restored the guardians' power to initiate affiliations, the second allowed guardians to pursue putative fathers for maintenance costs. Fathers were obliged to pay child support until the child turned 16.

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<sup>148</sup> For more information, see A. Hunt, op. cit., pp. 75–78; A. R Higginbotham, “Sin of the Age...”, op. cit., pp. 320–322; L. Marks, op. cit., pp. 522–524; A-M. Kilday, op. cit., pp. 120–121; L. Rose, op. cit., pp. 26, 46; R. Sauer, op. cit., p. 89; G. K. Behlmer, op. cit., p. 418.

<sup>149</sup> T. Nutt, op. cit., p. 341.

However, all these changes did not solve the basic problems of having illegitimate children. At some point, the *Bastardy Law* even made their situation worse. As Samantha Williams claims, the attitude towards unwed mothers who claimed for relief was highly putative and moralistic. According to her:

Unmarried mothers had to wear a distinctive uniform, while in the Swaffham workhouse they were excluded from the Coronation Dinner and the annual Christmas dinner. Even at the end of the century, unmarried mothers were put to hard labour in the workhouse laundry only a few days after their confinements.<sup>150</sup>

This may suggest that the new law has strengthened the feelings of social rejection and stigmatisation of single motherhood. The problem of illegitimate children was not resolved until the end of the Victorian era. At that period women in such a difficult situation could only count on family support. However, if they were deprived of it, they could apply for relief, leave the child at the Foundling Hospital<sup>151</sup> or try to work and take care of it at the same time, which was very challenging. In the face of the greatest despair and a tragic financial situation, the only solution was to abandon or kill the child, which was not unusual in the Victorian period.<sup>152</sup>

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<sup>150</sup> S. Williams, “Unmarried mothers...”, op. cit., p. 30.

<sup>151</sup> The London Foundling Hospital was established in 1739 by philanthropist Thomas Coram. Until the nineteenth century, the hospital mainly helped illegitimate children. To be admitted, children had to be less than 12 months old and the mother had to pass an interview and meet the institution’s criteria. After admission, the child was sent to a foster family in the country. When it reached the age of 5, it returned to the Foundling Hospital in London, where it attended school until it was 15. Subsequently, most of them took up work in domestic or military service. The children left in the Foundling Hospital had no contact with their biological mothers or the rest of the family. According to this institution’s regulations, even siblings (except twins) who were admitted to the hospital were separated. As G. Frost shows in her research, mothers, even after leaving their children in the Foundling Hospital, decided to stay in touch with the administration and asked about their children wellbeing. They also had a chance to get their baby back, but it was a fairly complicated procedure. All this was done to ensure that the child is not abandoned again. Investigating the Old Poor Law, the Commissioners claimed that existence of Foundling Hospital encouraged moral relaxation among women because they knew that there was a place to hide their shame. But even at its high in the 1920s, the hospital could only support 700 children at a time (with a further 300–400 in the countryside). This was a tiny percentage of those who needed help. For more information, see G. Frost, “Your Mother...”, op. cit., pp. 45–72; C. Phillips, op. cit., pp. 1–11; J. A. Scheetz-Nguyen, “Calculus of Respectability...”, op. cit., pp. 13–36; Eadem, *Victorian Women...*, op. cit.

<sup>152</sup> A-M. Kilday, op. cit., pp. 153–166; L. M. Friedman, “The Misbegotten: Infanticide in Victorian England,” *The Legal Process and the Promise of Justice: Studies Inspired by the Work of Malcolm Feeley*, ed. by R. Greenspan et al., Cambridge, 2019, pp. 172–190; R. Sauer, op. cit., pp. 81–93; A. Hunt, op. cit., pp. 77–79; A. R. Higginbotham, “Sin of the Age...”, op. cit., pp. 319–337; L. Rose, op. cit., pp. 15–21.



## 1.5. Child mortality

Another significant problem in Victorian England was child mortality, especially infant mortality. The term ‘infant mortality’ refers to the death of babies under one year of age, and ‘child mortality’ refers to the decease of children under five years of age. Although the infant mortality rate decreased in the nineteenth century, it still remained quite high. Robert Millward and Frances Bell claim that in eighteenth-century Britain the infant death rate was 200 to 300 per 1,000 births, and in 1840, it was close to 150.<sup>153</sup> Infant mortality varied according to parents’ social class and geographically, and the highest death rates were among illegitimate children. The mortality rate among children under one year of age was dramatic. For example, in 1860, of the 167,000 children aged 0 to 5 years who died at that time, 101,000 were less than twelve months old.<sup>154</sup> Most infant deaths occurred within the first month or first week of life. Higher mortality rates could be noted in industrial areas of Britain rather than rural areas. The reason was probably less polluted air, less crowded space and a better position of women who could stay longer with their new-born children.<sup>155</sup>

The question remains what caused such a high infant mortality rate. During the Victorian period, children usually died because from “wasting diseases” (such as “injury at birth”, “want of breast milk”, “congenital defects” or prematurity), “diarrhoeal diseases”, bronchitis, pneumonia or “convulsions”, the term which could also cover gastritis or teething. Except that children were also exposed to smallpox, measles, scarlet fever and diphtheria. Definitely, infants were among the most vulnerable human beings at that time. Not only did they die of many host of diseases that were incurable in the nineteenth century; a significant proportion of deaths were caused by malnutrition. The vast majority of working-class mothers were exhausted from work and malnourished, often resulting in the birth of sickly offspring. Additionally, many of those women suffered from alcoholism, venereal diseases or used abortifacients, which also contributed to the birth of seriously ill children. However, even if a child was born healthy, there were still some dangers that

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<sup>153</sup> R. Millward, F. Bell, *op. cit.*, p. 699.

<sup>154</sup> L. Rose, *op. cit.*, p. 7.

<sup>155</sup> For more information, see R. Millward, F. Bell, *op. cit.*, pp. 699–733; C. Dyhouse, *op. cit.*, pp. 248–267; N. Williams, Ch. Galley, *op. cit.*, pp. 401–420.

could affect their well-being. The overcrowded houses or lodgings, unhygienic conditions in which many people lived, and parents' negligence also were the causes of infants' death.

Maternal neglect was most often non-intentional. Many working-class mothers were forced to return to work even days after giving birth, so they were unable to breastfeed or look after their children during the day. The only solution was to leave the child in the care of older family members or with the local minders. The biggest problem in leaving children in the care of caregivers was providing them with food. Instead of mothers' milk, infants were fed with "pap" made from bread or some cereal soaked in water, or less often in milk, and sweetened. Children were also given alcohol or opiates to lull them to sleep and stop their crying. Sometimes it resulted in an overdose and, in consequence, the death of a child. This could happen accidentally, but there were also cases where the action was intentional.<sup>156</sup> For example, in 1840, Catherine Michael was charged with the wilful murder of her nine-months-old son George. She worked as a wet nurse, which was also quite common for unwed mothers, and when out in work, she left her son in the care of Sarah Stevens. During the trial, it was reported that Catherine Michael bought some "medicine" that she said would be good for the child's bowels and told Sarah to give him one teaspoonful each night. She did not reveal the name of the medicine, nor there was a name of it on the bottle. Sarah's son accidentally gave almost the whole flask of the drug to little George, which caused the child's death. It was proven that the mother knew that she had purchased laudanum<sup>157</sup> and tried to cause her son's death. Richard Godfrey Sellick, the assistant surgeon, during questioning said during questioning that even one drop of laudanum could kill a child:

Q. What quantity of laudanum administered in that state would produce the effect you found? A. One drop has been known to do it—it is never safe to administer one drop to a child—one drop would not produce the effect I found, but one drop has been known to poison a child—a tea-spoonful would—about sixty drops is an ordinary teaspoonful—that if rather a large dose—this bottle would contain about an ounce—half of it would be about half an ounce—a teaspoonful administered to an infant nine months old, such a baby as I saw, would be certain to destroy life.<sup>158</sup>

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<sup>156</sup> L. Rose, op. cit., pp. 6–14.

<sup>157</sup> Laudanum is the name of a tincture containing opium. Usually it was opium poppy extract dissolved in ethanol. It was used as a painkiller or sedative. It was strongly addictive. Until 1868, when *The Poisons and Pharmacy Act* was passed, laudanum could be supplied by any grocer or market trader. It was then sold by pharmacists. For more, see L. Rose, op. cit., pp. 10–11.

<sup>158</sup> *Old Bailey Proceedings Online* (www.oldbaileyonline.org, version 8.0, 21 February 2021), April 1840, trial of CATHERINE MICHAEL (t18400406-1285).

For her crime, Catherine Michael was sentenced to deportation to Van Diemen's Land for twenty-one years.<sup>159</sup>

The high mortality rate among children, especially infants, also had another side. These were deaths caused by violence such as burns, poisonings, cuts, falls, suffocations (usually in beds) or drownings (in ditches or toilets). According to Lionel Rose "in 1864, for example, of 113,000 deaths of 0–1-year-olds, 1,730 were attributed to 'violence' of which 192 were classed a 'homicide' (murder or manslaughter)."<sup>160</sup> His research also shows that even if the 'homicide' figures for infants were significantly underestimated, still the children under one year old formed 61 per cent of all homicide victims. Unfortunately, it is impossible to determine the true extent of child murders, especially those under one year of age. If the death did not result from substantial violence, it was easy to pretend that it was due to the child's ill health or illness. For a mother who, for a variety of reasons, wanted her child dead, it was no problem to make the child's death appear to be caused by illness when the real cause was deliberate neglect. Another fairly common cause of death was overlaying<sup>161</sup> – the accidental suffocation of a baby while sleeping with its parents. To what extent this was accidental, to what extent it was intentional, and if it was the effect of Sudden Infant Death Syndrome, it is impossible to determine.<sup>162</sup>

The data clearly show that high infant mortality was often caused by poverty, neglect and ignorance of parents. Infants were the most likely to die due to their dependence on breast milk and the need for constant care, especially when they were born into working-class families. It should be noted that sometimes the death of children was caused by deliberate actions of parents who, as a result of extreme poverty or fear of exclusion resulting from having an illegitimate child, decided to solve part of their problems by killing the child.<sup>163</sup>

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<sup>159</sup> *Old Bailey Proceedings Online* ([www.oldbaileyonline.org](http://www.oldbaileyonline.org), version 8.0, 21 February 2021), April 1840, trial of CATHERINE MICHAEL (t18400406-1285).

<sup>160</sup> L. Rose, *op. cit.*, p. 8.

<sup>161</sup> See E. R. Hansen, *op. cit.*, pp. 333–352.

<sup>162</sup> A. Kemkes, *op. cit.*, pp. 393–405; E. R. Hansen, *op. cit.*, pp. 347–348; D. L. Russell-Jones, *op. cit.*, pp. 278–281.

<sup>163</sup> A-M. Kilday, *op. cit.*, pp. 58–64.

## 1.6. Family and marriage

Even the inhabitants of Victorian England claimed that a family crisis began during this period, getting married and starting a family remained the purpose of life. Nonetheless, industrialisation and urbanisation had affected the functioning of families, especially those from middle- and working-classes. In 1833, Peter Gaskell, a surgeon from Manchester, published the book *The Manufacturing Population of England*, in which he focused on social problems caused by industrialisation. He also described the disruption of traditional family life caused by the employment of women and children, lack of education, and factory work in general. Gaskell's work shows the contrast between the ideal vision of the family promoted in Victorian society, in which the man was the breadwinner and the woman took care of the house and children. According to him, in working-class families, it looked completely different:

(...) it must be remembered, that father, mother, son, and daughter, are alike engaged; no one capable of working is spared to make home (...) comfortable and desirable. No clean and tidy wife appears to welcome her husband – no smiling and affectionate mother to receive her children – no home cheerful and inviting, to make it regarded.<sup>164</sup>

And in the following passage, the description of bad habits and social problems continues:

(...) husband and wife address each other in a form of speech which would be disgraceful for the brothel – and these things may be imputed in a very considerable degree to the promiscuous way in which families herd together; a way that prevents all privacy, and which, by bringing into open day things which delicacy commands should be shrouded from observation, destroys all notions of sexual decency and domestic chastity.<sup>165</sup>

As the world changed under the influence of industrialisation, family and relations between people also changed. Despite fears of a family crisis, this social unit had survived all the changes and problems brought on by the evolving world, remaining a valued and accepted social institution.

In Victorian times, marriage was perceived as the only appropriate way to start a family. Extramarital relationships, even if they existed, were condemned. That was also reflected in the gender division and the developing doctrine of two spheres that dominated Victorian society.<sup>166</sup> The ideology of separate spheres held that men and women are

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<sup>164</sup> P. Gaskell, *The Manufacturing Population of England*, London, 1833, p. 109, (online <https://www.bl.uk/collection-items/the-manufacturing-population-of-england>: access 25<sup>th</sup> February 2021).

<sup>165</sup> Ibidem, p. 137.

<sup>166</sup> The doctrine of separate spheres significantly varied from the perception of men and women in earlier centuries. Before industrialisation, the home and workplace were often the same or overlapping places, and women usually helped their husbands with work. Also before the eighteen-century people believed that

predisposed to particular social roles. Accordingly, women were expected to stay at home, look after children, keep the house tidy and ensure that man returning from work could find comfort and respite. The Victorian vision of womanhood depicted married women as angels caring for home and family, which is why maidens also had to take care of their reputation and maintain moral purity. Women were expected to remain chaste before marriage and modesty after marriage. Those who did not follow these principles had to face social exclusion and the label of “fallen woman”. Usually, prostitutes, both occasional and professional, were called “fallen women”, but also, women who had sex before marriage, either willingly or were raped, deserved to be stigmatized as those who broke Victorian rules. Nevertheless, as the century progressed, the “fallen women” were seen as victims of male sexuality and those who deserved to be saved.<sup>167</sup> In the second half of the nineteenth century, philanthropists from the middle-class tried to help prostitutes. They organized meetings for women and provided free accommodation, operating according to Christian principles. A significant example of such organisation were Anglican sisterhoods who collaborated with prostitutes, such as the Community of St. Mary the Virgin, Wantage, and the Community of St. John the Baptist.<sup>168</sup> Those who wanted to ‘rescue’ prostitutes thought

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women had a higher sex drive than men. The growing influence of the evangelical religion portrayed women as the central and moral bottom of the family. The evangelical religion was an important part of middle-class identity, therefore the ideology of separate spheres became crucial for that social class, and in later years, when the middle-class became more powerful and significant, its beliefs influenced the upper- and working-classes. See S. L. Steinbach, op. cit., pp. 166–169; L. James, op. cit., pp. 209–222, 343–360; J. Flanders, *The Victorian House. Domestic Life from Childbirth to Death*, London, 2003, pp. XXI–XXIII.

<sup>167</sup> For more information, see S. Mumm, “‘Not Worse than Other Girls’: The Convent-Based Rehabilitation of Fallen Women in Victorian Britain,” *Journal of Social History*, vol. 29, no. 3, 1996, pp. 527–528; E. Liggins, “Prostitution and Social Purity in the 1880s and 1890s,” *Critical Survey*, vol. 15, no. 3, 2003, pp. 39–55; M. Finn, “Working-Class Women and the Contest for Consumer Control in Victorian County Courts,” *Past & Present*, no. 161, 1998, pp. 135–136.

<sup>168</sup> S. Mumm, op. cit., p. 528; J. R. Walkowitz, “Social Science and the Great Social Evil,” in: *Prostitution and Victorian Society: Women, Class, and the State*, Cambridge, 1980, pp. 32–47; D. Logan, “An ‘Outstretched Hand to the Fallen’: The Magdalen’s Friend and the Victorian Reclamation Movement: Part I. ‘Much More Sinned against than Sinning’,” *Victorian Periodicals Review*, vol. 30, no. 4, 1997, pp. 368–387.

In the nineteenth century, apart for penitentiaries for “fallen women”, there were also organisations for unmarried mothers. One of such society was the Central Home of Hope for the Restoration of Fallen and the Protection of Friendless Young Women, whose representative wrote to *The Times* asking to introduce this association and request financial support. See: *The Times*, December 31, 1864, p. 12, (online: <https://www.thetimes.co.uk/archive/article/1864-12-31/12/15.html>, access: 24<sup>th</sup> February 2021). Another institution created to help single mothers and those women who had fallen for the first time was Workhouse Home for Women. The first one was established in 1880, but only eight years later it was struggling with many financial issues. Its representatives also wrote to *The Times* asking readers for financial support. These examples can show that even when there was a desire to help, financial resources often lacking; *The*

that providing moral and religious instructions and training for profession of service provider would solve all the problems. However, they were not aware that some women decided to work as prostitutes because they were unable to earn enough money for to live, so it was not always a matter of immorality.<sup>169</sup> It is important to note that all these philanthropic activities were aimed at “fixing the woman” and completely ignored the male part in their infamy. Toward the end of the century, more and more voices appeared attacking double morality. One of the individuals who fought for abolishing the repeal of this act was Josephine Butler, whose campaign resulted in the suspension and repeal of the Contagious Disease Act in 1886.<sup>170</sup> At that time, Parliament also passed the Criminal Law Amendment Act, which introduced the restrictions on the operation of brothels and raised the age of consent of girls to sixteen. All this was supposed to help girls and women who, due to their situation, were very often forced to break the moral norms of society.

Domesticity and sexual modesty were key characteristics of the ideal Victorian woman. According to Victorian beliefs, men were expected to desire sex, while women were seen as ‘passionless’.<sup>171</sup> They did not feel sexual desire, so unlike men, they did not have to control their lust. Such beliefs marked the Victorian period as a time of double standards. Women were considered passive, pure and destined to childbearing, so they were expected to maintain premarital chastity, and according to some, those who could not do so were perceived as unfeminine. For men it was completely different. No one expected them to abstain from sexual intercourse before marriage, and premarital or extramarital sex with prostitutes was not entirely condemned. As long as these behaviours kept men from

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*Times*, March 28, 1888, (online <https://www.thetimes.co.uk/archive/article/1888-03-28/10/3.html>, access: 24<sup>th</sup> February).

<sup>169</sup> J. R. Walkowitz, op. cit., pp. 34; 36–38.

<sup>170</sup> The Contagious Diseases Act was first passed in 1864. It was extended in 1866 and 1869 and repealed in 1886. The purpose of this act was to reduce the incidence of venereal diseases among the army and navy by regulating “common prostitutes”. This act allowed police to stop women on the streets, subject them to physical examination, and forcibly hospitalise them if they showed symptoms of venereal disease (even though there were no remedy for these diseases in the nineteenth century). If a woman refused to undergo the examination, she was liable to three months' imprisonment (from 1869 to six months) or hard labour. This law caused public outcry because it depended solely on the beliefs of a police officer who could decide who he considered a prostitute, and it was unfair to women. M. Hamilton, “Opposition to the Contagious Diseases Acts, 1864–1886,” *Albion: A Quarterly Journal Concerned with British Studies*, vol. 10, no. 1, 1978, pp. 14–27; “The Repeal or Extension of The Contagious Diseases Acts,” *The British Medical Journal*, vol. 2, no. 811, 1876, pp. 80–82; B. Hill, “Statistical Results of the Contagious Diseases Acts,” *Journal of the Statistical Society of London*, vol. 33, no. 4, 1870, pp. 463–485.

<sup>171</sup> This phrase was coined by historian Nancy Cott. Cited in: S. L. Steinbach, op. cit., p. 168.

masturbating and having intercourse with other men, which was a punishable offense in nineteenth-century England, society saw nothing wrong with having relationships with prostitutes. Especially since some men, usually from the middle-class, married late because they were supposed to accumulate assets before marriage that would allow them to support a wife and children, premarital intercourse was an attempt to cope with the great desires attributed to men by Victorian moralists. Such relationships led to unwanted pregnancies which sometimes resulted in infanticide committed by single women who were almost stripped of the putative support of their fathers in the nineteenth-century.<sup>172</sup>

The doctrine of separate spheres and double standards which existed in Victorian England also determined the legal position of women, especially married ones. Women were not expected to work and earn money, and once married they could not legally own property, sign contracts, or incur debts. In the light of the law, “husband and wife were one person, and the husband was that person.”<sup>173</sup> These words precisely reflected women's dependence on men. Economic and legal dependence, especially for women of the upper and middle-class, meant that they had to obey their fathers, brothers and husbands. That was particularly evident in the legal status of married women. Coverture, a legal doctrine that prevailed in Victorian England, was that once the woman married, everything she owned become her husband's property. He was the one who made all decisions concerning property, children and the future of the family, and he did not have to and usually did not consult his wife, whose life goal was to take care of the house and not to interfere in her husband's business. Perhaps this was not a major problem, as long as the couple lived in harmony and happiness. But for those in unhappy, violent or failed marriages, the coverture became a significant issue.

Before 1857, there was no civil divorce procedure in England. Only Parliament could grant a divorce, but when a woman applied for a divorce, it could only be granted on the basis of her husband's adultery, which had to be accompanied by life-threatening cruelty. This process was fairly expensive, so only wealthy people could afford it, and yet if a woman obtained a divorce, custody of the children was usually granted to the father. The law began to change gradually, starting from 1839, when Parliament introduced the

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<sup>172</sup> For more detailed information, see U. R. Q. Henriques, *op. cit.*, pp. 103–129; T. Nutt, *op. cit.*, pp. 335–361; L. F. Cody, *op. cit.*, pp. 131–156; S. Williams, “Unmarried mothers...”, *op. cit.*, pp. 27–43.

<sup>173</sup> Cited in: T. May, *op. cit.*, p. 284.

Custody of Infants Act. That law permitted a mother to apply the courts for custody of her children up to the age of seven, and for the right to contact with older children. Furthermore, in 1857 the Matrimonial Causes Act was passed, which established secular divorce courts. Despite this, it was extremely difficult for women to obtain a divorce, but it was the first step forward. And finally, the Married Women's Property Act, introduced in 1870, allowed women to own property, whether it was secured before or after marriage. Later, in 1882, another act enabled women to dispose of their own property and draw up contracts and wills, also henceforth, women were recognised in courts as separate legal persons. This meant that they could sue someone and be sued under their own name rather than in their husband's name.<sup>174</sup>

Although happiness in marriage was often a matter of chance, and the legal and economic position of women was not optimistic, at the beginning of the nineteenth century people got married relatively young, more children were born, and in consequence this was one of the reasons for population growth. Getting married and finding a suitable spouse varied depending to social class. But there were also some common elements. For example, it was the women in the family, i.e., mothers, aunts or other relatives, who looked for a suitable spouse, but it was always the father who had to approve the relationship. If a couple did not obtain the father's consent, they could not marry, and if they decided to elope and marry in secret, they had to be prepared to face social exclusion. The purpose of marriage was primarily to maintain social status or advance in class. This was particularly reflected

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<sup>174</sup> For more information, see S. Abramowicz, "English Child Custody Law, 1660–1839: The Origins of Judicial Intervention in Paternal Custody," *Columbia Law Review*, vol. 99, no. 5, 1999, pp. 1359–1362; M. Poovey, "Covered but Not Bound: Caroline Norton and the 1857 Matrimonial Causes Act," *Feminist Studies*, vol. 14, no. 3, 1988, pp. 467–485; A. S. Holmes, "The Double Standard in the English Divorce Laws, 1857–1923," *Law & Social Inquiry*, vol. 20, no. 2, 1995, pp. 601–620; H. Kha, W. Swain, "The Enactment of the Matrimonial Causes Act 1857: The Campbell Commission and the Parliamentary Debates," *The Journal of Legal History*, vol. 37, no. 3, 2016, pp. 303–330; L. Stone, *Road to Divorce: England, 1530–1987*, Oxford, 1990, pp. 368–382; M. B. Combs, "'A Measure of Legal Independence': The 1870 Married Women's Property Act and the Portfolio Allocations of British Wives," *The Journal of Economic History*, vol. 65, no. 4, 2005, pp. 1028–1057; L. Holcombe, *Wives & Property: Reform of the Married Women's Property Law in Nineteenth-Century England*, Toronto, 1983, pp. 166–183, 184–205; R. H. Chused, "Late Nineteenth Century Married Women's Property Law: Reception of the Early Married Women's Property Acts by Courts and Legislatures," *The American Journal of Legal History*, vol. 29, no. 1, 1985, pp. 3–35;

*Custody rights and domestic violence*, (online <https://www.parliament.uk/about/living-heritage/transformingsociety/private-lives/relationships/overview/custodyrights/>, access: 25<sup>th</sup> February 2021); *Obtaining a divorce*, (online <https://www.parliament.uk/about/living-heritage/transformingsociety/private-lives/relationships/overview/divorce/>, access: 25<sup>th</sup> February 2021); *Married Women's Property Act 1882*, (online <https://www.legislation.gov.uk/ukpga/Vict/45-46/75/enacted>, access: 25<sup>th</sup> February 2021).



in marriages of upper- and middle-class people. As Francis Michael Longstreth Thompson points out:

(...) these data [research on unmarried women], together with the genealogies of the propertied classes, convey a strong impression that the upper class and the middle class had an overwhelming propensity to marry only with their social equals, a category frequently defined in restrictive sectarian and locational terms and that this tendency only began to weaken toward the close of the century.<sup>175</sup>

That behaviour resulted in an increasing number of unmarried women, because when a woman failed to find a husband within her social sphere, there was a high probability that she would remain unmarried until her death. The situation was slightly different among the working-class. Fathers still decided about their children's marriages, but the children had slightly more freedom in choosing their spouse. However, some ordinary people did not care about the formalities and lived in concubinage.<sup>176</sup>

As people married relatively early, they had more children because women's extended fertile period allowed it. However, a decline in fertility could be observed since the 1880s. This was the result of adapting birth-control practices and increasing knowledge about them. At that time, practices of deliberate family limitations could also be noted. It is difficult to explain the reasons for such behaviour, but one of them was certainly the financial situation of the family. For middle-class families, the costs of maintaining an appropriate standard of living and educating children were increasing, so it was better to have fewer children but to provide them with appropriate education. This was probably the case for working-class families, because from the moment compulsory primary education was introduced for children, parents had to pay for it, and children who attended school could not go to work to earn money and support their families.

From around the 1870s, mortality rates began to decline due to the improved living standard, better nutrition, public health reforms, and a decline in death from infectious diseases, which led to higher infant survival rates. The family limitation was made possible by an increase in the age at which women got married and the use of contraceptive methods such as abstinence, which was the most effective, *coitus interruptus*, and prolonged

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<sup>175</sup> F. M. L. Thompson, op. cit., p. 92.

<sup>176</sup> For more information, see G. Frost, "Bigamy and Cohabitation in Victorian England," *Journal of Family History*, vol. 22, no. 3, July 1997, pp. 286–306; G. Frost, et al. *Living in Sin: Cohabiting as Husband and Wife in Nineteenth-Century England*, Manchester, 2008, pp. 9–31.

breastfeeding, which were widely considered to be an effective birth-control method. Other contraceptives that were advertised quite widely but also covertly during the Victorian period included condoms and various sponges, douches, syringes, and pessaries. But even though they were available, they were not widely used.<sup>177</sup> The decline in fertility was clearly noticeable in the nineteenth century. Victorian families were quite large. In 1850, the average family size was 4.7, which was similar to the seventeenth century. However, for couples who married in 1860, the average family size rose to 6.2. Until the 1870s, the birth rate remained stable at around 35 per 1,000, but then it fell quite rapidly, especially in the years before 1914 when it was about 24 per 1,000. By the end of the nineteenth century, the average family size declined to 4.3, and by the outbreak of the First World War to 2.3.<sup>178</sup> For example, the average number of children in the upper-class family fell from about 5 to 2.3 by 1911, and in the middle-class family to about 2.8. A reduction in the number of family members could also be observed in working-class families, but it depended on the parents' occupation, for instance miners' families were much larger than the national average, and the number of children remained at about 8 until the end of the century. Additionally, as the number of children born to married couples declined due to the increasing popularity of contraceptives and contraceptive methods in the late Victorian era, there was a slight decline in the number of illegitimate children born.<sup>179</sup>

### **1.7. Females' vulnerability and the surplus women problem**

The social position of women in nineteenth-century England was quite poor. Women born into the upper or middle-classes were often not allowed to work or manage their property. Those born into working-class families usually started working as young girls, but eventually they also hoped to find a suitable husband. So the question remains,

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<sup>177</sup> For more information, see F.L.M. Thompson, *op. cit.*, p. 55–57.

<sup>178</sup> See A. Briggs, *op. cit.*, pp. 286–288; P. Laslett, "Size and Structure of the Household in England Over Three Centuries," *Population Studies*, vol. 23, no. 2, 1969, pp. 199–223; S. Pooley, "Parenthood, Child-rearing and Fertility in England, 1850–1914," *The History of the Family: an International Quarterly* vol. 18, no. 1, 2013, pp. 83–106; W. C. Robinson, "Population Policy in Early Victorian England," *European Journal of Population*, vol. 18, 2002, pp. 153–173.

<sup>179</sup> S. Pooley, *op. cit.*, p. 85; L. Rose, *op. cit.*, p. 23; W. Chris, R. Woods. "Fertility in England: A Long-Term Perspective," *Population Studies*, vol. 45, no. 3, 1991, pp. 399–415.

what happened to the women who failed to marry? As the century passed, the so-called surplus women problem became more visible. As Trevor May points out:

(...) the number of single women aged 15-45 rose from 2,765,000 in 1851 to 3,228,700 in 1871, with the rise in a surplus of single women of 72,500 to 125,000 (a 72 per cent increase in 20 years). In 1877 two-thirds of all women between 20 and 24 were single, and 30 per cent of those aged 24-35.<sup>180</sup>

Many factors contributed to this situation. Firstly, women outnumbered men throughout the nineteenth century, primarily because boys had a higher mortality rate, and many more men than women decided to emigrate from England. Moreover, since the middle of the century, more and more men preferred to marry late or remain single. In 1851, 30 per cent of all men over 20 in England were single. As Lionel Rose notes, the higher the social class a man came from, the later he married. For example, in 1886 the average age of marriage for a working-class man was about 24, for tradesman it was 27, and for a professional – over 31.<sup>181</sup> That resulted from the belief that a man had to provide a prosperous life for his family and can only do so after obtaining substantial income.

The problem of the surplus women was a matter of great concern to Victorian society, especially the middle class, where prohibitions against women's work were much stronger, as a consequence of the image of the ideal woman prevailing in this class. Because women's opportunities were quite limited, some single women, especially from the upper and upper-middle-classes, lived with their parents and, after their death, with their brothers or other family members. Those who were less lucky were forced to find a job.<sup>182</sup> In practice, the only job that ensured women with the middle class status was that of a governess. The social position of a governess was somewhat complicated because she was neither a member of the family, nor a guest, nor a servant. Although she was perceived as a representative of the middle-class, her status was not equal to that of the wife and daughter of the house where she was employed. The misfortunes and woes of governesses were a common motif in Victorian novels such as Charlotte Brontë's *Jane Eyre* or Anne Brontë's *Agnes Grey*. As the profession of governess became increasingly professionalised, finding employment became increasingly difficult. It should be noted, however, that over the

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<sup>180</sup> T. May, op. cit., p. 290.

<sup>181</sup> L. Rose, op. cit., p. 17.

<sup>182</sup> For more information, see A. Young, *From Spinster to Career Woman. Middle-class Women and Work in Victorian England*, London 2019, pp. 3–38.

century, not only women who fell into the social hierarchy became governesses, but it was also an opportunity for educated daughters of wealthy farmers or merchants to improve their social position. Apart from becoming a governesses, the other solution that contemporaries saw for unmarried women was emigration. There were many more men than women living in the colonies, so emigrating women increased their chances of marrying, and with their departure the problem partially disappeared from England. This solution was proposed, for example, in the most famous Victorian article about single women, “Why are Women Redundant?” written in 1862 by W. Greg.<sup>183</sup>

What was the fate of unmarried women who did not decide to emigrate, could not count on family support or were not educated enough to work as governesses? They had to find a job that would provide them with a reasonably decent existence. The main areas of employment for women during the Victorian period were domestic service, factory work, needlework, agricultural work and domestic industries such as lacemaking. Among these areas, most women were employed in domestic service, and many of them worked in industrial cotton mills.

By the end of the century, as white-collar jobs increased, many women began working as shop assistants, nurses, or teachers. Regardless of the type of work they did, their wages were relatively low and were about half of what men earned. The 1906 wage census showed that the average wage for women working in industry was around 11 to 13 shillings and 6 pence a week. As Lionel Rose indicated, single women supporting themselves needed 15 to 17 shillings a week to live at a decent level. Therefore, due to insufficient wages, some of them decided to engage in prostitution. The situation of women who worked in domestic service was slightly better, mainly because, in addition to salary, they were also provided with food and a place to stay.<sup>184</sup>

In addition to low wages, single women were also at risk of unwanted pregnancies. Some of them voluntarily entered sexual relations, often without education on how to prevent pregnancy. Some were seduced by marriage proposals, others had affairs with married men. In the worst-case scenario, some of them were raped. Relationships ending

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<sup>183</sup> S. Marcus, *Between Women. Friendship, Desire, and Marriage in Victorian England*, Princeton 2007, p. 209; A. Young, op. cit., pp. 158–169.

<sup>184</sup> L. Rose, op. cit., pp. 16–17.

in pregnancy led not only to an increase in the number of illegitimate children, but also very often to an increase in the number of infanticide. Even if a woman was not afraid of social exclusion caused by the extramarital pregnancy and wanted to raise a child, economic conditions made it futile for her to do so. Because she was not able to earn enough to support herself, she was unable to support herself and the child without outside help. Pregnancy and childbirth excluded her from the labour market for some time. Servants were particularly vulnerable when they became pregnant, because after the employer discovered their condition, their employment ended with instant dismissal without reference, and as a consequence, these women could not find a decent job.

Unlike servants, women working in the factory could leave their children under the care of a daily minder, and as long as they came to work their employer did not care about their family situation. It should be noted that maids who managed to hide their pregnancy until birth often wanted to get rid of the child. Nevertheless, this was practically impossible due to the conditions in which they lived and worked, such as shared rooms and the lack of abandoned places near the workplace where the new-born could be abandoned. They therefore constituted a significant number of those accused of infanticide. The situation was slightly different for women employed in factories and agriculture. Firstly, if they wanted to get rid of the child, they had more possibilities to do so. Secondly, for the working-class women, having an illegitimate child was not so much a social stigma as an economic burden, and she could always improve her situation. As for women from upper or middle-classes, if they found themselves 'in difficulties', unlike working-class women, they had money and connections to hide their condition and to give their children up for adoption without disclosing their personal information.<sup>185</sup>

The Victorian era was undoubtedly a period of significant social and economic changes. However, apart from economic growth and technological advancement, it was also a time of struggling with many social problems and inequalities. Some of the most significant were undoubtedly problems related to employment, low wages, child mortality or the family and marriage crisis. The family and marital crisis as well as economic problems were mainly related to the phenomenon of infanticide, which was relevant to Victorian society. The significantly large scale of this phenomenon resulted primarily from

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<sup>185</sup> For more information, see L. Rose, *op. cit.*, pp. 20–21; 42–43.

the failure to solve some of the problems plaguing English society, and above all, the economic and social vulnerability of single women who, in the event of an unwanted, extra-marital pregnancy, had no one to turn to for help and often decided to kill their child.

## Chapter 2

### 2.1. Infanticide in Victorian London

Infanticide is widely perceived as a crime committed predominately by women. The Old Bailey Proceedings show that the vast majority of accused in infanticide cases were indeed women. The question should be asked, why they decided to kill their babies instead of raising them. The answer to this problem is directly related to economic factors and issue of illegitimate children as well as the moral principles in force at that time. Nevertheless, both women and men, married or single, who committed this crime faced many problems, such as lack of work, inadequate wages, lack of proper contraception, mental problems that today would often be diagnosed as depression or post-natal depression, right down to domestic violence and alcoholism, which also contributed to infant murders.

### 2.2. Infanticide: Definition and Legal Context

The main purpose of this chapter is to analyse infanticide as the social problem of Victorian England, but before this topic is discussed, the concept of ‘infanticide’ should be defined. ‘Infanticide’ is a fairly broad term often used in research on child-killing. It is significant to emphasise that the boundaries of infanticide have been discussed thoroughly by scholars.<sup>186</sup> Furthermore, historians studying this crime often used the term ‘infanticide’ instead of ‘neonaticide’, even if they only analysed cases of children killed shortly after their birth. In this dissertation, infanticide is defined in accordance with its recognised status in law<sup>187</sup> and a common understanding. The Oxford English Dictionary gives the

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<sup>186</sup> Most scholars define infanticide as the murder of a child under the age of 12 months, but recently Mark Jackson, author of the book *New-Born Child Murder: Women, Illegitimacy and the Courts in Eighteenth-Century England*, disagrees with that concept. He argues that the term ‘new-born child murder’ should be used instead of the overly general ‘infanticide’, but when he uses it, he only refers to children murdered shortly after births, leaving aside older infants. Creating a new term instead of clarifying an existing one can make understanding the purpose of the research more confusing. It is worth noting that the contemporary science, apart from the term ‘infanticide’, uses terms such as ‘neonaticide’, i.e., the killing of a child within the first 24 hours of its life, or ‘filicide’, i.e., the killing of a child (regardless of age) by its parent. For more information, see: R.J. Kellet, op. cit., p. 1; B. R. Sharma, “Historical and Medico-legal Aspects of Infanticide: An Overview,” *Medicine, Science and the Law*, vol. 62, no. 2, 2006, p. 152; S. Ottaway, “New-Born Child Murder: Women, Illegitimacy and the Courts in Eighteenth-Century England. 1996. by Mark Jackson. Review,” *Population Studies*, vol. 53, no. 1, 1999, p. 108; T. Porter, H. Gavin, “Infanticide and Neonaticide: A Review of 40 Years of Research Literature on Incidence and Causes,” *Trauma, Violence & Abuse*, vol. 11, no. 3, 2010, pp. 99–100; A-M. Kilday, op. cit., p. 15; *Infanticide and Filicide. Foundation in Maternal Mental Health Forensic*, ed. by G. Wong and G. Parnham, Washington DC 2021, p. XV.

<sup>187</sup> *Infanticide Act 1938*, which is currently in force in the United Kingdom, states: “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 of the act or omission the balance of her mind was disturbed by reason of her not having fully recovered from the effect of giving birth to the child or by reason of the effect of lactation consequent upon

following rationale of infanticide: “(...) the crime of murdering an infant after its birth, perpetrated by, or with the consent of its parents, especially mother.”<sup>188</sup> Therefore, this research focuses on infants under 12 months of age who were killed by their mothers or fathers or by people close to them, such as grandparents or nurses.

In the early modern period, the state was more concerned with punishing bastardy and unmarried women who, according to popular belief, murdered their illegitimate children in an attempt to hide their promiscuous lives. In both the pre-modern period and Victorian era, infanticide was considered a crime against femininity and the common perception of motherhood. Sometimes it was even called ‘an unnatural crime’, because it was a complete contradiction of how a woman should behave, and above all, a mother whose vocation was to care for her child.<sup>189</sup> As Anne-Marie Kilday states:

In England and Wales, legislation against bastardy was passed in relation to secular court jurisdictions for the first time in 1576 and then revised in 1610. This move not only signalled official displeasure at illegitimacy itself (which had already been evident in church courts for some time) but it also emphasised despondency with the financial burdens placed on parishes through their obligations to care for the poor. Consequently, unmarried mothers in particular were targeted for punishment by this early legislation, as both they and their illegitimate offspring came to be regarded as ‘...unwelcome and undeserving burdens on this system of parochial poor relief.’ As a result of this harshening of attitudes, and in order to avoid the punishment and opprobrium associated with unmarried motherhood, the authorities believed that single women were concealing their pregnancies, giving birth in secret and then causing the death of the infant either by direct or indirect means.<sup>190</sup>

Such beliefs led Parliament to pass an *Act to Prevent the Destruction and Murthering of Bastard Children* in 1624. As the name suggests, this act was directed exclusively against women suspected of murdering their illegitimate children. It also claimed that:

Whereas many lewd women that have been delivered of bastard children, to avoid their shame, and to escape punishment, do secretly bury or conceal the death of their children, and after, if the child be found dead, the said women do allege, the said child was born dead; whereas it falleth out sometimes (although hardly it is to be proved) that the said child or children were murthered by the said women, their lewd mothers, or by their assent or procurement. For the preventing therefore of

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the birth of the child, then, [if] the circumstances were such that but for this Act the offence would have amounted to murder [or manslaughter], she shall be guilty of felony, to wit of infanticide, and may for such offence be dealt with and punished as if she had been guilty of the offence of manslaughter of the child,” (online <https://www.legislation.gov.uk/ukpga/Geo6/1-2/36/section/1>, access: 15<sup>th</sup> November 2021).

<sup>188</sup> J. A. Simpson, E. S. C. Wiener (eds.), “Infanticide,” *The Oxford English Dictionary*, vol. VII, 1989, p. 918.

<sup>189</sup> J. Kelly, op. cit., pp. 72–73; A-M. Kilday, op. cit., pp. 16–17.

<sup>190</sup> A-M. Kilday, op. cit., p. 17. For more information about infanticide in seventeenth century, see also: L. Gowing, “Secret Births and Infanticide in Seventeenth-Century England,” *Past & Present*, no. 156, 1997, pp. 87–115.



this great mischief, be it enacted by the authority of this present parliament, That if any woman after one month next ensuing the end of this session of parliament be delivered of any issue of her body, male or female, which being born alive, should by the laws of this realm be a bastard, and that she endeavour privately, either by drowning or secret burying thereof, or any other way, either by herself or the procuring of others, so to conceal the death thereof, as that it may not come to light, whether it were born alive, or not, but be concealed: in every such case the said mother so offending shall suffer death as in case of murther, except such mother can make proof by one witness at the least, that the child (whose death was by her so intended to be concealed) was born dead.<sup>191</sup>

This act introduced a legal presumption that if an unmarried woman concealed the death of her child, she was presumed to have killed it. Therefore, during her trial, she had to present clear evidence to the court that she had not done so. It should be emphasized that prior to the seventeenth century, people accused of infanticide were tried according to common law rules of evidence. As a result, the prosecution had to prove that the child was born alive before filing a murder charge.<sup>192</sup> The statute adopted during the reign of James I was considered very strict and, especially from the eighteenth century, there were calls for its change. This was due to a change in attitudes towards unmarried mothers, not only within the law, but also in society. Those accused of infanticide were no longer always seen as promiscuous women ready to commit murder. According to Mary Clayton's research:

From around 1715 proof of guilt seems to have changed in practice from that laid down by the 1624 statute – the concealment of the death of a bastard child – to the standard of proof required to convict any other person of murder, that of wilful intent: a change from the evidence required for conviction by statute law to that for common law.<sup>193</sup>

With this changing approach, it was easier for the woman to avoid prosecution because the prosecution needed proof that the child was born alive and that there had been a deliberate attempt to kill it. This changing approach to law was accompanied by the development of forms of defence. These included claims that the child was stillborn or born prematurely, and that the defendant was surprised by the birth, which resulted in accidental injury to the child. From the eighteenth century, it became increasingly popular to assume temporary insanity as a reason of murder, especially when there were visible signs of violence on the infant's body.<sup>194</sup> It should be noted that a similar line of defence was used

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<sup>191</sup> 21 James I c.27, *To Prevent the Destroying and Murthering of Bastard Children*, (online <https://statutes.org.uk/site/the-statutes/seventeenth-century/1623-21-james-1-c-27-to-prevent-the-destroying-and-murthering-of-bastard-children/>, access: 23<sup>rd</sup> November 2021).

<sup>192</sup> A-M. Kilday, *op. cit.*, p. 17.

<sup>193</sup> M. Clayton, "Changes in Old Bailey Trials for the Murder of Newborn Babies, 1674–1803," *Continuity and Change*, vol. 24, no. 2, 2009, p. 339.

<sup>194</sup> For more information, see: *Ibidem*, pp. 340–343.

during the trials in the nineteenth century. There was also another form of defence which for the first time was successfully used in 1689, only twenty-five years after *An Act to Prevent the Destruction and Murthering of Bastard Children* was passed. Mary Hunt named it a “child bed linen defence.”<sup>195</sup> This meant that if a woman proved that she had prepared baby linen, she could not be found guilty because the Act of 1624 could not be applied to her. What may be interesting is that the preparing of baby linen as a form of defence was still used in the Victorian period, even though the law had changed.

According to the Old Bailey Proceedings, between 1803 and 1901 there were eleven cases in which the preparation of baby linen was mentioned, the last one in 1876.<sup>196</sup> Nonetheless, it was treated differently than in previous centuries. During seven trials, even though the baby linen was prepared by the defendants, the suspects were acquitted of murder but still found guilty of concealment. On the contrary, in the case of Hannah Diana Connolly alias Conner in 1806, no baby linen was found and she was convicted of concealment.<sup>197</sup> That may suggest that the presence of baby linen, supported by the medical evidence and witness statements, could have mitigated the sentence or led to an acquittal, but only the presence alone could not have ensured a more lenient sentence. In only three cases from that period did evidence of preparation for childbirth play a role in the acquittal. In the 1822 case of Elizabeth Jones, not only was the baby linen found in her residence, but she had also mentioned her pregnancy to the acquittal, called for help during labour and during trial used the support of a medical witness who confirmed that the child was born dead.<sup>198</sup> Contrary to this, during the trial of Anne Hebert in 1851, the surgeon stated that the child was born alive, and the cause of death was “suffocation by drowning.”<sup>199</sup> The defendant claimed that the child was stillborn, so it was a word against the word. The baby

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<sup>195</sup> M. Clayton, op. cit., p. 341. For mor information about “child bed linen defence”, see also: A. Loughnan, “Gender, ‘Madness’, and Crime: the Doctrine of Infanticide,” in: *Manifest Madness...*, op. cit., pp. 205–206; A. Loughnan, “The ‘Strange’...”, op. cit., pp. 689–695.

<sup>196</sup> Old Bailey Proceedings Online (www.oldbaileyonline.org, version 8.0, 07 December 2021), November 1876, trial of ROSINA BALCHIN (44) ELIZA HEATHER (76) (t18761120-89).

<sup>197</sup> Old Bailey Proceedings Online (www.oldbaileyonline.org, version 8.0, 07 December 2021), September 1806, trial of HANNAH DIANA CONNOLLY, alias CONNER (t18060917-48).

<sup>198</sup> Old Bailey Proceedings Online (www.oldbaileyonline.org, version 8.0, 07 December 2021), September 1822, trial of ELIZABETH JONES JOHN MORRISON (t18220911-43).

<sup>199</sup> *Bucks Herald*, April 26, 1851, p. 6; (online <https://www.britishnewspaperarchive.co.uk/viewer/BL/0000270/18510426/040/0006?browse=False>, access: 7<sup>th</sup> December 2021).

linen was found in her room and her employer gave her a good character reference, for which she was acquitted.<sup>200</sup> Although during the process of Mary Ann Griffin in 1853 baby linen was also mentioned to show that she was prepared for the birth of her child, the situation was different from other cases. In this trial, the witnesses described the defendant as “very excited at that time” and revealed that she had suicidal thoughts.<sup>201</sup> Mary Ann’s son, James, lived only a few days, and after his death, the defendant partially confessed to her crime, especially during her stay at the workhouse after her arrest. When questioned during the trial, the nurse who looked after her answered the following question with these words:

When she came in, I believe you asked her no question, but she kept saying, "I have done it, I have done it?" A. Yes; she appeared to be in very great agony, and in a state of great nervous excitement.<sup>202</sup>

Taking it into account, Mary Ann was acquitted of her crime. Examples of these cases show that defence strategies in infanticide trials followed similar patterns and were only adapted to the current legal situation.

A law passed in the seventeenth century intended to punish promiscuous women for their actions did not work as expected. As shown by the M. Clayton research:

The production of good character witnesses, and the defence strategies of childbed linen provision, sudden and unexpected delivery, injury during birth and temporary insanity, together with the, initially tacit, acceptance that common law proof should be required for a capital conviction, all helped to increase the acquittal rate in infanticide trials in London throughout the course of the eighteenth century.<sup>203</sup>

These methods of defence, combined with the growing number of professionals, such as surgeons or midwives of both sexes, being called as witnesses to testify, were the reason for *An Act to Prevent the Destruction and Murthering of Bastard Children* downfall.

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<sup>200</sup> *Bucks Herald*, February 1, 1851, p. 6; (online <https://www.britishnewspaperarchive.co.uk/viewer/BL/0000270/18510201/024/0006?browse=False>, access: 7<sup>th</sup> December 2021); *Old Bailey Proceedings Online* ([www.oldbaileyonline.org](http://www.oldbaileyonline.org), version 8.0, 07 December 2021), April 1851, trial of ANN HERBERT (t18510407-870).

<sup>201</sup> *Old Bailey Proceedings Online* ([www.oldbaileyonline.org](http://www.oldbaileyonline.org), version 8.0, 07 December 2021), May 1853, trial of MARY ANN GRIFFIN (t18530509-569).

<sup>202</sup> *Ibidem*.

<sup>203</sup> M. Clayton, *op. cit.*, p. 344. It was not only a trend noticeable in London but through all the English courts in the eighteenth century. For more information, see: A. Loughnan, “Gender, ‘Madness’, and Crime: the Doctrine of Infanticide,” in: *Manifest Madness...*, *op. cit.*, pp. 205–206; M. Jackson, “The trial of Harriet Vooght: continuity and change in the history of infanticide,” in: *Infanticide. Historical...*, *op. cit.*, pp. 1–17.

Moreover, the use of defenders increased during the eighteenth century.<sup>204</sup> Their presence at court helped the defendants convince the jury that the death of the child was accidental, or that the baby was stillborn. It should also be noted that in the eighteenth century the attitude towards unmarried mothers and illegitimacy changed. Women accused of infanticide were no longer seen as cruel and unnatural, but as victims of the system, those who wanted to protect their modesty and suffered because, for example, they were seduced and abandoned<sup>205</sup>. Attitude towards men were also changing. They were seen as seducers who did not want to take responsibility for their actions. Consequently, women accused of infanticide were pitied, and the death penalty for this crime was considered too harsh.<sup>206</sup>

At the turn of the nineteenth and twentieth century, the lenient treatment of women accused of infanticide was in evident contradiction to the laws in force at the time. The first attempts to change the act from 1624 were taken in the late eighteenth century,<sup>207</sup> but it was 1803 when the new law repealing the legislation from the reign of James I was passed. This act, commonly known as the Lord Ellenborough's Act, can be considered a slight breakthrough. Nevertheless, it should be noted that the humanitarian reasons behind the proposals for change in the 1770s have not stood the test of time. At the heart of Lord Ellenborough's proposed changes was the patching up of regulatory loopholes and

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<sup>204</sup> For more information, see: T. P. Gallanis, "The Mystery of Old Bailey Counsel," *The Cambridge Law Journal*, vol. 65, no. 1, 2006, pp. 159–173.

<sup>205</sup> For more information, see: A. Loughnan, "Gender...", op. cit., p. 207; J. Kelly, op. cit., p. 73; M. Obladen, "From Crime to Disease: Laws on Infanticide in the Modern Era," *Neonatology*, vol. 109, no.3, 2016, pp. 170–176; A. Loughnan, "The 'Strange' Case...", op. cit., pp. 693–694.

<sup>206</sup> A-M. Kilday, op. cit., pp. 40–50; S. A. Smith, op. cit., pp. 224–226.

<sup>207</sup> Attempts to change *An Act to Prevent the Destruction and Murthering of Bastard Children* were made separately in the 1770s by Sir William Meredith, Sir Charles Bunbury, and Thomas Lockhart. The main arguments for the change were the ineffectiveness of the existing law and its inhumanity. Firstly, they claimed that the increasing number of acquittals in infanticide trials highlighted the inefficiency of the legal system. Furthermore, they stated that the death sentence was too severe, and there were even voices that the murder of an infant was not equal to the homicide. T. Lockhart also suggested that maybe instead of hanging women found guilty of infanticide, they should be sent to the colonies in North America. All those attempts to repeal the act have failed. There were many reasons, e.g., the objection of the conservative House of Lords, the general increase in crime at the end of the century, and the unrest and instability caused by the American Wars of Independence (1775–1783). For more information, see: M. Jackson, "The trial of Harriet Vooght...", op. cit., p. 6; A-M. Kilday, op. cit., pp. 112–113; J. McDonagh, "Child-Murder Narratives in George Eliot's *Adam Bede*: Embedded Histories and Fictional Representation," *Nineteenth-Century Literature*, vol. 56, no. 2, 2001, pp. 240–241.

increasing conviction rate.<sup>208</sup> It was also the moment when attitudes towards unmarried mothers and illegitimacy changed once again, as the cost of poor relief levied on parishes to support single mothers was too high. In consequence, the authorities sought to strengthen moral principles in society and reduce the number of illegitimate children, and the new law was intended to help with this. The rationale behind this law is also written in the beginning of the act:

III. And whereas doubts have been entertained respecting the true sense and meaning of a certain Act of Parliament, made in England in the twenty-first year of the reign of his late Majesty King James the first, intituled, An Act to prevent the destroying and murdering of Bastard Children; and also of a certain other Act of Parliament, made in Ireland in the sixth year of the reign of her late Majesty Queen Anne, also intituled An Act to prevent the destroying and murdering of Bastard Children; and the same have been found in sundry cases, difficult and inconvenient to be put in practice.<sup>209</sup>

So, what was the solution to this difficult situation? As stated in the Lord Ellenborough's Act:

Be it enacted by the authority, That from and after the first day, of July, in the year of our Lord eight hundred and three, the said two several Acts, and everything therein contained, shall be, and the same are hereby repealed; and that, from and after the said first day of July, in the said year of our Lord one thousand eight hundred and three, the trials in England and Ireland respectively of women charged with the murder of any issue of their bodies, male or female, which being born alive would by Law be bastard, shall proceed and be governed by such and the like rules of evidence and of presumption as are by Law used and allowed to take place in respect to other trials for murder, and as if the said two several Acts had never been made.<sup>210</sup>

This part of the legislation contains the most significant changes. Firstly, from 1803 infanticide was treated like any case of murder, so it meant that the evidence of concealment of birth was no longer the proof of murder. From that point on, women could be found guilty of murder or manslaughter. In the case of a murder, it was still a capital offence, but women found guilty of homicide could be sentenced to penal servitude of three to ten years

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<sup>208</sup> A-M. Kilday, op. cit., p. 113.

<sup>209</sup> 43 George III. c 58, "An Act for the further Prevention of malicious shooting and attempting to discharge loaded Firearms, stabbing, cutting, wounding, poisoning, and the malicious using of Means to procure the Miscarriage of Women; and also the malicious setting Fire to Buildings; and also for repealing a certain Act, made in *England* in the twenty first Year of the late King *James* the First intituled *An Act to prevent the destroying and murdering of Bastard Children*; and also an Act made in *Ireland* in the sixth Year of the Reign of the late Queen *Anne*, also intituled, *An Act to prevent the destroying and murdering ofc Bastard Children* ; and for making other Provisions in lieu thereof.—[24th June 1803.]," in: *Collection of Statutes Connected with General Administration of the Law; Arranged According to the Order of Subjects, with Notes by sir William David Evans, Knt*, In Eight Volumes, vol. V, London, 1829, p. 208.

<sup>210</sup> *Ibidem*.

or a maximum of two years imprisonment with or without hard labour.<sup>211</sup> Moreover, the child, regardless of gender, had to be born alive and live separately from its mother. Only then could the woman be indicted. Finally, this act still targeted unmarried women and their illegitimate children. In this case, nothing had changed since 1624.

The last part of this act introduced the new offence the concealment of birth:

IV. Provided always, and be it enacted, That it shall and may be lawful for the jury by whose verdict any prisoner charged with such murder as aforesaid shall be acquitted, to find, in case it shall so appear in evidence that the prisoner was delivered of issue of her body, male or female, which if born alive would have been bastard, and that she did, by secret burying or otherwise, endeavour to conceal the birth thereof, and thereupon it shall be lawful for the court before which such prisoner shall have been tried, to adjudge that such prisoner shall be committed to the common gaol or house of correction for any term not exceeding two years.<sup>212</sup>

It was established to assure that even if women could not be found guilty of murder due to insufficient evidence, they would still be punished for their conduct. Furthermore, it also meant that in such cases, women could be found guilty of a crime they had never been accused of before. It is worth emphasizing that the concealing one's birth was not a separate offence until 1828, even though sometimes it was treated as such. It is worth mentioning that the law was commented on in the press during individual trials. In 1804, during the trial of Ann Smith, articles about her often mentioned the new law to explain how it worked. At Old Bailey, Ann Smith was indicted for:

(...) not having the fear of God before her eyes, but being moved by the instigation of the devil, on the 16th of June, on a certain female child, then lately born of her body, feloniously, unlawfully, and maliciously, did make an assault, and that she, on the said certain female child, with both her hands, did take into a privy, belonging to Saunders Turner, wherein was a great quantity of human filth and excrement, feloniously did cast and throw the said child, and by means of the filth and excrement aforesaid, the said child was choked and smothered, of which the said child instantly died, and so she, the said Ann Smith, the said child did kill and murder, against the statute and against his Majesty's peace.<sup>213</sup>

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<sup>211</sup> A. Cossins, *Female Criminality...*, op. cit., p. 80.

<sup>212</sup> 43 George III. c 58, "An Act for the further Prevention of malicious shooting and attempting to discharge loaded Firearms, stabbing, cutting, wounding, poisoning, and the malicious using of Means to procure the Miscarriage of Women; and also the malicious setting Fire to Buildings; and also for repealing a certain Act, made in *England* in the twenty first Year of the late King *James* the First intituled *An Act to prevent the destroying and murdering of Bastard Children*; and also an Act made in *Ireland* in the sixth Year of the Reign of the late Queen *Anne*, also intituled, *An Act to prevent the destroying and murdering ofc Bastard Children*; and for making other Provisions in lieu thereof.—[24th June 1803.]," *Collection of Statutes Connected with General Administration of the Law; Arranged According to the Order of Subjects, with Notes by sir William David Evans, Knt*, In Eight Volumes, vol. V, London, 1829, pp. 208–209.

<sup>213</sup> *Old Bailey Proceedings Online* ([www.oldbaileyonline.org](http://www.oldbaileyonline.org), version 8.0, 06 January 2022), July 1804, trial of ANN SMITH (t18040704-16).

The interesting fact about this case is that Anne Smith admitted that she gave birth to a child and that she also put it in the privy to hide her shame. Nonetheless, she claimed: “I knew it was born before its time; I thought it was a miscarriage.”<sup>214</sup> Her statement was supported during the trial by Mrs Gibbons, who examined the child after it was taken out from the privy. Anne was found guilty of attempting to conceal the birth, but not of murder, and confined for one year in the House of Correction. This punishment was made possible by the introduction of Lord Ellenborough’s Act. This fact was stressed by the judge, whose statement was noted among others in the *Morning Chronicle*. He observed that although the defendant was not guilty of a capital offence, she could be penalised under the new law. The argument was as follows: her child was a bastard and she had not prepared for its birth, so she endeavoured to conceal the birth<sup>215</sup>. The judge also stressed that Anne Smith should be punished as an example and that other women who had such a crime in their minds should be warned. As it was mentioned above, the additional crime introduced by Lord Ellenborough’s Act could be used to punish the immoral conduct of women or to punish defendants in cases where there was no irrefutable evidence of murder, but the death of the child occurred in suspicious circumstances.

The Offenses Against the Person Act, which amended the law from 1803, was passed in June 1828. It stated that:

(...) if any woman shall be delivered of a child, and shall, by secret burying or otherwise disposing of the dead body of the said child, endeavour to conceal the birth thereof, every such offender shall be guilty of a misdemeanor, and being convicted thereof, shall be liable to be imprisoned, with or without hard labour, in the common gaol or house of correction, for any term not exceeding two years; and it shall not be necessary to prove whether the child died before, at, or after its

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<sup>214</sup> *Old Bailey Proceedings Online* ([www.oldbaileyonline.org](http://www.oldbaileyonline.org), version 8.0, 06 January 2022), July 1804, trial of ANN SMITH (t18040704-16).

<sup>215</sup> *Morning Chronicle*, July 07, 1804, p. 3; (online <https://www.britishnewspaperarchive.co.uk/viewer/bl/0000082/18040707/007/0003>, access: 7<sup>th</sup> January 2022). Other newspapers also mentioned the new law during the relation of Ann Smith’s trial. See, *Star (London)*, July 07, 1804, p. 4; (online <https://www.britishnewspaperarchive.co.uk/viewer/bl/0002646/18040707/015/0004>, access: 7<sup>th</sup> January 2022); *Manchester Mercury*, July 17, 1804, p. 2; (online <https://www.britishnewspaperarchive.co.uk/viewer/bl/0000239/18040717/001/0002>, access: 7<sup>th</sup> January 2022); *The Times*, July 7, 1804, p. 3; (online <https://www.thetimes.co.uk/tto/archive/article/1804-07-07/3/3.html#start%3D1804-07-01%26end%3D1804-08-01%26terms%3DAnn%20Smith%26back%3D/tto/archive/find/Ann+Smith/w:1804-07-01~1804-08-01/1%26next%3D/tto/archive/frame/goto/Ann+Smith/w:1804-07-01~1804-08-01/2>; access 7<sup>th</sup> January 2022); *Mirror of the Times*, July 07, 1804, p. 4; (online <https://www.britishnewspaperarchive.co.uk/viewer/bl/0002356/18040707/040/0004>, access: 7<sup>th</sup> January 2022).

birth: Provided always, that if any woman tried for the murder of her child shall be acquitted thereof, it shall be lawful for the Jury, by whose verdict she shall be acquitted, to find, in case it shall so appear in evidence, that she was delivered of a child, and that she did, by secret burying or otherwise disposing of the dead body of such child, endeavour to conceal the birth thereof, and thereupon the court may pass such sentence as if she had been convicted upon an indictment for the concealment of the birth.<sup>216</sup>

After Parliament passed this Act, concealment of birth became a separate offence. Still, it is worth noting that in England it was possible that even if a woman was not initially indicted for concealment, she could be found guilty of the crime. In most cases, this happened after the acquittal of the woman accused of murder, but there was evidence that she had concealed her pregnancy, the birth of the child, and disguise its body. In such a case, it was not crucial when the child died, because hiding the birth and the infant's body was a crime itself. Moreover, from 1828, the legislation on infanticide and concealment of birth no longer applied only to unmarried women, but to all women accused of killing their infants, excluding men.

The last significant change in Victorian child murder legislation occurred in 1861 when the new Offences Against the Person Act was passed. Most notably, this law criminalised the exposure of children under two years of age for the first time. As it was stated:

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, and being convicted thereof shall be liable at the direction of the court to be kept in penal servitude for the term of three years, or to be imprisoned for any term not exceeding two years, with or without hard labour.<sup>217</sup>

Until then, leaving the child in a “busy” place, such as by the road or at the park, could serve as a defence in court. The accused could state that they wanted someone to find and take care of the child, it was used as proof that the defendant did not want the death of the infant.<sup>218</sup>

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<sup>216</sup> 9 George IV. c. 31, *An Act for consolidating and amending the Statutes in England, relative to Offences against the Person*, in: *Collection of Statutes Connected with General Administration of the Law; Arranged According to the Order of Subjects, with Notes by sir William David Evans, Knt*, In Eight Volumes, vol. V, London, 1829, p. 209f.

<sup>217</sup> *The Statutes of the United Kingdom of Great Britain and Ireland, with Notes and References, Tables Showing the Effect of the Year's Legislation, and a Copious Index*, by G. Kettilby Rickards, vol XXV, part I, London, 1861, p. 232.

<sup>218</sup> For more information, see: A-M. Kilday, op. cit., pp. 84–90.



Furthermore, in the 1861 act also the law concerning concealment and infanticide was amended. It was stated that:

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, and being convicted thereof shall be liable, at the discretion of the court, to be imprisoned for any term not exceeding two years, with or without hard labour: Provided that if any person tried for the murder of any child shall be acquitted thereof, it shall be lawful for the jury by whose verdict such person shall be acquitted 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.<sup>219</sup>

Henceforth, both women and men could be tried for concealing facts, and in such cases it no longer mattered whether the child was born alive or dead, or when it died. The punishment for the crime remained the same as before, but a person acquitted of murder could still be found guilty of concealment without first being presented with an indictment. This legislation remained in force until 1922 and 1938, when further significant changes were passed to English infanticide law.

### **2.3. Old Bailey of London and infanticide trials, 1834–1901**

In April 1868, Mary Manning was accused of murdering a ten-month-old infant Honora Sweeney by placing it in the fire and was tried at the Old Bailey in London. Like many before and after her, she tried to avoid the consequences of her actions, but was found guilty of manslaughter and sentenced to five years in prison.<sup>220</sup> She was not the mother of the deceased child, but their neighbour, even though her crime was widely commented on in the press, and one of the articles about this murder perfectly describes the fears of English society at that time. Those fears caused by the increasing number of infanticide trials, now called moral panics,<sup>221</sup> reached their peak in the 1860s. After Mary Manning was convicted,

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<sup>219</sup> *The Statutes of the United Kingdom of Great Britain and Ireland, with Notes and References, Tables Showing the Effect of the Year's Legislation, and a Copious Index*, by George Kettilby Rickards, vol XXV, part I, London, 1861, p. 236.

<sup>220</sup> *Old Bailey Proceedings Online* ([www.oldbaileyonline.org](http://www.oldbaileyonline.org), version 8.0, 21 February 2022), April 1868, trial of MARY MANNING (34) (t18680406-345).

<sup>221</sup> The concept of moral panics was firstly described in the 1970s by Stanley Cohen. It is a term describing the reaction of society to a newly perceived threat that endangers the prevailing norms in society and the process leading to the formation of this threat. As a result, the threat is transformed into panic and then popularised in the media. Annie Cossins in her book *Female Criminality. Infanticide, Moral Panics and the Female Body* uses the concept of moral panics to analyse the approach towards infanticide in the 1860s. For

the *Dundee Advertiser* published an article titled “What is the matter with the women?” in which the author expressed his concerns about the female gender and their recent actions:

In Raffaele’s wonderful picture of the serpent tempting Eve, which adorns one the spandrils of the stanze of the Vatican, the Enemy of Mankind has the face of beautiful woman. We have wish to libel the sex—but what is the matter with women just now? How comes it that race of female fiends seems to infect society? Are the Furies let loose? Has the transmigration of souls come about, and are Messalina, Fredigonde. Queen Eleanor, Lucretia Borgia, and Mother Damnable living in the shape of baby farmers, tradesman’s wives, and ‘widows in independent circumstances?’<sup>222</sup>

The author of this article was not the only one to express his concerns about the increasing number of infants murders committed by women in Victorian England. These frets were also recorded at Old Bailey trials, for example in the minutes of the trial of Bridget Kavanagh in 1857. Readers of the *Salisbury and Winchester Journal* might have learned that her light sentence (she was found guilty of manslaughter and sentenced to six months’ hard labour) was another illustration of the saying that “in England, infanticide is not a murder.”<sup>223</sup> In the following years, both the press and medical professionals continued to criticise the judicial and state approach to women who had committed that crime. It was, for instance, evident during the trial of Ellen Stone in 1858.<sup>224</sup> She was accused of burying her child alive in the dust heap, and in the press she was acclaimed an “unnatural mother”<sup>225</sup> – a term often used to describe women who did not live according to the moral rules of their times. The press lamented not only the role women should play in society, which infanticide contradicted, but also the increasing number of infants being murdered and the perceived leniency of the law. For example, at the trial of Ann Smith and Martha Gibbon

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more information, see: A. Cossins, *Female Criminality...*, op. cit., pp. 1–168; S. Cohen, *Folk Devils and Moral Panics. The Creation of the Mods and Rockers*, London, 2002; D. Garland, “On the Concept of Moral Panic,” *Crime, Media, Culture*, vol. 4, no. 1, 2008, pp. 9–30.

<sup>222</sup> *Dundee Advertiser*, April 13, 1868, p. 3; (online <https://www.britishnewspaperarchive.co.uk/viewer/BL/0000295/18680413/070/0003?browse=False>, access 21<sup>st</sup> February 2022).

<sup>223</sup> *Old Bailey Proceedings Online* ([www.oldbaileyonline.org](http://www.oldbaileyonline.org), version 8.0, 07 March 2022), October 1857, trial of BRIDGET KAVANAGH (30) (t18571026-1021); *Salisbury and Winchester Journal*, November 07, 1857, p. 2 (online <https://www.britishnewspaperarchive.co.uk/viewer/BL/0000361/18571107/006/0002?browse=False>, access: 7<sup>th</sup> March 2022).

<sup>224</sup> *Old Bailey Proceedings Online* ([www.oldbaileyonline.org](http://www.oldbaileyonline.org), version 8.0, 07 March 2022), September 1858, trial of ELLEN STONE (24) (t18580920-931).

<sup>225</sup> *Salisbury and Winchester Journal*, July 31, 1858, p. 7 (online <https://www.britishnewspaperarchive.co.uk/viewer/BL/0000361/18580731/036/0007?browse=False>; access: 7<sup>th</sup> March 2022).

in 1859,<sup>226</sup> the coroner complained about the ever-increasing number of murdered infants being found in his district,<sup>227</sup> and a year later, while reporting on the trial of Charlotte Hubble,<sup>228</sup> the *Morning Post* reported that crime was on the rise.<sup>229</sup> At the same time, in the *Kentish Mercury*, the journalist called for tougher penalties for infanticide offenders.<sup>230</sup>

All reports about infanticide published in the daily press and specialised journals, such as the *British Medical Journal*, regarding individual trials, infant abandonment and infant mortality, led to the conclusion that infanticide was increasing in the 1860s.<sup>231</sup> There were many organisations during that period, including the National Society and Asylum for the Prevention of Infanticide, the Health Department of the Social Science Association, as well as individuals such as Dr Edwin Lankester, the Coroner for Central Middlesex, Dr

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<sup>226</sup> *Old Bailey Proceedings Online* (www.oldbaileyonline.org, version 8.0, 07 March 2022), November 1859, trial of MARTHA GIBBON (39) ANN SMITH (23) (t18591128-46).

<sup>227</sup> *East London Observer*, November 05, 1859, p. 3 (online <https://www.britishnewspaperarchive.co.uk/viewer/BL/0000442/18591105/014/0003?browse=False>; access 7<sup>th</sup> March 2022).

<sup>228</sup> *Old Bailey Proceedings Online* (www.oldbaileyonline.org, version 8.0, 07 March 2022), January 1860, trial of CHARLOTTE HUBBLE (30) (t18600102-162).

<sup>229</sup> *Morning Post*, January 05, 1860, p. 7 (online <https://www.britishnewspaperarchive.co.uk/viewer/BL/0000174/18600105/037/0007?browse=False>, access: 7<sup>th</sup> March 2022)

<sup>230</sup> *Kentish Mercury*, January 07, 1860, p. 5 (online <https://www.britishnewspaperarchive.co.uk/viewer/BL/0000937/18600107/061/0005?browse=False>, access 7<sup>th</sup> March 2022).

<sup>231</sup> For example, see the articles published in *The Times: The Times*, September 30, 1852, p. 8 (online <https://www.thetimes.co.uk/tto/archive/article/1852-09-30/8/3.html#start%3D1850-01-01%26end%3D1867-01-01%26terms%3Dinfanticide%26back%3D/tto/archive/find/infanticide/w:1850-01-01~1867-01-01/2%26prev%3D/tto/archive/frame/goto/infanticide/w:1850-01-01~1867-01-01/18%26next%3D/tto/archive/frame/goto/infanticide/w:1850-01-01~1867-01-01/20>; access 7<sup>th</sup> March 2022); *The Times*, September 9, 1862, p. 6 (online <https://www.thetimes.co.uk/tto/archive/article/1862-09-09/6/6.html#start%3D1850-01-01%26end%3D1867-01-01%26terms%3Dinfanticide%26back%3D/tto/archive/find/infanticide/w:1850-01-01~1867-01-01/2%26prev%3D/tto/archive/frame/goto/infanticide/w:1850-01-01~1867-01-01/16%26next%3D/tto/archive/frame/goto/infanticide/w:1850-01-01~1867-01-01/18>, access: 7<sup>th</sup> March 2022); *The Times*, October 5, 1865, p. 10 (online <https://www.thetimes.co.uk/tto/archive/article/1865-10-05/10/10.html#start%3D1850-01-01%26end%3D1867-01-01%26terms%3Dinfanticide%26back%3D/tto/archive/find/infanticide/w:1850-01-01~1867-01-01/2%26prev%3D/tto/archive/frame/goto/infanticide/w:1850-01-01~1867-01-01/12%26next%3D/tto/archive/frame/goto/infanticide/w:1850-01-01~1867-01-01/14>, access: 7<sup>th</sup> March 2022); *The Times*, November 26, 1867, p. 4 (online <https://www.thetimes.co.uk/tto/archive/article/1867-11-26/4/8.html#start%3D1850-01-01%26end%3D1867-12-31%26terms%3Dinfant%20murder%26back%3D/tto/archive/find/infant+murder/w:1850-01-01~1867-12-31/1%26next%3D/tto/archive/frame/goto/infant+murder/w:1850-01-01~1867-12-31/2>; access 7<sup>th</sup> March 2022).

William Stewart Trench, Medical Officer of Health for the Borough of Liverpool, or Dr William Burke Ryan, who wanted to raise awareness of “infanticide problem” and find the solution to it. Their actions, however, did not change much, because as George K. Behmler claims, they did not have enough political influence.<sup>232</sup> The panic began to diminish significantly in the early 1870s, when the scandalous trial of Margaret Waters led to the adoption of the Infant Life Protection Act in 1872. Margaret Waters was an English murderess, tried at the Old Bailey of London in 1870. She was found guilty and sentenced to death by hanging and executed in October 1870. She became famous for baby farming, the practice thoroughly described in the last chapter of the dissertation. In the case of Margaret Waters, she put the advertisement in the newspaper that she and her husband wanted a child and were willing to adopt one. Since adoption was not regulated in Victorian England, it was not unusual to see advertisements like that. All the children found in Waters’ house were malnourished, dirty and drugged with laudanum, number of children who died in her care is unknown – at the time of her arrest were 11 children in her care.<sup>233</sup>

In 1870, an Infant Life Protection Society was established, and its main objectives were the registration and supervision of childminders (foster-nurses), the amendment to the bastardy laws and the registration of births and deaths. The Act which was passed in 1872 stated that any person who took into the care of more than one child under one year of age for more than 24 hours must be registered. Nurses were required to keep the registry of infant movements, and any death should be reported immediately to the coroner. This was the first attempt to regulate baby farming, but the law still had many loopholes, and the trial of another scandalous baby farmer, Amelia Dyer, demonstrated this on full display.<sup>234</sup> Within the following decades of the nineteenth century, infanticide became a topic of less interest to the press and the panic slowly faded away, however, the problem of infanticide remained.<sup>235</sup> There is no doubt that the decline in interest in infanticide may have been related to the decline in crime. As Lionel Rose stated, “statistical evidence indicates a long-

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<sup>232</sup> G. K. Behlmer, op. cit., pp. 403–427; A. Cossins, *Female Criminality...*, op. cit., pp. 95–96.

<sup>233</sup> For more information, see: *Old Bailey Proceedings Online* ([www.oldbaileyonline.org](http://www.oldbaileyonline.org), version 8.0, 11 March 2022), September 1870, trial of MARGARET WATERS (35) SARAH ELLIS (28) (t18700919-769); L. Rose, op. cit., pp. 9–107; S. A. Smith, op. cit., pp. 51–94.

<sup>234</sup> For more information, see: “Infant Life Protection, by MRS. H. B. TATE, M.P.,” *Journal of the Royal Sanitary Institute*, vol. 54, no. 8, Aug. 1933, pp. 401–404. L. Rose, op. cit., pp. 108–110.

<sup>235</sup> G. K. Behlmer, op. cit., p. 427.

term decline in infanticide by 1900 since the peak of the 1860s.”<sup>236</sup> This approach was fully accepted by scholars, and most research focused and continues to focus on the 1860s and eventually previous decades of the nineteenth century. L. Rose remains the only historian who also fully examined the last decades of the Victorian period. His claim that infanticide has been declining since the 1860s is supported by evidence from Anne-Marie Kilday’s book.<sup>237</sup> However, this may be a UK-wide phenomenon, but it looks completely different in the Old Bailey Proceedings.

In London, between 1834 and 1901, 353<sup>238</sup> trials of people accused of infanticide took place. The collected data (Tab. 2.1.) show that the first peak of infanticide cases occurred in the 1840s, and the second peak in the 1880s. The number of cases in the 1860s was high, but much lower than in the decades mentioned earlier. The data that remains consistent with the nationwide rate of infanticide is the that the number of trials slightly declined in the 1870s, only to reach even higher levels in the next decades.

*Table 1. All infanticide trials which took place at the Old Bailey, 1834–1901.*

<b>Decade</b>	<b>Number of cases</b>
1834 – 1840	21
<b>1841 – 1850</b>	<b>68</b>
1851 – 1860	59
1861 – 1870	50
1871 – 1880	39
<b>1881 – 1890</b>	<b>62</b>
1891 – 1901	54
<b>Total</b>	<b>353</b>

Source: Compiled by the author based on Old Bailey’s Proceedings.

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<sup>236</sup> L. Rose, op. cit., p. 167.

<sup>237</sup> A-M. Kilday, op. cit., pp. 121–137.

<sup>238</sup> Old Bailey Proceedings Online (www.oldbaileyonline.org, version 6.0, 11 March 2022). Searched for all offences where the transcription matches “child”, “infant”, “murder”, “concealment” and offence category is killing, between 1834 and 1901. It was calculated based on the trials where the victim was less than 12 months old.

In the nineteenth century, and particularly during the Victorian period, the number of infanticide trials increased. In the first three decades of the century, there were only 47 trials at the Old Bailey. The question remains, what is the reason of this sudden increase in infanticide? Although evidence shows that many more dead infants have been found in London and across England,<sup>239</sup> there has never been enough data to unequivocally state what the scale of this phenomenon was. Infanticide is a hidden crime that occurs in the home environment, away from the public view. It will never be known how many babies were killed and not found, how many of them were reported as stillbirths, or how many of children's deaths was caused by intentional neglect. It should also be noted that since infanticide was a domestic crime, the unfortunate woman's family could have helped her dispose of the child's body. This is not just an assumption unsupported by any evidence, as there are trials in which mother and daughter or father and daughter were both accused of murder or concealment.<sup>240</sup>

Furthermore, there are many various reasons for the increase in infanticide in the second half of the nineteenth century. One of them may have been slightly better investigative methods that led to more effective detection of offenders, but they were still far from decent.<sup>241</sup> Other causes of the growing problem of infanticide, such as the amendments to bastardy laws or the socio-economic changes caused by the Industrial Revolution, were described in the previous chapter.

Moreover, from 1801, offenders of infanticide could also be found guilty of concealment, and from 1828, concealment was a separate offence, so anyone could be accused of this crime without being tried for murder. The collected data reveal that during the analysed period, 110 trials took place in which people were accused of concealment. The peak of concealment trials was in the years 1841–1860, while the peak of murder trials in the years 1861–1870 and 1881–1901. Analysis of this data shows that the peak of cases

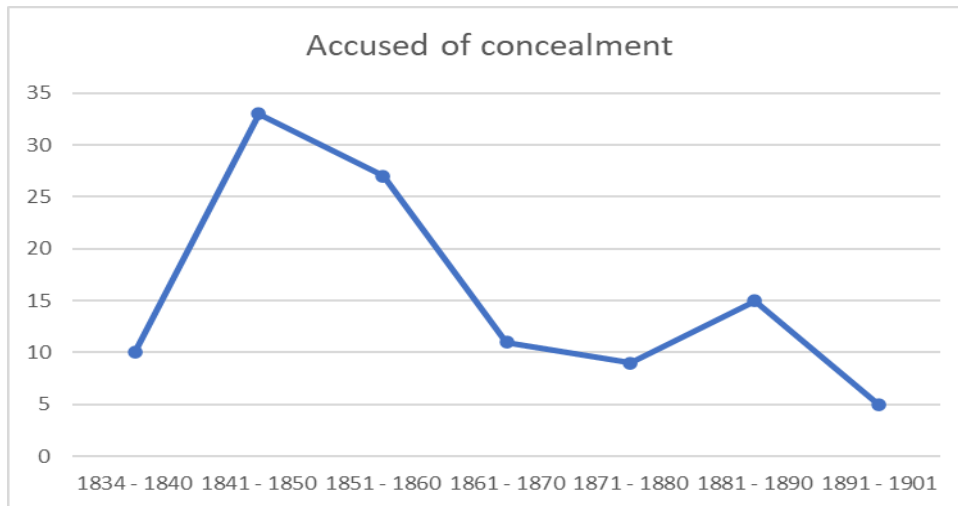
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<sup>239</sup> A. Cossins, *Female Criminality...*, op. cit. pp. 7–8; 95.

<sup>240</sup> For example, see the trial of Matilda Hewson and her father George John Hewson, *Old Bailey Proceedings Online* ([www.oldbaileyonline.org](http://www.oldbaileyonline.org), version 8.0, 11 March 2022), October 1847, trial of GEORGE JOHN HEWSON MATILDA HEWSON (t18471025-2345); Mary Spry and her mother Mary Ann Dore, *Old Bailey Proceedings Online* ([www.oldbaileyonline.org](http://www.oldbaileyonline.org), version 8.0, 11 March 2022), August 1848, trial of MARY SPRY MARY ANN DORE (t18480821-1933); or Rosina Balchin and her mother Eliza Heather, *Old Bailey Proceedings Online* ([www.oldbaileyonline.org](http://www.oldbaileyonline.org), version 8.0, 11 March 2022), November 1876, trial of ROSINA BALCHIN (44) ELIZA HEATHER (76) (t18761120-89).

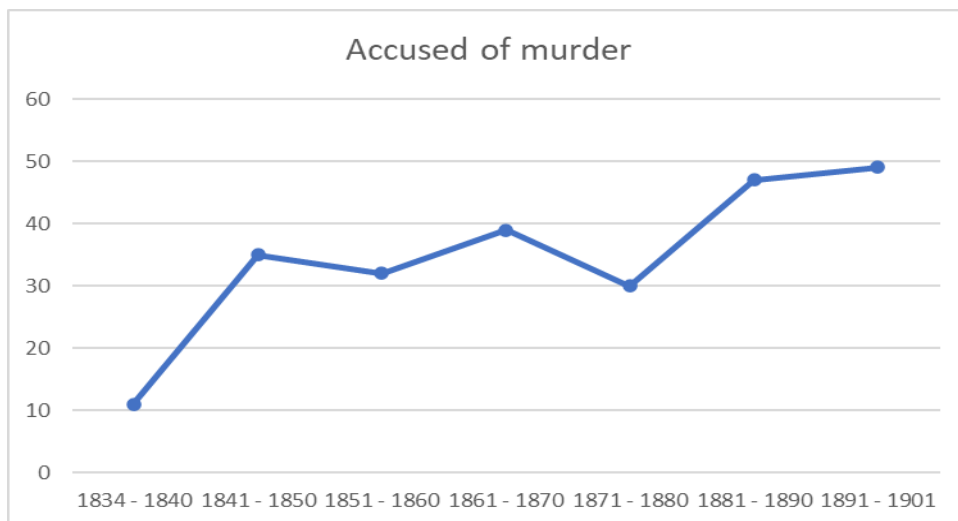
<sup>241</sup> A-M. Kilday, op. cit., pp. 123–125.

of concealment occurs during the period of moral panic and then decreases rapidly, while the majority of trials in which people were accused of murdering their infants occurred in the following decades.



*Figure 1. Concealment trials at the Old Bailey of London, number of cases per decade.*

Source: Compiled by the author based on Old Bailey's Proceedings.



*Figure 2. Murder trials at the Old Bailey of London, number of cases per decade.*

Source: Compiled by the author based on Old Bailey's Proceedings.

## 2.4. Profile of perpetrators

It is commonly believed that infanticide was committed by young, single women, who were usually seduced or tricked with the promise of marriage and then abandoned. Those who became pregnant wanted to conceal their situation because their options for life as single mothers had deteriorated significantly after the passage of the *New Poor Law* and *Bastardy Clauses* in 1834. This meant that murderers were perceived as the victims of the law and, at the same time, victims of the fathers of their children.<sup>242</sup> This was reflected in two novels published during the Victorian period and dealing with the topic of infanticide. It was *Adam Bede* (1859) by George Eliot and *Jessie Philips: A Tale of the Present Day* (1843) by Frances Milton Trollope. The action of Eliot's novel takes place at the late eighteenth century, but the fate of Hetty Sorrel and her crime are very similar to the contemporary stories that were often described in English newspapers.<sup>243</sup> Contrary to that, Trollope focuses more on criticising the *New Poor Law* and the workhouse system. Unlike in Eliot's novel, Frederick Dalton seduced Jessie Philips because a new law was passed that allowed him to avoid the consequences of his actions.<sup>244</sup> Trollope's book is probably more scandalous, because it is Frederick who murders the child, but Jessie, as an unwed mother, is accused of this crime, fortunately, after many perturbances, she is found not guilty.<sup>245</sup> Both novels focused on portraying infanticide mothers as victims of their circumstances and, along with the press and court proceedings, contributed vastly to the way perpetrators of infanticide were perceived in the nineteenth century and afterwards.

An examination of the infanticide trials that took place at the Central Criminal Court in London, commonly known as the Old Bailey, shows that this crime cannot be seen only as committed by young and inexperienced girls, as the perpetrators were also men or married women. Nevertheless, data collected from the Old Bailey (Fig. 2.3) shows that the vast majority of people accused of infanticide were women. In comparison, only twenty-

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<sup>242</sup>A. R. Higginbotham, "Sin of the Age...", op. cit., pp. 320-322.

<sup>243</sup> Hetty Sorrel, a farm girl, was seduced by a squire Arthur Donnithorne. After he left, she realised that she was pregnant and tried to find him because she believed he would marry her. During the course of the novel, she gave birth and abandoned her child, who died from exposure. She is [tense] then caught, tried, and found guilty of murder. In the end, her punishment is changed from death to transportation, thanks to the reappearance of Arthur Donnithorne. For more information see: G. Eliot, *Adam Bede*, London, 2016.

<sup>244</sup>F. M. Trollope, *Jessie Philips: A Tale of the Present Day*, London, 2019, p. 67.

<sup>245</sup>For more information, see: *ibidem*.



six men were tried for killing their infants or concealing a child's remains. Undoubtedly, of all the women accused of this crime, two hundred and ninety were unmarried, forty-two were married, and thirteen were widows. The data suggest that infanticide should not be viewed through the lens of the Victorian era, and although male and married defendants did not constitute a significant percentage of infanticide trials, attention should be paid to their presence.

It should be noted that in some cases both parents were accused of murdering a deceased infant, which highlights the fact that unmarried pregnant women were not always abandoned by their children's fathers. Relevant examples illustrating this phenomenon are the trials of Frances Douglas and Robert Hall in 1836 and the trial of Sarah Ann Fry and James Durant in 1859. In the first case, a child was drowned in a privy by its father. Robert Hall was a widower with two sons, while for Frances Douglas was experiencing her first pregnancy. They were living together, he promised to marry her, but it seemed that he did not want another child, because, as one of the witnesses said: "they were very wretchedly poor, beyond description."<sup>246</sup> Both defendants changed their testimony several times; initially he claimed it was a miscarriage, then they claimed the child was stillborn, with a very brief change of mind when Frances claimed the baby was crying and admitted that she knew what Robert intended to do with it. As there were no external marks of violence on the infant's body and the surgeon was unable to determine whether the child was born dead or alive, Robert Hall was acquitted, but Frances Douglas was found guilty of concealing the birth, even though her mother and neighbours were aware of her condition. Nonetheless, this was not the first or last time when a jury convicted someone of concealment in such circumstances, probably as an example.

In the case of Sarah Ann Fry and James Durant, they were also cohabitating, however, Durant was married but left his wife. Their child was found dead the next day after birth, and before a surgeon arrived to examine the body, James Durant admitted that he had thrown the baby's body into the Thames.<sup>247</sup> Unlike the previous case, there was no

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<sup>246</sup> *Old Bailey Proceedings Online* ([www.oldbaileyonline.org](http://www.oldbaileyonline.org), version 8.0, 02 April 2022), October 1836, trial of FRANCES DOUGLAS ROBERT HALL (t18361024-2336).

<sup>247</sup> *Old Bailey Proceedings Online* ([www.oldbaileyonline.org](http://www.oldbaileyonline.org), version 8.0, 02 April 2022), January 1859, trial of SARAH ANN FRY (28) JAMES DURANT (t18590131-259); *Morning Advertiser*, January 18, 1859, p. 3. (online

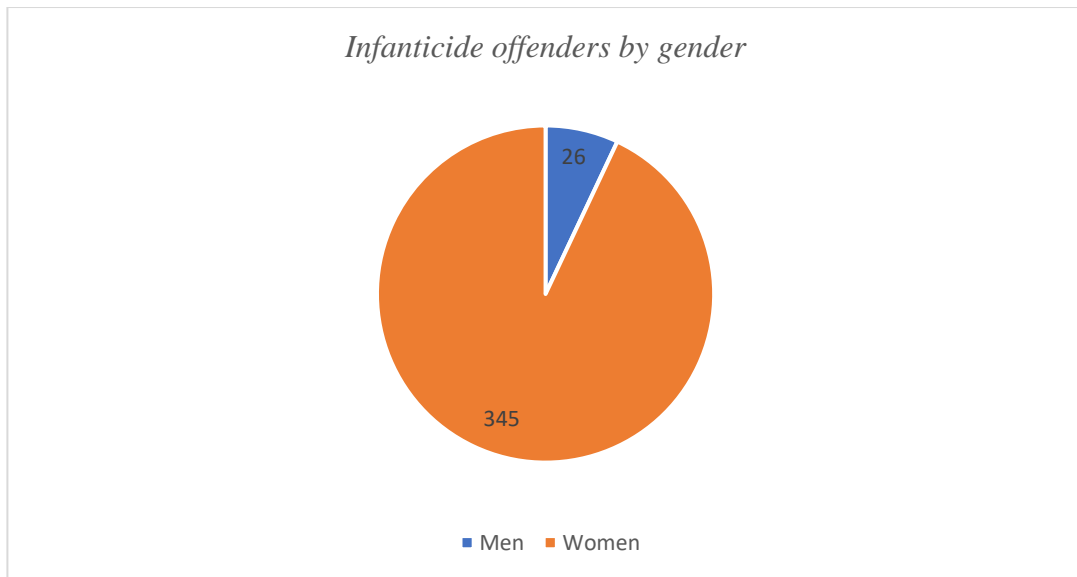
doubt that the child was born alive, however, there were some concerns about the cause of his death. Because James was at work when his child died, Sarah Ann was accused of murder and then of concealment, and he was charged as an accessory to the crime. As there was no evidence to support the claim that the death of the child was unnatural, both of them were found not guilty.

It should be noted that both these and previous examples of trials in which there were two perpetrators show that not all women were left alone in their difficult circumstances. Sometimes they were supported by their relatives and fathers of their children, even though the help was not always as it should have been. As already mentioned, infanticide was a hidden crime, and the exact scale of this phenomenon is not and probably never will be known. Regardless, trials in which the child's mother and someone close to her were accused of that crime may suggest that sometimes that crime was also difficult to detect because of the support provided by family members or other people close to them who would do anything to save their daughters, sisters or lovers and conceal the shame of parenting an illegitimate child.<sup>248</sup> However, this is only a hypothesis that cannot be supported by much evidence, and it should be noted that the historical data show that infanticide was most often detected when it was committed by women who were far away from their families. This case, involving the horrid and suffering of unassisted childbirth, led to committing a crime. This may be also the reason why servants predominate in infanticide statistics.

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<https://www.britishnewspaperarchive.co.uk/viewer/BL/0001427/18590118/042/0003?browse=False>, access: 2<sup>nd</sup> April 2022).

<sup>248</sup> For more information, see: R. Roth, "Child Murder in New England," *Social Science History*, vol. 25, no. 1, 2001, p. 120; K. H. Wheeler, "Infanticide in Nineteenth-Century Ohio," *Journal of Social History*, vol. 31, no. 2, 1997, pp. 412–413.



*Figure 3. Gender differences in indictment for infanticide and concealment at the Old Bailey of London, 1834 – 1901.*

Source: Compiled by the author based on Old Bailey’s Proceedings.

### **2.5 Single women**

According to data collected from the Old Bailey Proceedings, people on trial for infanticide and concealment can be divided into four major groups: unmarried women, widows, married women, and men. As was already stated, the typical woman accused of infanticide was a young, inexperienced servant seduced by her master. Analysis of proceedings and press articles from the Victorian period confirms that most single women who committed infanticide worked as servants and were accused of killing their first child. All these women were quite young. Anne-Marie Kilday claims that the average woman who committed infanticide in nineteenth-century Great Britain was under twenty-five years old and still living in the family home or her workplace.<sup>249</sup>

Similar data are provided by a study of infanticide processes conducted in London. The typical unmarried women accused of killing their infants were usually in their twenties, worked as servants (see Fig. 4.), and, in most cases, this was their first pregnancy, but it is worth noting that there were some cases where the woman had already had one or more illegitimate children. It is also worth mentioning that this was usually their only offence of that kind, however there were some exceptions, such as Mary Malcock [or Mulcock], who

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<sup>249</sup> A-M. Kilday, *op. cit.*, p. 137.

in 1884 was found guilty of concealment and sentenced to five months' imprisonment,<sup>250</sup> only to be charged with the same crime two years later.<sup>251</sup>

As these women were left alone, away from their family and friends, it was more difficult for them to conceal the crime or seek help. Moreover, almost all of them belonged to the working class, but there were also some cases when members of the so-called the lower middle class were tried as infanticide offenders. Consideration should be paid to the problem of seduction, which has always been associated with infanticide. Analysis of the Old Bailey proceedings shows that women voluntarily entered into relationships with men of the same class, and sometimes had affairs with married men, but seduction or sexual violence was rare, but once again difficult to detect due to the nature of the crime and the general tendency to blame women for encouraging or failing to resist sexual advances, which also led to under-reporting of the crime.<sup>252</sup>

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<sup>250</sup> *Old Bailey Proceedings Online* (www.oldbaileyonline.org, version 8.0, 13 April 2022), June 1884, trial of MARY MULCOCK. (27) (t18840623-705).

<sup>251</sup> This time she was found guilty of manslaughter and sentenced to seven years penal servitude; however, she was granted a prison license in 1890. *Old Bailey Proceedings Online* (www.oldbaileyonline.org, version 8.0, 13 April 2022), June 1886, trial of MARY MULCOCK (30) (t18860628-721); *The Digital Panopticon* Mary Malcock b. 1857, Life Archive ID obpdef1-705-18840623 (<https://www.digitalpanopticon.org/life?id=obpdef1-705-18840623>). Version 1.2.1 consulted 13<sup>th</sup> April 2022.

<sup>252</sup> For more information, see C. A. Conley, "Rape and Justice in Victorian England," *Victorian Studies*, vol. 29, no. 4, 1986, pp. 519–536; V. Bates, "Forensic Medicine And Female Victimhood In Victorian And Edwardian England," *Past & Present*, vol. 245, no. 1, 2019, pp. 117–151; J. Bourke, "Sexual Violence, Marital Guidance, and Victorian Bodies: An Aesthesiology," *Victorian Studies*, vol. 50, no. 3, 2008, pp. 419–36; K. Stevenson, "Fulfilling Their Mission: The Intervention of Voluntary Societies in Cases of Sexual Assault in the Victorian Criminal Process," *Crime, Histoire & Sociétés / Crime, History & Societies*, vol. 8, no. 1, 2004, pp. 93–110.

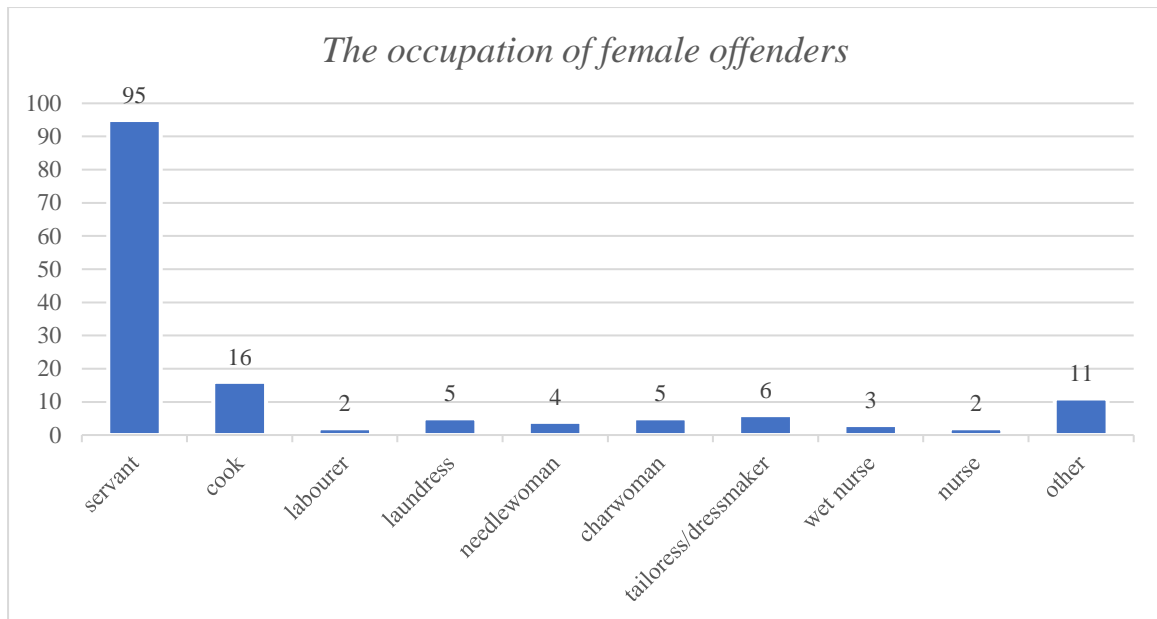


Figure 4. The occupation of female offenders tried at the Old Bailey of London, 1834–1901.<sup>253</sup>

Source: Compiled by the author based on Old Bailey’s Proceedings.

By examining the trials of Sarah Freeman and Ann Green, we can gain insight into what the typical trial of an unmarried woman looked like. Sarah Freeman was tried at the Old Bailey on 23 October 1848. Before she was arrested, she worked for five months as a cook for Mr Baring at Eaton-place. The housekeeper who worked with her, who was a witness during the trial, observed changes in Sarah’s body and asked her several times about being in the family way. Those questions were not specific for this case. It happened quite often that defendants were asked about their health condition by family members, neighbours, co-workers or employers. That shows that especially unmarried women were under constant surveillance in their immediate environment and every change in their body was noted. As a result, when an infant’s body was found in the area, it was sometimes easy to name a potential suspect.

Sarah Freeman denied that she was pregnant, but when a police officer came to her workplace, she admitted that she had given birth to a child and even mentioned that it had been breathing for a short time. During their conversation, it was obvious that she was not

<sup>253</sup> The calculation of female offenders’ occupation was based on the Old Bailey Proceedings and the press, however, not every accused person had her occupation recorded, therefore the diagram reflects only 149 defendants, which constitutes 43% of all women.

aware of the law, however, she knew that she had done something wrong. Her only question was, “Oh, sir, what do you think will be done to me; tell me your real opinion; do you think I shall be hanged?”<sup>254</sup>

In addition, it should be noted that many women accused of infanticide often asked about possible punishment during the investigation. What is more interesting in this case is that Sarah mentioned a woman supposed to help her dispose of the body, saying, “I would not have done it, if that woman had not promised to put it out of the way.”<sup>255</sup> Unfortunately, there is no more information about this woman, and it is not clear whether she promised to help murder the baby or whether she advised the defendant to murder the child and then help her hide the body. The child's body was also examined by a surgeon, whose testimony was always important to the final verdict, because it was he who could determine whether the child was born dead or alive. In many cases, surgeons were unable to clearly determine whether it was a stillbirth or determine the cause of death.

During the trial of Sarah Freeman, the surgeon was absolutely certain that the child was breathing, however, was unable to determine whether the infant had completely left its mother's body before its death. Based on that, even though the dead infant's body had multiple wounds, Sarah was acquitted of murder but found guilty of concealment and sentenced to twelve months' imprisonment. Another factor that probably contributed to her case was a good reference from Margaret Collins, wife of Stephen Collins, who served as the Queen Dowager's page.<sup>256</sup> It was not unusual for someone to attest to the good character of the defendant during the trial, often employers, neighbours or fellow servants, however, in this case, the presence of someone connected to Queen Dowager's household may have had little significance.

During the Victorian period, most unmarried women accused of infanticide were acquitted, but since concealment was introduced as a separate crime, many were found guilty. The Sarah Freeman case was just one of many in which, under similar

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<sup>254</sup> *Old Bailey Proceedings Online* (www.oldbaileyonline.org, version 8.0, 13 April 2022), October 1848, trial of SARAH FREEMAN (t18481023-2374).

<sup>255</sup> *Ibidem*.

<sup>256</sup> *Ibidem*.

circumstances, a woman was saved from capital offence but at the same time punished for her behaviour.

Twelve years later, Ann Green, a tavern servant, was also tried at the Old Bailey.<sup>257</sup> Ann was twenty-seven years old and already had a nine-year-old daughter. Her younger child was found hidden under her bed, with a ribbon tied tightly around its neck.<sup>258</sup> Dead infants of unmarried women were usually found hidden in boxes, wardrobes, beds or somewhere outside the house, such as parks, ditches or privies. Furthermore, the most common causes of death were suffocation, strangulation, and drowning. Infants were often found with marks of violence around their necks, ribbons or strings wrapped around them, or pieces of clothing in their mouths. Nevertheless, since most cases were self-delivery, the wounds were often explained away as being those that could be indicated during parturition.

Ann Green's trial is very similar to any other trial of an unmarried woman accused of infanticide, but in her case the father of the child is mentioned, and this was extremely rare. According to the article in the *Leeds Time*, the father was a commercial traveller and lived in the neighbourhood, but his details were not mentioned.<sup>259</sup> Still, this was one of very few such detailed mentions of the child's father when he was not accused of murder or was not an accomplice. As in the previous case, also Ann Green was acquitted of murder and found guilty of concealment. The Old Bailey proceeding did not provide many details of the trial, but according to the *Belfast Morning News* the judge tried to influence the jury in the following manner:

After hearing the evidence, Mr. Justice Willes said that whether or not the prisoner was guilty destroying the life of her offspring was known only to herself a higher power, and if she had really committed that heinous crime she would have to answer for it to the Almighty. He was of opinion, however, that the legal evidence was not sufficient to justify the jury in convicting the prisoner, and he remembered case perfectly well where infant was alleged to have been destroyed by similar means to those alleged against the prisoner, when it was made out as clearly as it possibly could that the ligature that was round the neck had originally been placed there as ornament, as part of the dress, and that the tightness which was alleged to have occasioned the death arose, from the swelling of the body after death. In the present case the post mortem examination did not appear have taken

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<sup>257</sup> *Old Bailey Proceedings Online* ([www.oldbaileyonline.org](http://www.oldbaileyonline.org), version 8.0, 15 April 2022), January 1860, trial of ANN GREEN (27) (t18600130-206).

<sup>258</sup> *Leeds Times*, January 7, 1860, p. 3. (online <https://www.britishnewspaperarchive.co.uk/viewer/BL/0000336/18600107/015/0003?browse=False>; access: 15<sup>th</sup> April 2022).

<sup>259</sup> *Ibidem*.

place until forty-eight hours after death, and this very much tended to favour the supposition that the riband might have become tightened by similar means; and it appeared to him that it would be very unsafe to convict the prisoner, upon the testimony that had been adduced, of the crime of murder, although she would still be amenable to the charge of endeavouring conceal the birth. The jury said they agreed with the view his Lordship taken of the case, and they at once acquitted the prisoner the charge of wilful murder.<sup>260</sup>

Not every trial of unmarried women took place in similar circumstances, as mentioned in the previous examples. In November 1852, eighteen-year-old servant Mercy Steer was tried for murdering of her new-born daughter.<sup>261</sup> When her sister asked her if she was pregnant, she refused to answer. Shortly after giving birth, she left her workplace and moved in with her sister. The owner of their lodgings, Mrs Elizabeth Payne, gave the following testimony:

(...) when she returned she was in a very delicate state of health, she was just able to walk across the kitchen—I asked her what was the matter; she told me she had been ill ever since she had been in London, from catching a cold in going up by the railway—she did not say she had been confined—I attended on her—she asked for some cold water, and I did not feel that she ought to have it—I asked her if she had been to the Lying-in Hospital in London—she said she had not, she had been living at a respectable place, Mr. Whitby's, Commercial-road, Peckham—she was not able to get up next day, and I waited on her, and saw milk running out of her breasts, as if she had been delivered of a child—I moved her out of bed, and saw several stains of blood on the bed—I asked her if she had not had a baby; she said yes, she had—I asked her where it was; she told me she left it in London; that she had cut it up with a carving-knife, and forced it down the water-closet—she said it was born dead—I asked her whether her mistress knew it; she said she did not, for she scoured the water-closet all out, that her mistress should not see anything of it.<sup>262</sup>

This confirms previous claims about constant surveillance of the female body and the help that family members could provide. Shortly after committing the crime, Mercy Steer resigned and fled London. Women usually changed their jobs when they became aware of their pregnancy to avoid prying questions about their appearance. The most sensational part of Mercy Steer's trial was the way she treated her child. Her daughter's body was cut up and put in the water closet. Such an appalling method of disposing of the body caused a stir in the press. Mercy was called an “inhuman mother”<sup>263</sup> and the whole case was described as “shocking”, “horrible”, and “creating a great sensation” wherever it

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<sup>260</sup> *Belfast Morning News*, February 7, 1860, p. 4. (online <https://www.britishnewspaperarchive.co.uk/viewer/BL/0000428/18600207/024/0004?browse=False>, access: 15<sup>th</sup> April 2022).

<sup>261</sup> *Old Bailey Proceedings Online* (www.oldbaileyonline.org, version 8.0, 15 April 2022), November 1852, trial of MERCY STEER (t18521122-73).

<sup>262</sup> *Ibidem*.

<sup>263</sup> *Morning Advertiser*, October 27, 1852, p. 6 (online <https://www.britishnewspaperarchive.co.uk/viewer/BL/0001427/18521027/046/0006?browse=False>, access: 15<sup>th</sup> April 2022).



was mentioned.<sup>264</sup> Even though the crime was considered shocking, after finding the remains, the surgeon also found signs of violence on the skull. Almost, as usual, there was doubt as to whether the child was born alive. Due to these concerns, Mercy Steer was acquitted of murder but found guilty of concealment and severely punished as the journalist from *John Bull* tried to justify:

Young women who acted in this manner towards the offspring of their own body were not persons upon whom light sentence should be passed, and he should therefore order her to be imprisoned and kept to hard labour for one year.<sup>265</sup>

From today's perspective, it may be difficult to understand why even in cases where there were obvious marks of violence, the defendants were acquitted. One reason was that very often surgeons were unable to definitively state whether the child was born alive, due to limitations in medical knowledge and forensic techniques at the time. Furthermore, infanticide was treated as a capital offence and, as it will be analysed in the next chapter, judges and juries were not eager to punish women so severely.

Last but not least, it is worth analysing the case of Caroline Burns. She was the youngest defendant in the infanticide trials from 1834 to 1901. At the time of her trial in March 1863, she was only sixteen years old.<sup>266</sup> What is even more important, she was the only one of the women accused of killing their infants to have been raped. Nonetheless, it should be mentioned that the proceedings and the press do not contain all the information that was provided during the trial, therefore it is possible that another woman was also raped, who also was tried for infanticide, however, based on collected evidence, it was only mentioned during Caroline's trial.

During the trial, Caroline Burns testified that:

(...) in May last, as she was returning home, she was followed by a man near Stepney church. She endeavoured to avoid him, but he overtook her, and placed something over her face that took her breath away. He took her into a house, where her senses failed her. The man subsequently, she stated,

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<sup>264</sup> *Reynolds's Newspaper*, November 07, 1852, p. 16. (online <https://www.britishnewspaperarchive.co.uk/viewer/BL/0000101/18521107/045/0016?browse=False>, access: 15<sup>th</sup> April 2022).

<sup>265</sup> *John Bull*, November 29, 1852, p. 14. (online, <https://www.britishnewspaperarchive.co.uk/viewer/bl/0001945/18521129/054/0014>, access: 15<sup>th</sup> April 2022).

<sup>266</sup> *Old Bailey Proceedings Online* ([www.oldbaileyonline.org](http://www.oldbaileyonline.org), version 8.0, 17 April 2022), March 1863, trial of CAROLINE BURNS (16) (t18630302-471).

threatened her with vengeance if she disclosed anything of what took place, and she was so terrified that she kept the secret.<sup>267</sup>

Some articles suggested that she was seduced, however, her testimony clearly shows that she was raped. Doubts may arise concerning this story, as she may have wanted to conceal her “misconduct”. Nevertheless, considering her young age, it seems plausible that she was attacked. Caroline’s circumstances made the press pity her, and she was called an “innocent-looking girl”<sup>268</sup> and also “diminutive looking girl.”<sup>269</sup> Her young age and fragile appearance were often emphasised, probably to arouse sympathy for her. The circumstances of her crime, as well as the sympathetic approach of the press, could have helped her with the verdict. Even though the surgeons claimed that the child was born alive and then strangled by the umbilical cord, Caroline was acquitted of murder and found guilty of concealment. In her case, however, the jury did not see the need to punish her severely and sentenced her to six weeks in prison. There was also a chance for her to return to normal life after leaving prison, as her mistress was willing to take her back after the end of her sentence.<sup>270</sup>

The trials of unmarried women share many common traits, such as similar occupation, methods, place of hiding the child's body, age of the murdered child (usually killed soon after birth) or the circumstances in which the crime occurred. Moreover, they were also treated similarly by the court, with most of them either found innocent or guilty of concealment, distinguished them from married women accused of infanticide, whose methods, sentences, or the timing of their children's deaths were different.

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<sup>267</sup> *Daily News (London)*, February 24, 1863, p. 7. (online, <https://www.britishnewspaperarchive.co.uk/viewer/BL/0000051/18630224/020/0007?browse=False>, access: 17<sup>th</sup> April 2022).

<sup>268</sup> *Ibidem*; *Sheffield Independent*, February 28, 1863, p. 12. (online, <https://www.britishnewspaperarchive.co.uk/viewer/BL/0000181/18630228/036/0012?browse=False>, access: 17<sup>th</sup> April 2022).

<sup>269</sup> *London Evening Standard*, March 04, 1863, p. 5. (online, <https://www.britishnewspaperarchive.co.uk/viewer/BL/0000609/18630304/059/0005?browse=False>, access: 17<sup>th</sup> April 2022).

<sup>270</sup> *Ibidem*.

## 2.6 Widows

Another group of people who faced infanticide charges were widows. An analysis of the Old Bailey proceeding shows that only 10 women with this legal status were accused of such a crime. Out of them, 6 were found not guilty, 3 were found guilty of concealment, and Margaret Waters was tried for baby farming, as discussed in Chapter 4. As a group of infanticide offenders, they can be placed between single women and married mothers. They were no longer married, so their children were treated as illegitimate, but their social position was more respected and, as the data collected shows, changes in their appearance were not as closely scrutinized as in the case of women who had never been married before. Compared to single mothers, widows tended to be older. All women tried between 1834 and 1901 were over 30 years old. It should also be noted that this was usually not their first pregnancy, so they should be aware of their state.

For example, in 1882, a 35-year-old Elizabeth Thompson was charged with the wilful murder of her baby. She already had two children, aged 10 and 8. She confessed to the woman she was lodging with that she was going to the workhouse to be confined there. According to court records:

(...) the child being born unexpectedly, and as she alleged still-born, she in company with the woman went out and left it on a doorstep in Bloomsbury Square about 9.30 p.m., where it was found by a policeman passing. There being no decisive proof that the child was born alive, MR. POLAND did not press the charge of murder.<sup>271</sup>

The surgeon who examined the body claimed that although there were no marks of violence on the body, the child died not of natural causes, but of neglect. The jury did not find this evidence convincing and Elizabeth was found not guilty of her crimes. The example discussed shows that widows were treated similarly to single mothers. They also gave birth unassisted and claimed the child was stillborn. Additionally, when there was no conclusive proof, they were acquitted or found guilty of concealing the birth. It is also worth noting that the methods of committing infanticide they used were analogous to those used by unmarried offenders. Most often, children were suffocated, and their bodies were abandoned. That was the case of Mary Ann Hoskins, who in 1841 gave birth to her daughter without assistance. The child was found in bed with her, with some marks around her neck.

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<sup>271</sup> *Old Bailey Proceedings Online* ([www.oldbaileyonline.org](http://www.oldbaileyonline.org), version 8.0, 18 April 2022), January 1882, trial of ELIZABETH THOMPSON (35) (t18820109-177).

The surgeon declared that he had seen similar marks on stillborn children, so she was found not guilty.<sup>272</sup>

Another example of the widow being tried for infanticide was the case of Jane Elizabeth Anscone. She was a servant and a mother of two already. Based on witness evidence, she also gave birth without any help and did not communicate with anyone about her state. One of her fellow servants found blood stains on the floor, and then a child's body was found in the dust hole. It was suspected that the baby had been strangled, but surgeons admitted that it could have been caused by tying the umbilical cord around the baby's neck at the time of birth. Due to inconclusive evidence, she was found guilty only of concealment and was sentenced to 8 months imprisonment.<sup>273</sup>

Interestingly, neither the identity of the fathers was mentioned in the proceedings nor in the press. The same was true for unmarried mothers. It may be assumed that women entered into new relationships after the death of their husbands, and were marred with the idea of marriage that never took place. It should be emphasized that the lack of help from the child's father left them with many issues. As the above examples showed they often had other children and had to support them and themselves. Another child would cost them the source of income and unwilling rumours about their morality. That is probably why they did not confide in anyone about their state. Contrary to unmarried others, they were aware of this, but their other circumstances or *modus operandi* were quite similar and definitely differed from the situation of married women.

## **2.7 Married women**

The involvement of married women in infanticide proceedings has not yet been fully explored. Most research on new-born child murders do not include data on these women because their involvement in the crime was considered insignificant. Moreover, the death of a child of an unmarried mother drew more attention from society and the authorities than that of a married one because, as already mentioned, single women were more inclined to commit such a crime. In her book on infanticide in Britain, Anne-Marie

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<sup>272</sup> *London Evening Standard*, February 05, 1841, p. 1. (online, <https://www.britishnewspaperarchive.co.uk/viewer/bl/0000183/18410205/007/0001>, access: 22<sup>nd</sup> April 2022).

<sup>273</sup> *Old Bailey Proceedings Online* ([www.oldbaileyonline.org](http://www.oldbaileyonline.org), version 8.0, 22 April 2022), April 1842, trial of JANE ELIZABETH ANSCONE (t18420404-1305).

Kilday notices the issue of married women, however, like other researchers, she also devotes her work mainly to the group of unmarried women.<sup>274</sup> The only historian to partially address the topic of married women committing infanticide was Hilary Marland, whose research focused on insanity and childbirth in Victorian Britain,<sup>275</sup> and, as it will be discussed later, temporary insanity was often used as a form of defence during their trials.

Because infanticide among married women was more difficult to detect, only forty-two of them were tried at Old Bailey between 1834 and 1901, representing 12% of all female defendants (Fig. 3). Nonetheless, analysis of this group will demonstrate significant differences between them and unmarried women in terms of reasons, methods and general behaviour before, during and after the arrest. Contrary to unmarried defendants, there was no doubt that the crimes were committed by married women, however, in all but three cases, they were found innocent or acquitted on the grounds of temporary insanity.<sup>276</sup> It is also worth mentioning that they were usually older than single offenders, often in their late 20s or 30s. Another characteristic feature of this group of infanticide offenders was that in most cases they did not kill their first child, but the next one. Probably, also based on that, Rolf Sauer claimed that infanticide was one of the methods of limiting the number of family members and it was used until the abortion became safer for women.<sup>277</sup> The main reason for limiting the family was extreme poverty, caused by lack of stable job or alcoholism. It

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<sup>274</sup> A-M. Kilday, op. cit., pp. 26–27; 64–72; 137. Regarding nineteenth-century Britain, she notices that there was a small increase in the number of married defendants, but she claimed that “as the offence was still regarded as the domain of spinsters, as the notion that married women would have no cause to commit infanticide persisted. In the cases involving married women that did come to light in the Victorian era, two motivational factors were typically cited: the desire to limit family size and the need to conceal an extra-marital affair”. She also claims that the number of married women accused of infanticide in nineteenth-century Britain was not substantial, but the author of this dissertation believes that analysing this group of infanticide offenders will help to understand that the people who were involved in killing infants varied more than it is commonly assumed.

<sup>275</sup> H. Marland, *Dangerous Motherhood...*, op. cit., pp. 167–200. Her analysis of the puerperal mania and infanticide was based on trials which took place in Warwickshire.

<sup>276</sup> Up to 1883 people who were found insane or temporary insane while committing the crime received the verdict of not guilty, however, in that year the Parliament passed the *Trial of Lunatics Act 1883*, and since then the verdict of guilty but insane was announced. For more information, see: *Trial of Lunatics Act 1883*, (online, <https://www.legislation.gov.uk/ukpga/Vict/46-47/38/section/2>, access: 18<sup>th</sup> April 2022); *Criminal Cases Review (Insanity) Bill [H.L.]*, (online, <https://publications.parliament.uk/pa/cm199899/cmbills/088/en/99088x--.htm>, access: 18<sup>th</sup> April 2022); J. R. Hamilton, “Insanity Legislation,” *Journal of Medical Ethics*, vol. 12, no. 1, 1986, pp. 13–17.

<sup>277</sup> R. Sauer, op. cit., pp. 83–84; 92.

should also be noted that in some cases, the experience of subsequent births, associated with harsh living conditions, led to mental health issues that nowadays would be called depression or postpartum depression, and which sometimes resulted in infanticide.

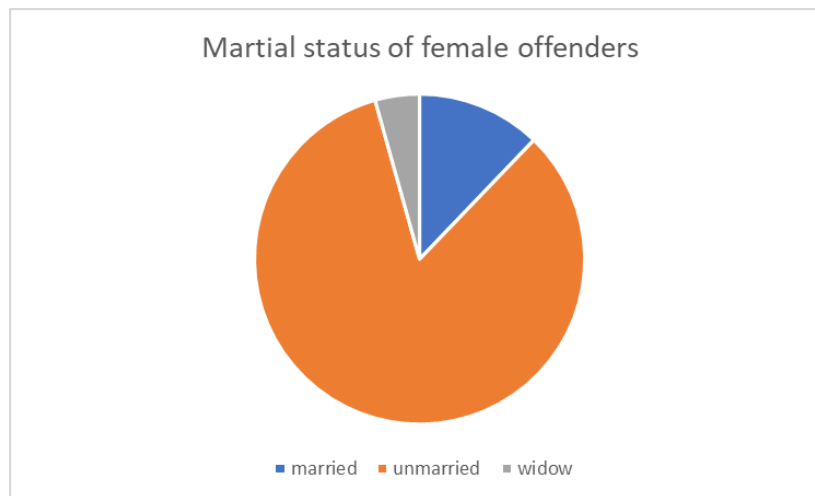


Figure 5. Marital status of female offenders, 1834 – 1901.

Source: Compiled by the author based on Old Bailey's Proceedings.

The trial of Eliza Clark<sup>278</sup> in May 1846 is one of the best examples to illustrate this. Eliza and her husband James had three children, two girls and a boy. The boy, Eliza's stepson, was seven years old, and the daughters were three years and twelve months old, respectively. The family struggled financially so much that Eliza was forced to sell her clothes to buy food for her children, as she testified:

We were married in 1841, and my husband has been frequently out of work, and we have seen a great deal of distress. In the first year he was 13 weeks out of work at one time, and when my Emma was a baby we were so badly off that I was obliged to go to service, and had half-a-crown a week, but when he got work I went home again. In the next year he was out of work four months, and I have many a night wrapped my poor child under my shawl, and gone out into the streets and begged to support us. He has been out of work for two months this year, and last week I took off my flannel petticoat and pawned it to support my family, and I was obliged to sell the remaining little rags of clothing belonging to myself and children, on Saturday morning, to buy the poor little creatures bread, and then we had nothing left but the things we stood upright in.<sup>279</sup>

<sup>278</sup> *Old Bailey Proceedings Online* (www.oldbaileyonline.org, version 8.0, 22 April 2022), May 1846, trial of ELIZA CLARK (t18460511-1008).

<sup>279</sup> *Sun (London)*, May 08, 1846, p. 4. (online, <https://www.britishnewspaperarchive.co.uk/viewer/BL/0002194/18460508/031/0004?browse=False>, access: 22<sup>nd</sup> April 2022).

It should be noted that the defendants' testimonies were extremely rarely quoted in the Old Bailey Proceedings or in press articles, and this one is one of the longest and it also allows for insight into the family life of members of the Victorian working class. Furthermore, the evidence presented in court clearly shows that James Clark was an alcoholic and that was probably one of the reasons why he was unemployed and his family struggled a lot. Interestingly, a few days before Eliza's trial, he was fined for drunkenness.<sup>280</sup> Lack of a permanent job and alcoholism were not the only problems of the Clark family, since James abused his wife when he was drunk. When examined by the court, she claimed that "he was a good husband, when he was sober,"<sup>281</sup> and that statement sums up the difficulties which some women faced during that period. Financial struggle, humiliation and abuse caused Eliza Clark to decide to kill all her children and then herself, in what would today be called an extended suicide. Neighbours who saw her on the day of the crime claimed that she became very negligent in her appearance, complained of headaches (which in the Victorian times could often be a sign of mental problems), and that her husband had beaten her the day before, and the surgeon who examined her afterwards stated that she had a high fever, almost delirium, did not understand the questions being asked, and seemed confused.<sup>282</sup> As stated, all of these factors indicated that there was something was not right with the soundness of her mind.

Eliza Clark took her children and went to the Battersea Bridge, threw them into the Thames and then tried to jump before she was stopped. Only the youngest of her children, Jane, died by drowning. Even though the crime was planned because Eliza wrote a letter to her husband explaining what she had decided, she was found not guilty by reason of insanity and detained in the asylum. The letter she wrote was quoted in the Old Bailey Proceedings and in press articles, and it was a very rare situation where the motives for the crime were so directly stated by the women who committed it:

Now my *Jemmy*, you need not to trouble me with any more of your threats, because I do not mind, and I hope the next wife you get, you will know how to use *them*, and not act a brute to them as you have to me, and bid me good-bye in the morning, and come home at night and knock my head

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<sup>280</sup> *Sun (London)*, May 08, 1846, p. 4. (online, <https://www.britishnewspaperarchive.co.uk/viewer/BL/0002194/18460508/031/0004?browse=False>, access: 22<sup>nd</sup> April 2022).

<sup>281</sup> *Ibidem*.

<sup>282</sup> *Old Bailey Proceedings Online* ([www.oldbaileyonline.org](http://www.oldbaileyonline.org), version 8.0, 22 April 2022), May 1846, trial of ELIZA CLARK (t18460511-1008).

through the panel of the door, and break my rest the whole of the night, and swear in the morning that you would come home drunk and kill me, and I would rather prefer seeing my children go before me, and then I shall know that they did not starve.—E. CLARK. And if you go to Battersea-bridge you will find the children in there.<sup>283</sup>

Abuse, fear, poverty and child care led Eliza Clark to decide to end the lives of her children and herself. It was clear that she saw no better future for them. She was one of many who took such a step in similar circumstances, but very few whose words were preserved through time.

As the exact circumstances might vary, the main cause of infanticide was usually extreme poverty, which was also reflected in the cases of Mary Ann Hamilton. In the Old Bailey Proceedings, Mary Ann is described as married and her family's situation as very miserable. She had two children, a deceased eleven-months-old son and a paralysed daughter. Like Eliza Clark, she also admitted that she did it because she did not want to see her children starve any longer.<sup>284</sup> Even the press highlighted the heart-breaking circumstances of this case. The *Maryport Advertiser* named the circumstances as the “most painful and distressful matter.”<sup>285</sup> What sets this case apart from the previous one and any others is that Mary Ann Hamilton went to the police station to turn herself in.<sup>286</sup> The conditions in which most women accused of infanticide lived were distressing. It should also be noted that the state usually did not help, and even if some help was provided, it was insufficient. It was similar in this case, the family was received parish relief for some time, but it was not successful in improving their condition and eventually led to tragedy.

The examples described above represent married women who had to face destitution and abuse, but there was another reason that led them to commit the crime of infanticide. As the trial of Emma Hayes shows, sometimes women who lost their children

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<sup>283</sup> *Sun (London)*, May 08, 1846, p. 4. (online, <https://www.britishnewspaperarchive.co.uk/viewer/BL/0002194/18460508/031/0004?browse=False>, access: 22<sup>nd</sup> April 2022); *Old Bailey Proceedings Online* (www.oldbaileyonline.org, version 8.0, 22 April 2022), May 1846, trial of ELIZA CLARK (t18460511-1008).

<sup>284</sup> *Morning Post*, December 17, 1861, p. 7. (online, <https://www.britishnewspaperarchive.co.uk/viewer/BL/0000174/18611217/037/0007?browse=False>, access: 22<sup>nd</sup> April 2022).

<sup>285</sup> *Maryport Advertiser*, January 17, 1862, p. 6. (online, <https://www.britishnewspaperarchive.co.uk/viewer/BL/0002274/18620117/050/0006?browse=False>, access 22<sup>nd</sup> April 2022).

<sup>286</sup> *Old Bailey Proceedings Online* (www.oldbaileyonline.org, version 8.0, 22 April 2022), January 1862, trial of MARY ANN HAMILTON (37) (t18620106-183).



and did not receive the help they needed in such difficult times faced some mental issues after giving birth, which was preceded by a grieving period. Emma Hayes, tried in November 1895, began drinking excessively after two of her children died because of fever.<sup>287</sup> As her husband testified, sometimes she was so drunk that she threatened to kill all the children, but he did not believe her.<sup>288</sup> As a consequence of her state, Emma murdered her three-month-old daughter by cutting her throat. The example of Emma Hayes' trial perfectly illustrates that the lack of mental health care and the inability to cope with the loss of children could sometimes lead to an even greater tragedy. It should also be noted that not only the loss of children could cause some issues, but also the loss of any other important person. For example, during the trial of Elizabeth Hillier, it was emphasized that she had lost her mother, after which her behaviour and appearance changed and became more melancholic.<sup>289</sup> So even though she also cut her child's throat, she was found not guilty on the basis of temporary insanity.

Another distinction between married and unmarried offenders was the use of more brutal methods of killing infants. As already mentioned, infants murdered by their single mothers most often lost their lives by drowning, suffocation or strangulation, and extreme methods such as decapitation were rarely used. Contrary to that, married women who also drowned or suffocated their children quite often had their throats cut. Another method typical of this group of defendants was throwing the child out of the window. These were

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<sup>287</sup> *Old Bailey Proceedings Online* ([www.oldbaileyonline.org](http://www.oldbaileyonline.org), version 8.0, 22 April 2022), November 1895, trial of EMMA HAYES (38) (t18951118-47).

<sup>288</sup> *Globe*, November 08, 1895, p. 4. (online, <https://www.britishnewspaperarchive.co.uk/viewer/BL/0001652/18951108/031/0004?browse=False>, access: 22<sup>nd</sup> April 2022).

<sup>289</sup> *Lloyd's Weekly Newspaper*, May 23, 1875, p. 4. (online, <https://www.britishnewspaperarchive.co.uk/viewer/BL/0000079/18750523/015/0004?browse=False>, access: 22<sup>nd</sup> April 2022).

the cases of Harriet Goodliffe,<sup>290</sup> Annie Player,<sup>291</sup> Esther Base<sup>292</sup> and Elizabeth Box.<sup>293</sup> Also characteristic of these women was the fact that they were all described as extremely agitated, excited and unconscious of their actions and, like the majority of married offenders, they were found insane at the time of committing the crime. Moreover, according to the data, the married women murdered their children in the most cruel way. In January 1881, Sarah Norman was tried for the ferocious murder of her infant daughter and, as the trial determined, she suffered from puerperal mania.<sup>294</sup> This trial was also very distressing for the public, as noted in the *Globe*:

Sarah Norman, 21, married woman, was charged with the wilful murder her child at Beigate. Mr. Karen prosecuted, and Mr. Wilmot (at the request of the court) defended the prisoner. This was most painful case. The prisoner was delivered of a child and afterwards she was very ill, and at times out of her mind. She begged those around her to take her child away, and after the temporary absence of her nurse it was found that the prisoner had stabbed her child, causing its death, and then placed the body the fire. After the evidence of the medical attendant, the jury thought the evidence sufficient to show that the woman was insane, and she was ordered to be detained.<sup>295</sup>

Given the dominant Victorian concept of an ideal mother, who always cares for her children and cannot harm them, it was challenging to accept that even a married woman could commit such a dreadful act. Therefore, it is plausible that even if the methods of married women were more brutal, they were usually acquitted because due to mental problems. Furthermore, it also seems possible that the more violent methods were considered the result of insanity and not a customary way of getting rid of an unwanted child, as was the case with single mothers.

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<sup>290</sup> *Old Bailey Proceedings Online* (www.oldbaileyonline.org, version 8.0, 22 April 2022), May 1863, trial of HARRIET GOODLIFFE (31) (t18630511-716).

<sup>291</sup> *Old Bailey Proceedings Online* (www.oldbaileyonline.org, version 8.0, 22 April 2022), January 1884, trial of ANNIE PLAYER (25) (t18840107-219).

<sup>292</sup> *Old Bailey Proceedings Online* (www.oldbaileyonline.org, version 8.0, 22 April 2022), January 1886, trial of ESTHER BASE (31) (t18860111-140).

<sup>293</sup> *Old Bailey Proceedings Online* (www.oldbaileyonline.org, version 8.0, 22 April 2022), May 1893, trial of ELIZABETH BOX (33) (t18930529-575).

<sup>294</sup> *Old Bailey Proceedings Online* (www.oldbaileyonline.org, version 8.0, 22 April 2022), January 1881, trial of SARAH NORMAN (21) (t18810110-201).

<sup>295</sup> *Globe*, January 12, 1881, p. 2. (online, <https://www.britishnewspaperarchive.co.uk/viewer/BL/0001652/18810112/010/0002?browse=False>, access: 22<sup>nd</sup> April 2022).

When discussing married perpetrators, it is worth mentioning two more things. One is social status and the other is infidelity. In a general description of data obtained from the Old Bailey Proceedings, it was found that most of the defendants were working class and that their living conditions were extremely poor, as many examples indicate. Nevertheless, it should be noted that in the case of married women, some of them came from the middle class or very rich working class. For example, Catherine Savill, tried in 1854 for the murder of her infant son, employed two servants, which indicated her considerable wealth compared to other defendants.<sup>296</sup> Unfortunately, there is no information about her husband's occupation, only the mention that he was a respected man.<sup>297</sup>

Another example is Amelia Elizabeth Burt, whose husband was employed in the gas trade at Greenwich Hospital.<sup>298</sup> She too could live quite comfortably, but after one of her children, along with her sister and mother, died of smallpox, her behaviour changed and she became depressed, which ended with her child being thrown into the Thames. It can be argued that general living conditions did not change much, as wealthier women also killed their children, however, it should be emphasized that their motives for that were different than those of the majority. Furthermore, usually the position in society and living conditions of married women were much better than those of single women who had to support themselves. Nonetheless, sometimes when a husband was struggling to find a job or to deal with addictions, the motives of married and unmarried women met at the point of financial struggle.

As mentioned earlier, Kilday stated that the most common motives of married women were the need to limit the number of family members and to cover up the effects of infidelity. The first claim is not strongly supported by data from the Old Bailey, which shows that the causes of infanticide were rather a mix of economic factors and personal circumstances that led to mental problems. Another claim, that married women committed infanticide to conceal their extramarital affairs, is supported only by two trials that took

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<sup>296</sup> *Old Bailey Proceedings Online* ([www.oldbaileyonline.org](http://www.oldbaileyonline.org), version 8.0, 22 April 2022), May 1854, trial of CATHERINE SAVILL (t18540508-682).

<sup>297</sup> *Leeds Times*, April 22, 1854, p. 7. (online, <https://www.britishnewspaperarchive.co.uk/viewer/BL/0000336/18540422/034/0007?browse=False>, access 22<sup>nd</sup> 2022).

<sup>298</sup> *Old Bailey Proceedings Online* ([www.oldbaileyonline.org](http://www.oldbaileyonline.org), version 8.0, 22 April 2022), December 1852, trial of AMELIA ELIZABETH BURT (t18521213-149).

place in Victorian London. The first of them was the trial of Adelaide Freedman, which took place in November 1869. According to the proceedings, she was married and had one child by her husband, who had gone to Lima to work five years earlier. From then on, Adelaide lived with her father and sister, her husband sent her money, but it was not enough and it came very rarely.<sup>299</sup> In the meantime, she became pregnant and what happened next was quite predictable:

This was the case, reported some time since, in which the woman fearing the return of her husband from sea after five years' absence, and his discovery of the fact that she was the mother of a child a few weeks old, attempted to poison herself and the child, and succeeded only in the case of the latter.<sup>300</sup>

According to her sister's statement, after the confinement, Adelaide was very dull and melancholic, and also complained of headaches.<sup>301</sup> This testimony was supported by evidence of hereditary insanity in Adelaide's family. Therefore, despite a clear indication of guilt, she was acquitted.

The second woman to cheat on her husband was Jessie Bevan. She worked as a machinist at Drury Lane Theatre and had twelve or thirteen children, but only five of them were alive at the time of the trial. The youngest of them, also a victim of this crime, was only four months old at the time. It was an illegitimate child. Her husband worked as a plumber, but apparently had some not specified unspecified legal problems and was imprisoned for two years. After returning home and understanding the current situation, he took all the children except the youngest and the furniture and left without informing his wife about their new surroundings.<sup>302</sup> Contrary to Adelaide Freedman, Jessie Boven was found guilty and sentenced to ten years of penal servitude. There may be one reason – during Adelaide's trial, a lot of evidence was presented confirming her poor mental state, so even though she poisoned her infant, the jury did not sentence her. Despite some

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<sup>299</sup> *Old Bailey Proceedings Online* (www.oldbaileyonline.org, version 8.0, 22 April 2022), November 1869, trial of ADELAIDE FREEDMAN (30) (t18691122-36).

<sup>300</sup> *London Evening Standard*, October 28, 1869, p. 6. (online, <https://www.britishnewspaperarchive.co.uk/viewer/BL/0000183/18691028/040/0006?browse=False>, access 22<sup>nd</sup> 2022).

<sup>301</sup> *Old Bailey Proceedings Online* (www.oldbaileyonline.org, version 8.0, 22 April 2022), November 1869, trial of ADELAIDE FREEDMAN (30) (t18691122-36).

<sup>302</sup> *Old Bailey Proceedings Online* (www.oldbaileyonline.org, version 8.0, 22 April 2022), March 1890, trial of JESSIE BEVAN (39) (t18900303-284).

similarities, such as infidelity, the situation was different in the Jessie Bovan case. She was undoubtedly distressed by her husband's leaving her and blamed it on her youngest child, and stated that she could not live without the rest of her family. Despite the circumstances, the crime seemed planned. Jessie Bovan visited several chemists to obtain laudanum, which she used to poison her child. She also wrote two letters to her eldest daughter, expressing her disappointment in her and saying goodbye to all of them. Jessie took almost all of the laudanum she bought, except for a few drops, which she gave to the child. This amount was only enough to kill the baby, but not the mother. As mentioned in the *Morning Post*, she had no counsel during the trial<sup>303</sup> and, perhaps even more importantly, no one defended her actions or in any way indicated that the circumstances had in any way influenced her mind. This led to the announcement of one of the harshest punishments for married women, which was ruled at the Old Bailey, however, it should be noted that the jury was not satisfied with the verdict and prepared a petition to Home Secretary to reduce her sentence.<sup>304</sup> The result of that action is unknown; a petition was created, and it was not surprising in the Victorian period, however there is no indication that Jessie Bovan was released from prison early and it is possible that she died in 1893, three years after her trial, but the information is not fully confirmed.<sup>305</sup>

Compared to unmarried offenders, married women showed greater diversity in their methods, social positions, and motives for committing crimes. Common to both groups were economic factors that led to infanticide. Nonetheless, the circumstances in which they committed the crime differed. An important factor in the trials of unmarried women is the social stigma and shame associated with raising an illegitimate child. Moreover, emotions such as denial of their condition and postpartum panic also played a significant role. This was different for married women, who did not have to worry about how their moral conduct will be perceived by the rest of society, unless they were unfaithful to their husband and

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<sup>303</sup> *Morning Post*, January 29, 1890, p. 3. (online, <https://www.britishnewspaperarchive.co.uk/viewer/BL/0000174/18900129/024/0003?browse=False>, access: 22<sup>nd</sup> April 2022).

<sup>304</sup> *London Evening Standard*, March 20, 1890, p. 2. (online, <https://www.britishnewspaperarchive.co.uk/viewer/BL/0000183/18900320/012/0002?browse=False>, access: 22<sup>nd</sup> 2022).

<sup>305</sup> *The Digital Panopticon* Jessie Bevan b. 1851, Life Archive ID obpdef1-284-18900303 (<https://www.digitalpanopticon.org/life?id=obpdef1-284-18900303>). Version 1.2.1 consulted 22<sup>nd</sup> April 2022.

simultaneously gave birth to an illegitimate child. Nevertheless, if their husbands were absent for long period of time, it was easier to hide the effects of extramarital affairs. Furthermore, the aspect of mental health issues was a much more important factor in their trials than the strategy of defending unmarried women. This subject is thoroughly analysed in the next chapter; however, it should be noted that only seven single women were acquitted due to temporary insanity, and in the case of married women, there were twenty-seven of them. That constituted more than 50 per cent of all married offenders tried at the Old Bailey. Both married and unmarried women were crushed by their harsh circumstances, and since the system of social and medical assistance was practically non-existent, sometimes their decision could be seen as a cry for help.

## 2.8 Men

When examining the crime of infanticide, men, as another group of offenders, are usually not included in the research. Furthermore, it has been repeatedly mentioned that infanticide was, and at some point still is, considered a female crime. A research that fully analyses the murder of children committed by men is Cathryn B. A. Wilson's doctoral dissertation *Mad, Sad, or Bad?: Newspaper and Judicial Representations of Men Who Killed Children in Victorian England, 1860–1900*.<sup>306</sup> In her research, she emphasizes the fact that also in the cases of paternal murder, the children who lost their lives were most often born out of wedlock, many of them were legitimate. Like many other historians, she also claims that men were sometimes excluded from infanticide research because they were treated more harshly by the court and also because their motives were different from women's.<sup>307</sup> This different approach to men was explained by the Victorian view of masculinity. Most studies on masculinity during that period focused on a men's identity outside the house, which corresponded with the theory of separate spheres. Nevertheless, the approach toward fatherhood also changed during the Victorian period, with violence against children and women being less tolerated and fathers being seen as the moral

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<sup>306</sup> In her research, she analysed the cases where the victims were maximum sixteen-years-old. So, only part of the research considered infanticidal fathers. C. B. A. Wilson, *Mad, Sad, or Bad?: Newspaper and Judicial Representations of Men Who Killed Children in Victorian England, 1860–1900*, University of Essex, 2012, (Unpublished PhD dissertation).

<sup>307</sup> Ibidem, pp. 22–25; J. N. Ainsley, "'Some Mysterious Agency': Women, Violent Crime, and the Insanity Acquittal in the Victorian Courtroom", *Canadian Journal of History*, vol. 35, no. 1, 2000, p. 45. G. Frost, "'I Am Master Here': Illegitimacy, Masculinity and Violence in Victorian England", in *The Politics of Domestic Authority in Britain Since 1800*, ed. by L. Delap, B. Griffin, A. Wills, Basingstoke, 2009, pp. 27–42.

protectors.<sup>308</sup> That could be the reason why men were thought to be treated differently during infanticide trials. It should also be noted that infanticide committed by women was perceived as an emotional reaction to circumstances, however, that was not a characteristic of men, whose actions were perceived as pure violence and cruelty.<sup>309</sup> Nonetheless, Jade Shepherd's research, in which she examined the cases of men committed to the Broadmoor Criminal Lunatic Asylum for murdering their children, sheds a slightly different light on the aspect of male infanticide.<sup>310</sup> Her research argues that working-class fathers who committed infanticide were treated with sympathy by the court and the press, especially when fulfilling their fatherly responsibilities, and often pleaded insanity during trials.<sup>311</sup>

An analysis of the Old Bailey Proceedings from 1834 to 1901 reveals that twenty-six men were accused of infanticide, and only four were found guilty. This suggests that they were not necessarily treated more harshly than women in such cases. It should be noted that in the first half of the nineteenth century, male defendants were treated more severely than women and were more likely to be found guilty and sentenced to death, but from the second part of the century this changed. The case of Frederick Finnegan is an excellent example illustrating this procedure.<sup>312</sup> In 1834, he was tried for drowning his daughter Charlotte Matilda in the ditch. As one witness testified:

I heard the prisoner say to his wife, "I have murdered"—I heard no question to which that was an answer—I heard nothing before that—the prisoner's wife said, "Oh God, where is my child?"—the prisoner said, "She is happy and in heaven"—at that time he had the infant in his arms—I took it from his arms, on his saying the child was happy, and in heaven—I said, "Fred, don't say so"—he said, "Betsy, you think I am trifling; I tell you I am not; she is happy, and in heaven; she will want no more earthly provision."<sup>313</sup>

Such testimony could indicate that the prisoner's mental state at the time of the crime was not good, especially since it was also confirmed that he and his wife separated,

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<sup>308</sup> C. Emsley, *Crime and Society in England 1750–1900*, Harlow, 1996, p. 107; J. Tosh, *Manliness and Masculinities: Nineteenth-Century Britain*, Harlow, 2005, p. 130. See also, J. Tosh, *A Man's Place. Masculinity and the Middle-Class Home in Victorian England*, London, 2007.

<sup>309</sup> J. McDonagh, *Child Murder...*, op. cit., pp. 35–44; 178–183

<sup>310</sup> J. Shepherd, "'One of the Best Fathers until He Went Out of His Mind': Paternal Child-Murder, 1864–1900," *Journal of Victorian Culture*, volume 18, no. 1, 2013, pp. 17–35.

<sup>311</sup> *Ibidem*, pp. 30–35.

<sup>312</sup> *Old Bailey Proceedings Online* ([www.oldbaileyonline.org](http://www.oldbaileyonline.org), version 8.0, 25 April 2022), November 1834, trial of FREDERICK FINNEGAN (t18341124-5).

<sup>313</sup> *Ibidem*.

however, no reason was given. The prisoner himself claimed that he “left the child there under great excitement of mind, and he cannot tell how it came by its death.”<sup>314</sup> It was also claimed that the defendant was in mourning after his mother’s death, which could also have influenced his condition, but some witnesses also claimed that he was not agitated and behaved normally before committing the crime. The surgeon also testified, but only regarding the probable cause of death, not Frederick Finnegan’s mental state. Most trials in which men pleaded insanity took place in the second half of the century, and then, with similar testimonies and probably also a medical opinion regarding his mental state, Frederick Finnegan would have had a better chance of hearing a verdict of not guilty and insane at the time of the crime. Despite an attempt to reduce his sentence, he was found guilty of murder and sentenced to death. He was hanged on 1<sup>st</sup> December 1834,<sup>315</sup> which is quite surprising because the sentence could have been commuted to deportation to a colony, which happened more often.

A similar case occurred with Edward Dwyer, who also was found guilty of murdering his child by dropping him on the ground in bar. As in the previous case, this time the prisoner was not in good relations with his wife and to some witnesses he seemed excited, while others claimed he was behaving as usual.<sup>316</sup> As Frederick Finnegan, he was also found guilty of murder, but for some reason the jury recommended mercy to him. Therefore, his sentence was changed from death to transportation to Van Diemen’s Land (today Tasmania) for twenty-one years.<sup>317</sup>

Moreover, it should also be noted that fifteen out of twenty-six men accused of infanticide were found not guilty. Of these, nine were completely acquitted, while the rest were declared insane at the time of the crime. Acquitted men were usually tried as accomplices, and when there was no clear evidence to confirm their guilt, they were found

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<sup>314</sup> *Old Bailey Proceedings Online* (www.oldbaileyonline.org, version 8.0, 25 April 2022), November 1834, trial of FREDERICK FINNEGAN (t18341124-5).

<sup>315</sup> *The Digital Panopticon*, Frederick Finnegan b. 1806, Life Archive ID obpdef1-5-18341124 (https://www.digitalpanopticon.org/life?id=obpdef1-5-18341124). Version 1.2.1 consulted 24<sup>th</sup> April 2022.

<sup>316</sup> *Old Bailey Proceedings Online* (www.oldbaileyonline.org, version 8.0, 25 April 2022), November 1843, trial of EDWARD DWYER (t18431127-267).

<sup>317</sup> *The Digital Panopticon* Edward Dwyer b. 1818, Life Archive ID obpdef1-267-18431127 (https://www.digitalpanopticon.org/life?id=obpdef1-267-18431127). Version 1.2.1 consulted 25<sup>th</sup> April 2022. He was transported in March 1844, and there is also information that on 28<sup>th</sup> February 1859 he received a ticket to leave, and during his time in Tasmania, he tried to run away many times.



not guilty, and the mothers of the child were usually found guilty of concealment. It was not the constant rule to judge in this way, and there were also cases where men were found guilty along with their wives or concubines. For example, Charles Price and Julia Price were tried in 1897 for causing the death of their twins by neglect.<sup>318</sup> In a similar case, Edward Stack and his wife Honora were also accused of causing their child's death by negligence, to be specific for starving it to death. Edward Stack was acquitted because there was no evidence to convict him, but his wife was found guilty of manslaughter. This may be surprising as both have been described as having problems with alcohol and neglecting their children.<sup>319</sup>

Nonetheless, there was also a case similar to James Dilley and Mary Rainbow when both were found guilty of murder, but only he was hanged. James Dilly was a postman who had a wife and three children, as well as a lover, Mary Rainbow. She had two children, and it was assumed that the father of the older one was Dilley. The body of a child was found near a road in Finsbury Park. According to the surgeon who examined the body, the cause of death was a head injury and the child was also under the influence of narcotic. Moreover, the child was left almost naked in the park, which also contributed to his death. Many witnesses at the process claimed that Mary Rainbow was very affectionate mother, and they also believed that the defendants were married, as they presented themselves as Mr. and Mrs. Hull. Sometime after she gave birth, Dilley came and took her and the child from the lodgings and, as Mary testified:

Dilley brought me to Finsbury- park Station of the Great Northern Railway, and when outside the station took the baby from me. I asked him what he was going to do, when he said he was going to

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<sup>318</sup> In this case, Julia was found not guilty, but Charles was sentenced to nine months of hard labour. The testimonies show that Charles drank a lot, which meant that Julia was often left without money to feed her children (they had five); she was a ladies' velvet hat and bonnet maker, and often went to the city to find a job. Interestingly, Charles Price testified that the children died due to Mrs. Price's uncleanness and the sour milk of their neighbour who sometimes looked after the twins. His employer also testified that he never saw Mr. Price drunk. *Old Bailey Proceedings Online* ([www.oldbaileyonline.org](http://www.oldbaileyonline.org), version 8.0, 25 April 2022), December 1897, trial of CHARLES PRICE (57) JULIA PRICE (37) (t18971213-79).

<sup>319</sup> *Old Bailey Proceedings Online* ([www.oldbaileyonline.org](http://www.oldbaileyonline.org), version 8.0, 25 April 2022), September 1865, trial of EDWARD STACK (39) HONORA STACK (28) (t18650918-884); *London Evening Standard*, September 20, 1865, p. 7. (online, <https://www.britishnewspaperarchive.co.uk/viewer/BL/0000609/18650920/074/0007?browse=False>, access: 25<sup>th</sup> April 2022); *Belfast Morning News*, September 22, 1865, p.8. (online, <https://www.britishnewspaperarchive.co.uk/viewer/BL/0000428/18650922/071/0008?browse=False>, access: 25<sup>th</sup> April 2022).

make away with it. He hurried off, and when he came back to me, he did not have the child. We went on to Liverpool -street, staying there all night.<sup>320</sup>

Nevertheless, witnesses try to portray Mary Rainbow as a good mother, but both she and the women under Dilley's influence were found guilty of murder and sentenced to death.<sup>321</sup> Yet, the jury strongly recommended her for mercy, and seven hundred people signed the petition, including clergy and other respectable people, to change her sentence.<sup>322</sup> Eventually, Mary Rainbow's sentence was commuted to imprisonment, and in 1889, ten years after the trial, she was granted a prison license.<sup>323</sup> James Dilley was not so lucky, his sentence was not changed and he was hanged for murder, but it is worth paying attention to the way he was described in the press. It can be assumed that he should have been portrayed as a monster and cold-blooded murderer, but it was not the case. According to the press, he genuinely cared about Mary, admitted the horrid of his crime, and was even grateful for the treatment he received in prison:

EXECUTIONS. Thomas Dilley, who was convicted at the last session of the Central Criminal Court before Mr. Justice Hawkins, with a young woman named Mary Rainbow, of the murder of their female illegitimate child, an infant about three weeks old, was executed yesterday morning at eight o'clock within the walls of the gaol of Newgate. The jury at the trial strongly recommended the female prisoner to mercy, and on Saturday last, when the wretched woman appeared to have given up the hope that her life would be spared, the Home Secretary sent a communication to the prison to the effect that the prisoner would be respited during her Majesty's pleasure. The prisoner Dilley appears to have asserted that he alone was guilty of the actual violence, and he appeared to be exceedingly anxious that the life of his wretched companion should be spared, and when he was informed by the ordinary that she had been respited he appeared to be very much gratified. Since his conviction Dilley has been visited by his wife, his brother, and his three children. Both prisoners appear to have paid great attention to the ministrations of the Rev. Mr. Lloyd Jones, the ordinary of Newgate, and Dilley frequently expressed his horror of the crime he had committed, and also admitted the justice of his sentence. Shortly before the time appointed for the execution the prisoner took occasion to express his thanks to the ordinary, to Mr. Sidney Smith, the governor, and the other officials in whose charge he had been for the kindness he had received from them during the time he had been in the prison. When the drop fell the prisoner appeared to struggle for some time before life was extinct. Dr. Thompson, a medical gentleman who was present at the execution by an order from the Home-office, made an examination of the prisoner, probably for some scientific object, and

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<sup>320</sup> *Morning Post*, August 21, 1879, p. 3. (online, <https://www.britishnewspaperarchive.co.uk/viewer/BL/0000174/18790821/016/0003?browse=False>, access: 25<sup>th</sup> April 2022).

<sup>321</sup> *Old Bailey Proceedings Online* ([www.oldbaileyonline.org](http://www.oldbaileyonline.org), version 8.0, 25 April 2022), August 1879, trial of JAMES DILLEY (41) MARY RAINBOW (28) (t18790805-698).

<sup>322</sup> *Morning Post*, August 21, 1879, p. 3. (online, <https://www.britishnewspaperarchive.co.uk/viewer/BL/0000174/18790821/016/0003?browse=False>, access: 25<sup>th</sup> April 2022).

<sup>323</sup> *The Digital Panopticon*, Mary Rainbow b. 1851, Life Archive ID obpdef2-698-18790805 (<https://www.digitalpanopticon.org/life?id=obpdef2-698-18790805>). Version 1.2.1 consulted 25<sup>th</sup> April 2022.

after hanging the usual time the body was cut down and placed in a shell to await the coroner's inquest, which was held soon afterwards.<sup>324</sup>

In addition to being found guilty of murder or innocent, some men were found guilty of manslaughter, depending on circumstances in which the crime occurred. For example, James Arnold was found guilty of manslaughter only because he was drunk at the time of the crime. While he was arguing with his concubine, he wanted to hit her, but he missed and hit the baby she was holding in her arms.<sup>325</sup> It can be noticed that alcohol as a cause of infanticide was also significant in both women and men trials. There were other reasons why men committed infanticide, such as the inability to bear the child's crying. That seemed to be the reason for the crime committed by Clarence Henry Longman. As Caroline Aldridge testified, the prisoner came to live in her house with his wife and three-month-old son. The child seemed to be very healthy, but cried a lot and suddenly stopped at one night. No one saw it again until it was found dead. What is interesting in this case, Longman told his wife that he took the child to his friends and fled to Ireland, changed his name and enlisted in the army.<sup>326</sup> After a year, he felt so guilty that he decided to turn himself in, but still claimed that he had not killed the child, that the child was deficient, and that he had not disposed of the body. He also mentioned two people who were supposed to dispose of the body, but he claimed that he did not know them. Despite that, he was found guilty and sentenced to twenty years of penal servitude.<sup>327</sup>

There were also other circumstances that could result in a finding of guilt for manslaughter. Frederick James Chapman was tried in 1893 for drowning his five-day old son in a pile of water. He should have been found guilty of murder, but because he admitted his guilt and his situation and mental state were confirmed to be distressing, he was

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<sup>324</sup> *Morning Post*, August 26, 1879, p. 5. (online, <https://www.britishnewspaperarchive.co.uk/viewer/BL/0000174/18790826/031/0005?browse=False>, access: 25<sup>th</sup> April 2022). Sometimes the names and surnames recorded in the press may vary from those from the proceedings.

<sup>325</sup> *Old Bailey Proceedings Online* ([www.oldbaileyonline.org](http://www.oldbaileyonline.org), version 8.0, 25 April 2022), March 1875, trial of JAMES ARNOLD (21) (t18750301-232).

<sup>326</sup> *South London Press*, October 19, 1889, p. 10. (online, <https://www.britishnewspaperarchive.co.uk/viewer/BL/0000213/18891019/176/0010?browse=False>, access 25<sup>th</sup> April 2022).

<sup>327</sup> *Old Bailey Proceedings Online* ([www.oldbaileyonline.org](http://www.oldbaileyonline.org), version 8.0, 25 April 2022), November 1889, trial of CLARENCE HENRY LONGMAN (19) (t18891118-53).

discharged on recognizances.<sup>328</sup> According to the proceedings and the press, the boy was born ill and there were serious indications that he will be blind, but what the prisoner was even more worried about was the fact of his wife infidelity. The proceedings and the press showed that the defendant's wife had been unfaithful to him, however, as the reports vary, doubts arose whether she did it on her own free will or whether she was raped by the prisoner's brother.<sup>329</sup> Despite that, the jury found Frederick James Chapman's state so distressful that even if he had been found guilty of manslaughter, his sentence would have been suspended. It should be noted that such treatment of men at the nineteenth-century court contradicts the thesis that they were treated more harshly than women and that they could not count on mercy.

Furthermore, there was another group of male offenders that should be briefly characterised. From the second half of the nineteenth century, not only women but also men pleaded insanity at court and, as J. Shepherd argued when examining men committed to Broadmoor, they were quite successful. In Victorian London, six men successfully claimed mental health issues at trial and were found not guilty by reason of insanity. Although this was a very small probe, those men had many similarities, such as job loss, lack of constant employment, accidents that changed their usual behaviour, and illness that could cause uncontrolled behaviour. It is also worth noting that those men were perceived as good fathers, however, circumstances influenced their actions. It was similar in the case of James Hayes, who in 1875 was tried for killing his infant daughter. The defendant had six children, and the youngest, who was murdered, was about ten or eleven days old. James Hayes had been suffering from bronchitis and pleurisy for some time and was taking some medication. His neighbour testified that:

I have known the prisoner several years, we have lived there four years; he has always been a kind-hearted, hard-working man, a good father and a good husband, he always lived on affectionate terms with his wife and children, he belonged to a sick club and was attended, by the club doctor; he was

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<sup>328</sup> *Old Bailey Proceedings Online* ([www.oldbaileyonline.org](http://www.oldbaileyonline.org), version 8.0, 25 April 2022), March 1893, trial of FREDERICK JAMES CHAPMAN (29) (t18930306-262).

<sup>329</sup> *Illustrated Police News*, February 25, 1893, p. 2. (online, <https://www.britishnewspaperarchive.co.uk/viewer/BL/0000072/18930225/013/0002?browse=False>; access 26<sup>th</sup> April 2022; *Morning Post*, March 08, 1893, p. 4. (online, <https://www.britishnewspaperarchive.co.uk/viewer/BL/0000174/18930308/023/0004?browse=False>, access: 26<sup>th</sup> April 2022).

suffering from bronchitis and pleurisy—he complained of the medicine that was given him—he said the last draught was murdering him, he said that on this very Friday afternoon.<sup>330</sup>

He was diagnosed with delirium tremens. The diagnosis was made after the crime based on his behaviour; he was excited at the time of committing the crime and was also convicted that his wife, a doctor and four imaginary men wanted to poison him with drugs.<sup>331</sup> Evidence of his illness connected with fragile mental health and testimony that he had previously been a good father and husband led to the verdict of not guilty by reason of insanity. Another male defendant who also heard voices telling him to kill his child while committing the crime was Henry Dracott Jackson. He was a former postman, but at the time of the murder he had been unemployed for the past two years. Susan Jackson, the defendant's mother, testified that his wife was the one who provided for the family, which was widely commented on by the neighbourhood. She also mentioned that the family lived in great distress and she, along with several others, helped them whenever they could. She also confirmed that the prisoner sometimes behaved strangely, but overall he was a good husband, father and son. She also stated that:

(...) the prisoner's father died of diabetes, and his father's sister died of the same complaint—there are two relatives in lunatic asylums, one a cousin, and the other his grandmother; she died in the asylum—I always thought the prisoner had his father's complaint—he has been very peculiar at times—he has occasionally absented himself for two or three days; he has been very melancholy and peculiar, but not sufficient to lock him up; he has been getting worse and worse the last twelve months—he is a very kind husband and father, and a very good son.<sup>332</sup>

It can be noted that a family history of mental illness for both male and female defendants was very helpful in obtaining an acquittal. When Henry spoke to the surgeon after the crime was discovered, he claimed that “at the time he committed the act he seemed to hear a voice, not human, telling him to do the deed, and he felt he must kill the child; and after he had killed it, he felt a satisfaction at having killed it.”<sup>333</sup> Such behaviour, his mother's testimony and the fact that he had practically not worked for several years, as well as evidence that he had suffered from melancholy several years before the crime, led the

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<sup>330</sup> *Old Bailey Proceedings Online* ([www.oldbaileyonline.org](http://www.oldbaileyonline.org), version 8.0, 04 May 2022), January 1875, trial of JAMES HAYES (43) (t18750111-145).

<sup>331</sup> *Ibidem*.

<sup>332</sup> *Old Bailey Proceedings Online* ([www.oldbaileyonline.org](http://www.oldbaileyonline.org), version 8.0, 04 May 2022), October 1895, trial of HENRY DRACOTT JACKSON (27) (t18951021-831).

<sup>333</sup> *Ibidem*.

surgeon to express the opinion that Henry Dracott Jackson was insane at the time of the murder, it was enough therefore finding him guilty of the act, but not of committing it.<sup>334</sup>

There was also a conviction that the so-called fits or epilepsy could cause insanity, as one surgeon claimed, “melancholia almost invariably follows an attack of epilepsy, and that during and after such an attack the patient is irresponsible for what he says and does.”<sup>335</sup> So when Joseph Wood and Alfred James Bartlett killed their children and were tried at the Old Bailey, it became clear that they were suffering from epileptic fits. This led the surgeons and the jury to declare them insane at the time of the crime. In Joseph’s case, he suffered from this illness since childhood, but after his marriage the situation worsened. Also, his older son was very ill at the time of the crime, which could also have caused his mental distress.<sup>336</sup> Contrary to that, Alfred began to suffer from the fits after an accident in which he fell from a height and has had some health issues ever since. It was also confirmed that, as in the previous case, he suffered from melancholia, became depressed and considered suicide.<sup>337</sup> It should also be noted that both defendants had good character and were considered good fathers before the crimes happened.

Furthermore, it is also worth mentioning that some male defendants also suffered the loss of their children. It was similar in the cases of the female defendants, who also were considered mentally unstable after the death of their children. In 1881, Richard Hammett was tried for murdering his two sons, four-year-old Albert, and twelve-month-old Arthur. A few months before the crime, all his children contracted scarlet fever and one of them died. According to witnesses, the defendant was very fond of his daughter and grieved her death for a long time. This event, combined with an accident that left Richard with a serious leg injury and out of work for the past three weeks, caused his mental breakdown. Not only did he kill his two sons, but also tried to commit suicide. According to the medical opinion, he suffered from delirium, which at the time of the crime resulted

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<sup>334</sup> *Old Bailey Proceedings Online* (www.oldbaileyonline.org, version 8.0, 04 May 2022), October 1895, trial of HENRY DRACOTT JACKSON (27) (t18951021-831).

<sup>335</sup> *Old Bailey Proceedings Online* (www.oldbaileyonline.org, version 8.0, 04 May 2022), March 1891, trial of ALFRED JAMES BARTLETT (49) (t18910309-286).

<sup>336</sup> *Old Bailey Proceedings Online* (www.oldbaileyonline.org, version 8.0, 04 May 2022), May 1890, trial of JOSEPH WOOD (24) (t18900519-457).

<sup>337</sup> *Old Bailey Proceedings Online* (www.oldbaileyonline.org, version 8.0, 04 May 2022), March 1891, trial of ALFRED JAMES BARTLETT (49) (t18910309-286).

in memory loss, which meant that Richard was insane and could not be held responsible for his actions. He was found not guilty on the grounds of insanity and detained in the asylum.<sup>338</sup>

The number of men accused of infanticide is very small, however, their participation in this crime should also be recorded. Contrary to the aforementioned thesis, since the second part of the century, male defendants have not been treated more harshly than the female ones, and it could be also established that they successfully pleaded insanity in the courtroom, previously associated only with infanticidal mothers. In the case of men, it is more difficult to determine the motives for infanticide because their trials and circumstances usually had no common factors. Nonetheless, depression caused by unemployment and related poverty or the loss of other children, illness either congenital or caused by accident, and alcohol abuse seem to be the most common motives of male infanticide. Another motivation, also noticeable in the proceeding, is the need of hiding or disposing of an infant born out of wedlock. Sometimes it was the father himself who did this, as in the case of James Dilley, but in some circumstances, they could instigate the murder.<sup>339</sup>

As presented in this chapter, those tried at the Old Bailey of London for infanticide were not a homogenous group. They consisted of unmarried and married women, widows or men. Despite the confirmation that in the Victorian period the vast majority of defendants were single women, the analysis of the collected data also shows that they were not the only ones to commit this crime and were not always left alone in difficult

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<sup>338</sup> *Old Bailey Proceedings Online* ([www.oldbaileyonline.org](http://www.oldbaileyonline.org), version 8.0, 04 May 2022), December 1881, trial of RICHARD HAMMETT (39) (t18811212-111).

<sup>339</sup> In 1884, Sidney Clay was sentenced to six months hard labour for soliciting Eustace Julian de Gruyter to kill his son. Sidney did not want to provide for his illegitimate child, he lied to its mother that he had found a wet nurse, but he also went to the surgeon and their conversation looked as follows: “‘I want you to get rid of this child for me’ – I said ‘What do you mean?’ – he said ‘I want you to put something in your medicine so as to slowly poison the child, and I will pay you any reasonable amount of money’ – I said ‘I refuse to have anything to do with it’ – he said ‘Why not? you will be handsomely paid; other doctors do it and no one is a bit the wiser’, and also ‘It would be easy to get rid of this child by putting something in its food or in your bottles of medicine, and I mean to get rid of it, and I shall call on you for a certificate’ – I said ‘If I suspect foul play I shall withhold it’ – he said ‘You need not know anything at all about it, it will be done neatly and quietly, and after. You have given the certificate you can ask for what fee you like’”. He openly admitted to the surgeon that he was a father and that he was married and did not want to pay for the child for the next sixteen years. He also thought that the rumours about the affair and the child would ruin him. For more information, see: *Old Bailey Proceedings Online* ([www.oldbaileyonline.org](http://www.oldbaileyonline.org), version 8.0, 04 May 2022), February 1884, trial of SIDNEY CLAY (21) (t18840225-358).

circumstances. It should be however remembered that in cases of unmarried women, loneliness and lack of support from family or friends were a significant factor leading to committing a crime. The motives for infanticide also varied between the three distinguished groups, however, one was common to all. It was poverty that had many different causes, but often led to tragic decisions. It is also worth noting that mental health issues were emphasised as one of the motives, especially in the second half of the century. The use of the insanity plea, as well as the course of the infanticide processes and an attempt to clarify the often surprising decisions of the jury, are discussed in the next chapter.



## Chapter 3

### 3.1 Infanticide in court

In February 1850 the *Morning Post* reported that:

The bodies of two infants, evidently murdered, have been found; the one on Monday, in Regent's Park, the other one on Tuesday in St. George's- road, Pimlico. No clues of the perpetrators of this crimes has been discovered.<sup>340</sup>

This incident was not exceptional, and the bodies of dead infants were found in London's parks and streets during the Victorian period, but also in later times.<sup>341</sup> The complex part of the investigation began after the body was found, and the next step was to identify a suspect. In the Victorian era, police work and forensic methods were getting better, but it was still not enough to identify every potential culprit, since, for example, DNA analysis, which allows for the differentiation of individuals within a species, was introduced in the 1980s.<sup>342</sup> The most important clues for investigators were the place where the infant's body was found and its clothes or other belongings that could lead to the perpetrator. Consequently, when the infant's body was found outdoors, it was challenging to proceed with the investigation. The *Register of Murders and Deaths by Violence, 1891–1917* compiled by the Metropolitan Police contains data regarding infant murder only for the years 1891, 1892 and 1893; it is not known why in subsequent years only violent deaths of adults were registered. Nonetheless, it still provides information that shows that many infant murderers were never caught. Data show that in 1891, 42 bodies of infants were discovered, but only in four cases was the suspect found and brought to justice. The following year, 39 dead infants were discovered in parks and streets of London, and only

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<sup>340</sup> *Morning Post*, February 28, 1850, p. 5; (online <https://www.britishnewspaperarchive.co.uk/viewer/bl/0000174/18500228/016/0005>, access: 7<sup>th</sup> November 2022).

<sup>341</sup> In 1927, the young Irish girl, Mary O'Donoghue, murdered her five-weeks-old son John by strangling him. The child's body was found at Euston Road in London. She was found guilty and recommended to mercy. The trial sparked debate over the definition of a 'newly born child' as it was believed that she should be dealt with under the Infanticide Act of 1922, but she was tried for murder, as the court decided that her child could not be considered as a new-born infant. Ultimately, her sentence was changed from death to life imprisonment. It should be also noted that her trial led to a debate over 'newly born' definition and the passage of a new Infanticide Act in 1938, where the age of the victim was defined as "under the age of twelve months". For more information, see: MEPO 3/1630, The National Archives, Kew (access: 22<sup>nd</sup> October 2022), CO 323/1615/22, The National Archives, Kew (access: 22<sup>nd</sup> October 2022), and LCO 2/1329, The National Archives, Kew (access: 22<sup>nd</sup> October 2022).

<sup>342</sup> For more information, see K. D. Watson, *Forensic Medicine in Western Society. A History*, New York, 2011, pp. 46–71; 12–150; *Crime and Punishment in England. A Sourcebook*, ed. by A. Barrett, Ch. Harrison, London, 1999, pp. 224–257.

one person was the perpetrator. In 1893, the numbers were much lower, as only three bodies were mentioned in the register, and all suspects were caught and sent to trial.<sup>343</sup>

It should also be noted that in a situation where no traces of suspects were found, the police tried to encourage potential witnesses to come to the police station and provide information about the murder. The National Archives contain documents confirming this statement. For example, in December 1854, the body of the murdered infant was found in Cheltenham, Gloucestershire. The perpetrator was never caught, and the jury's verdict could only be: "wilful murder against some person at present unknown."<sup>344</sup> This was the impulse that led the coroner of Gloucestershire, Joseph Lovegrove, to write to the Home Secretary, who was then Henry Temple, Viscount Palmerston. The coroner mentioned that:

From the number of instances that have passed under my own notice within the last 3 years, it is evident the Crime of Infanticide is practised in Cheltenham to a very great extent, and from the circumstances that the bodies are generally found away from houses, and that detection is waded it is thought that in many instances there must have been accomplices and it is indeed suspected by the Police that there are persons in Cheltenham who assist in the concealment of the births of the children (if not in their actual murder) by secreting their bodies.<sup>345</sup>

Later in the letter, he also stated that the jury proposed announcing a reward for people who would provide additional evidence and help identify the perpetrators. He believed it could also help reduce crime. He assumed that a potential criminal would be afraid of possible detection, so he or she would not commit a crime.<sup>346</sup> Unfortunately, there is no response from Home Secretary in the files, so there is no information whether he accepted such a proposal. Nonetheless, there are sources indicating that crime data was also collected using this method. Elaine Farrell's book states that this method was also used in Ireland to encourage the public to report the police and share their knowledge of infanticide.<sup>347</sup> Moreover, there is an 1871 poster in the National Archives offering a reward of £50 to anyone with information regarding the death of a female infant found in Holford Mews, Clerkenwell, London. (photo 3.1.). Such rewards could help catch criminals, however, they could also cause many disturbances, such as the emergence of scammers trying to extort money, as well as an increase in the circulation of rumours and suspicions, especially

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<sup>343</sup> MEPO 20/1, The National Archives, Kew (access: 25<sup>th</sup> October 2022).

<sup>344</sup> HO 45/6248, The National Archives, Kew (access: 25<sup>th</sup> October 2022).

<sup>345</sup> Ibidem.

<sup>346</sup> Ibidem.

<sup>347</sup> E. Farrell, *op. cit.*, pp. 122–123.

against unmarried women, for whom any changes in their bodies (such as weight gain) were closely observed by members of their communities. Henceforth, during the trial of Jane Hale in 1836, it was mentioned that her mistress suspected her pregnancy, and even if Jane denied it, her contract was terminated because of this suspicion<sup>348</sup>. Similar doubts were raised by the co-workers, neighbours and employers during the trials of Jane Wales in 1839,<sup>349</sup> Sarah Freeman in 1848,<sup>350</sup> Susan Arter in 1862,<sup>351</sup> Elizabeth Strangeway in 1864,<sup>352</sup> and many others.

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<sup>348</sup> *Old Bailey Proceedings Online* (www.oldbaileyonline.org, version 8.0, 07 November 2022), November 1836, trial of JANE HALE (t18361128-53a).

<sup>349</sup> *Old Bailey Proceedings Online* (www.oldbaileyonline.org, version 8.0, 07 November 2022), September 1839, trial of JANE WALES (t18390916-2506); *Bell's New Weekly Messenger*, September 22, 1839, p. 5; (online <https://www.britishnewspaperarchive.co.uk/viewer/bl/0001319/18390922/026/0005>, access: 7<sup>th</sup> November 2022).

<sup>350</sup> *Old Bailey Proceedings Online* (www.oldbaileyonline.org, version 8.0, 07 November 2022), October 1848, trial of SARAH FREEMAN (t18481023-2374).

<sup>351</sup> *Old Bailey Proceedings Online* (www.oldbaileyonline.org, version 8.0, 07 November 2022), September 1862, trial of SUSAN ARTER (28), (t18620922-1017); *Morning Post*, August 29, 1862, p. 7; (online <https://www.britishnewspaperarchive.co.uk/viewer/BL/0000174/18620829/037/0007?browse=False>, access: 7<sup>th</sup> November 2022); *Lancaster Gazette*, September 06, 1862, p. 2; (online <https://www.britishnewspaperarchive.co.uk/viewer/BL/0000488/18620906/007/0002?browse=False>, access: 7<sup>th</sup> November 2022).

<sup>352</sup> *Old Bailey Proceedings Online* (www.oldbaileyonline.org, version 8.0, 07 November 2022), December 1864, trial of ELIZABETH STRANGWAY (16) (t18641212-140).

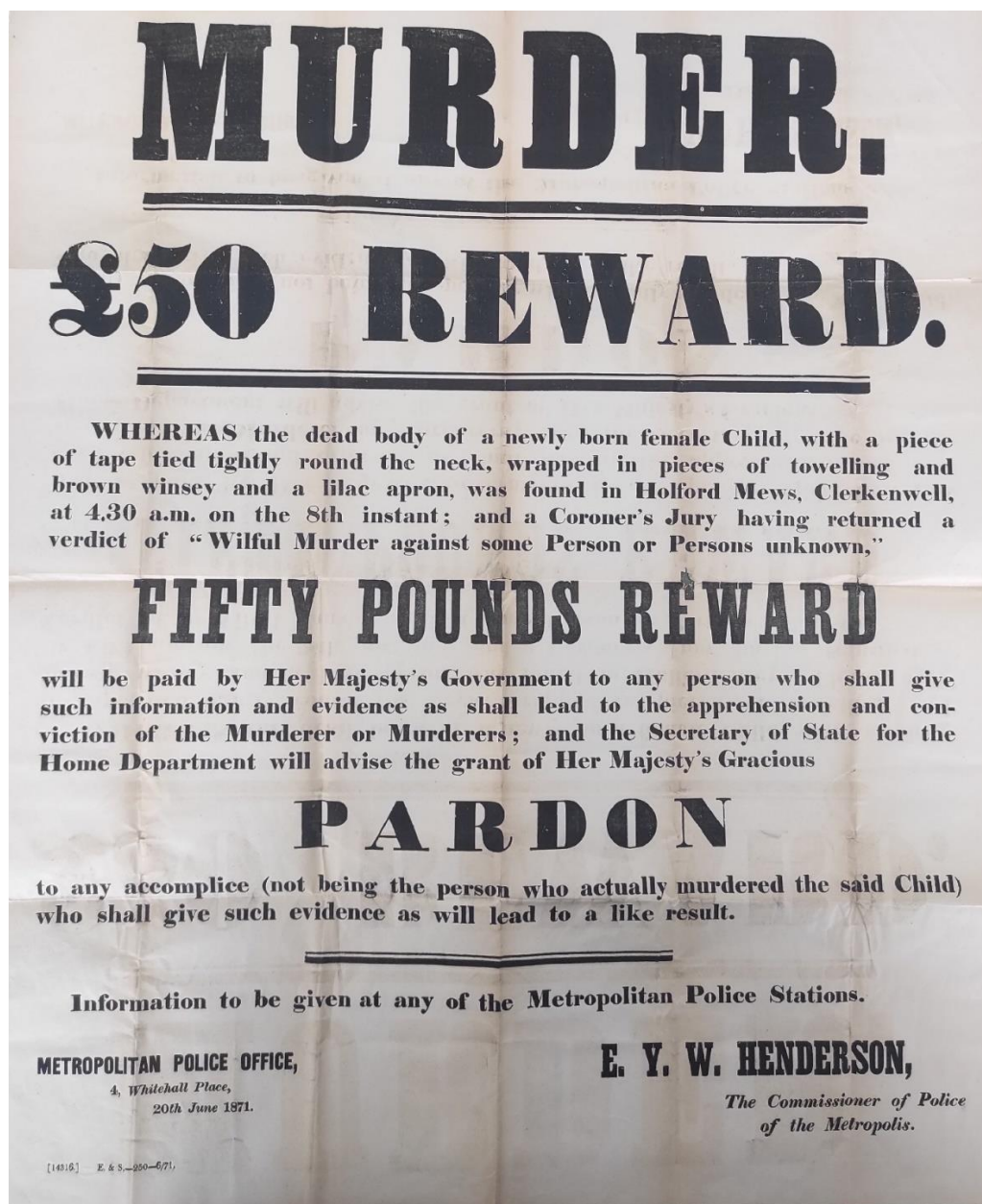


Figure 6. Reward poster, Clerkenwell, 1871.<sup>353</sup>

Source: MEPO 3/94, The National Archives, Kew. Photo taken by the author.

It should be noted that in most of cases conducted at Old Bailey and considered in this dissertation, the bodies of infants were found near the accused's home or, most often, hidden in their rooms, usually in boxes or in their beds. Nonetheless, there are also a few examples of more complicated cases. For example, in 1888, the body of an infant was found

<sup>353</sup> MEPO 3/94, The National Archives, Kew (access: 28<sup>th</sup> October 2022). Photo taken by the author.

under the seat of a carriage at Mansion House Station on the Underground Railway. Identifying a potential suspect would be very difficult, if not for the material in which the child's body was wrapped. Two names were spotted during the inspection: "Miss Marx, Falcon Hotel, Gough-square, Fleet Street" and also "From Spence and Co., St. Paul's Churchyard, London". Based on this evidence, the police decided to visit Falcon Hotel and inquire about the recently found body. Consequently, young servant Ruth Newman was arrested. Ultimately, even though the surgeon stated that the child was born alive and died of suffocation, she was acquitted.<sup>354</sup>

Another example in which the investigation was more demanding was the case of Kate Collyer (alias Kate Shannon or Annie Scott), who in 1887 was tried for the murder of her daughter, Nora Ada Collyer (alias Stobbs or Scott), aged 17 weeks and 2 days. The body of a child was found in Battersea Park by a gardener. The child was wrapped in a shawl and based on that evidence it was identified as Kate Collyer's child. Interestingly, in this case, she was supported by Mrs. Ada Mocatta from the Charity Organisation Society, who wanted to help the defendant and even offered adoption, so that the prisoner could take care of herself. Kate Collyer refused because she wanted to keep her daughter, but she failed. At the time of arrest, she admitted that:

I did not know the child was dead; I meant to leave it somewhere, and thought of Hyde Park first; then I thought there were too many people there, so I took the train from Victoria to Battersea Park. I got there about 12, and strolled about, not knowing where to put it, when I saw a woman sitting on some Stones knitting with string; she said to me 'What is the matter?' I told her my trouble, and she said 'Have you got any money?' I said 'Yes, 5s. 6d.:' she said 'Give me 5s. and I will put it down for you. I will leave it where it can be found, and if I cannot do that I will take it to the workhouse, and if it is put on the steps they are bound to take it in.' Then I gave it to her, and went straight to the pier and took the boat to Westminster, and then the train to Brixton. After I left Mrs. Morgan in Brighton I walked about all that night, Tuesday, Wednesday, and Thursday; on Friday an old gentleman, a German, took me home. I got work on the following Wednesday, and on Thursday I left him and took the lodgings at 63, William Street, where I remained until the policeman took me on Saturday, as I was going back to work after dinner. On the Monday that I took baby away I pawned some things at a pawnshop in John Street, Edwards', I think, and got 5s. for them. The things pawned were a red pelisse and child's bonnet, and, I think, a dress, in the name of Ann Sweetman, John Street.<sup>355</sup>

It can be noted that she wanted the child to be left in a place where it could be easily found alive, however, it did not work out. Kate Collyer was found guilty of manslaughter and

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<sup>354</sup> *Old Bailey Proceedings Online* (www.oldbaileyonline.org, version 8.0, 07 November 2022), September 1888, trial of RUTH NEWMAN (21) (t18880917-823); *Morning Post*, August 18, 1888, p. 2; (online <https://www.britishnewspaperarchive.co.uk/viewer/bl/0000174/18880818/018/0002>, access: 7<sup>th</sup> November 2022).

<sup>355</sup> *Old Bailey Proceedings Online* (www.oldbaileyonline.org, version 8.0, 07 November 2022), December 1887, trial of KATE COLLYER (18) (t18871212-167).

sentenced to five years penal servitude. In 1890, she was granted prison licence and was not sentenced for similar crimes in the later years.<sup>356</sup>

It should be noted that in cases where the murderer was not identified and there was clear evidence that the infant's death was the result of violence, the potential criminal was found guilty and sentenced to death in absentia.<sup>357</sup> After identifying and arresting the suspect, they were in prison awaiting trial. The first court to which the accused was taken was the magistrates court, where the first examination took place. The court could put the suspects on trial or acquit them based on the evidence gathered. The second type of court in which defendants could be tried for their crime was the coroner's inquest. The coroner's responsibility included investigating every suspected crime that occurred in their district; therefore every case of infanticide was tried before them. During the inquisition, the coroner sat on a jury (between 12 to 23 men) and all witnesses had to be summoned and their testimony recorded in the form of written depositions. After considering all the evidence, the jury's task was to reach a verdict. A person could be found guilty or innocent, and if found guilty of murder or manslaughter, they were sent to trial in the principal court, which in London was the Old Bailey.<sup>358</sup>

Before the trial began, the grand jury would proceed to present the indictment. It was their duty to dismiss weak cases that lacked sufficient evidence. The grand jury consisted of 12 to 23 men who reached their decision by majority vote. They questioned prosecution witnesses in the absence of the suspect, their solicitor or defence witnesses. The grand jury could ignore the charge and, for example, the coroner's court decision and

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<sup>356</sup> CRIM 1/28/4, The National Archives, Kew (access: 27<sup>th</sup> October 2022); *The Digital Panopticon* Kate Collyer b. 1869, Life Archive ID obpdef1-167-18871212 (<https://www.digitalpanopticon.org/life?id=obpdef1-167-18871212>). Version 1.2.1, consulted 7<sup>th</sup> November 2022; *London Evening Standard*, October 22, 1887, p. 2; (online <https://www.britishnewspaperarchive.co.uk/viewer/BL/0000183/18871022/014/0002?browse=False>, access: 7<sup>th</sup> November 2022); *Dundee Courier*, December 22, 1887, p. 3; (online <https://www.britishnewspaperarchive.co.uk/viewer/BL/0000162/18871222/016/0003?browse=False>, access: 7<sup>th</sup> November 2022); *Birkenhead News*, January 14, 1888, p. 3; (online <https://www.britishnewspaperarchive.co.uk/viewer/BL/0003040/18880114/031/0003?browse=False>, access: 7<sup>th</sup> November 2022).

<sup>357</sup> MEPO 20/1, The National Archives, Kew (access: 25<sup>th</sup> October 2022).

<sup>358</sup> D. Bentley, *English Criminal Justice in the Nineteenth Century*, London, 1998, pp. 7–11. For more information, see also: M. B. Emmerichs, "Getting Away with Murder? Homicide and the Coroners in Nineteenth-Century London," *Social Science History*, vol. 25, no. 1, 2001, pp. 93–100; J. Davis, "A Poor Man's System of Justice: The London Police Courts in the Second Half of the Nineteenth Century," *The Historical Journal*, vol. 27, no. 2, 1984, pp. 309–335.

dismiss the case, however, if a majority of the jurors agreed that there was sufficient evidence to proceed with the case, it went to trial.<sup>359</sup> The Old Bailey Proceedings recorded that between 1834 and 1901, 371 people were brought to trial for murder or concealment of an infant, and of these, 14 were released before a grand jury trial.

### 3.2. The severity of the sentences handed down at the Old Bailey

A person suspected of infanticide could be charged with murder or lesser offences such as manslaughter, concealment, or desertion. The punishment imposed on people found guilty of the crimes they were charged with varied not only depending on the circumstances of the crime, but also depended on the decade in which the sentence was handed down. As mentioned in the previous chapter, courts were often accused of being too lenient towards infanticide offenders, and that narrative was especially prevalent in the 1860s. Data gathered from the Old Bailey Proceedings show that, in fact, more defendants were found guilty of their crimes in the 1860s than were released. This may have been due to the fact that acquittals had clearly dominated in previous decades and the general public wanted it to change.

*Table 2. Sentences pronounced at the Old Bailey against female defendants, 1834–1901.*

Sentence per decade – women							
	Guilty of murder	Guilty of manslaughter	Guilty of concealment	Not guilty	Guilty but insane	Guilty of attempting murder	Guilty of exposure
1834–1840	1	0	10	6	2	0	0
1841–1850	2	3	26	32	6	0	0
1851–1860	1	4	19	31	4	0	0
1861–1870	2	5	27	15	3	0	0
1871–1880	2	2	12	20	2	0	1
1881–1890	0	6	21	19	11	1	0
1891–1901	4	5	12	19	8	1	0
<b>Total</b>	<b>12</b>	<b>25</b>	<b>127</b>	<b>142</b>	<b>36</b>	<b>2</b>	<b>1</b>

Source: Compiled by the author based on Old Bailey's Proceedings.

<sup>359</sup> D. Bentley, *op. cit.*, pp. 131–134; E. Farrell, *op. cit.*, pp. 72–73.

This approach changed little in the following decade, as public attention shifted from “common” infanticide to the problem of baby farming. Nonetheless, in the 1880s and 1890s the trend changed again and further guilty verdicts were announced. It is also consistent with the statistics on the number of trials per decade (Tab. 2), where it can be seen that the number of infanticide trials increased during the last two decades of the Victorian period. Moreover, it can also be assumed that the jury’s approach was generally more rigorous in those decades after the hardly lenient 1870s period. For example, over the last decade, more women have been found guilty of murder, and the verdict of manslaughter remained high. It should also be mentioned that at the end of the Victorian era, more and more women were found guilty of their crimes, but not responsible for their actions due to temporary insanity. This is related to the development of medicine, psychiatry, and the increasing participation in trials of doctors, whose testimonies essentially influenced the final verdict.

*Table 3. Sentences pronounced at the Old Bailey against male defendants, 1834–1901.*

<b>Sentence per decade – men</b>						
	<b>Guilty of murder</b>	<b>Guilty of manslaughter</b>	<b>Not guilty</b>	<b>Guilty but insane</b>	<b>Guilty of soliciting to kill</b>	<b>Guilty of exposure</b>
1834–1840	1	0	1	0	0	0
1841–1850	1	0	4	0	0	0
1851–1860	0	0	1	0	0	0
1861–1870	0	0	1	0	0	0
1871–1880	2	1	0	1	0	1
1881–1890	0	1	1	2	1	0
1891–1901	0	3	1	3	0	0
<b>Total</b>	<b>4</b>	<b>5</b>	<b>9</b>	<b>6</b>	<b>1</b>	<b>1</b>

Source: Compiled by the author based on Old Bailey’s Proceedings.

As it was mentioned in chapter 2, male infanticide has not yet been fully explored, just as it was not a particularly important issue in the Victorian period, where killing infants was considered a female crime. Nevertheless, men also faced trial for this crime, and their sentences varied throughout the decades of the nineteenth century. The analysis of data from the Old Bailey Proceedings reveals that since the 1870s, the mental state of men at



the time of committing infanticide was taken into consideration, which had not happened before. Furthermore, it is noticeable that, apart from the 1840s, most of the men were tried in the second half of the Victorian period and the severity of their sentences was not as high as assumed, for instance, in the last two decades none of them was found guilty of infant murder. Moreover, based on the collected data, in the first part of the period in question, sentences for men were more lenient than after the 1870s, when men were more often sentenced to manslaughter or other lesser crimes related to the death of an infant. It also seems that male defendants were not treated more harshly than female offenders, however, given that only 26 men were accused of committing this crime, an exact genders comparison is not possible.

### 3.3. Medical expertise

During the Victorian period, the medical practitioner testified in most infanticide trial. An analysis of the Old Bailey Proceedings shows that the evidence was crucial for the verdict. The best description of medical professionals' responsibilities in infanticide trials can be found in William Ryan Burke's book *Infanticide: it's Law, Prevalence and History*, which was published in London in 1862, when the moral panic over infanticide was evident. Doctor Burke was one of the people who openly criticised the law and leniency of the courts, and even called their verdicts a "mockery of justice."<sup>360</sup>

Nonetheless, he accurately analysed the position of medical practitioners presenting evidence in court. Doctors' duties included:

- demonstrating whether the child was fully born when the violence was committed,
- determining the age and maturity of the child (whether it was fully born or not),
- providing proof whether the child was born dead or alive,
- determining whether the child was intentionally harmed or whether the wounds occurred after its death.<sup>361</sup>

The most difficult aspect was to determine whether the child was born completely before death. According to the law, if any part of the child remained in the birth canal, even if the

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<sup>360</sup> W. R. Burke, *Infanticide: it's Law, Prevalence and History*, London, 1862, p. 4.

<sup>361</sup> *Ibidem*, pp. 4–6.

baby was subjected to violence, it was not considered murder. It is worth mentioning that this fact could not be established without a witness who could see that the child lived separately from its mother. Nonetheless, most women gave birth without any assistance, and, as analysis of the Old Bailey data shows, when doubts arose, doctors were unable to support their claims with scientific evidence. Therefore, Burke's criticism towards this law is understandable.

The second most problematic issue to establish was whether the child was stillborn or not. The most common used method was the hydrostatic lungs test. The examination itself was not overly complicated: if the lungs floated, it meant that the child was breathing, while if they sank, it was proof that it was born dead. This method was first used in the seventeenth century and was criticized in the nineteenth century because the lungs of stillborn children sometimes floated during the test. However, since no good alternative had been identified, it continued to be used.<sup>362</sup>

Rachel Dixon's research shows that medical practitioners participated in infanticide trials even before the Victorian period. In previous centuries, midwives were called upon to assess the maturity of the babies and the cause of their death. When testifying, they relied mainly on their work experience, however, due to the lack of clear scientific methods confirming their statements, they were not always taken into consideration by the jury and the judge.<sup>363</sup> By the eighteenth century, midwives were no longer considered experts in infanticide trials. Male medical practitioners began to dominate court hearings. The change was related to the court's expectation of certainty. Infanticide was a capital offence and neither the jury nor the judge wanted to sentence innocent women to death. Contrary to male practitioners, midwives could only examine the child's body externally. Therefore, the midwives were unable to provide certain evidence as to the cause of baby's death. They were therefore replaced by male practitioners who were aware of the new experiments and could perform a post-mortem.<sup>364</sup> Surgeons who could also perform lung test were expected to provide the expected level of assurance during trials. However, it did not happen. As

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<sup>362</sup> W. Hutchinson, *A Dissertation on Infanticide in Relations to Physiology and Jurisprudence*, London, 1820, p. 55–64; W. Cumin, *The Proofs of Infanticide considered: Including Dr. Hunter's Tract on Child Murder, with Illustrative Notes: and a Summary of the Present State of Knowledge of that Subject*, London, 1836, pp. 18–19, 59–70.

<sup>363</sup> R. Dixon, *op. cit.*, pp. 58–77.

<sup>364</sup> *Ibidem*, p. 77.

Doctor Burke's thesis and the numerous examples of infanticide trials described in this dissertation show, the testimonies provided by surgeons were often questioned. Hydrostatic lung test was criticised, and medical practitioners did not have modern knowledge and scientific methods to unequivocally determine the cause of death. When asked about this, surgeons tended to express the possibility that most of the child's injuries could have resulted from the fact that women gave birth unattended. Moreover, apart from the criticised lung test, they had no other method to determine whether the child was stillborn or not. They could observe the baby's size, weight and overall appearance, but that was also done by the midwives in previous centuries. The infanticide trials analysed in this dissertation show that medical evidence could be overturned. It should be noted that R. Dixon reached the same conclusion.<sup>365</sup>

Considering all, so many loopholes in the law and the uncertainty of the medical evidence, it was relatively easy to undermine medical evidence, especially when the defendant aroused the sympathy of the court. Nonetheless, as the following analysis of infanticide verdicts shows, medical expertise was a significant part of infanticide trials and gained increasing influence and recognition as the century progressed.

### **3.4. Concealment of birth in the court**

After the infanticide law was amended in 1803, a new category of crimes dominated trials in the nineteenth century. Under Lord Ellenborough's Act, a court could make a judgment for concealment of birth even if the defendant had been found not guilty of actual murder or manslaughter. It can be assumed that this was treated as a kind of safety buffer, and when a jury suspected foul play but did not have enough evidence to sentence for infanticide, they could always punish the suspect for concealing the birth, because there were usually more than enough witnesses to confirm that women denied pregnancy or labour. A person found guilty of concealment could be sentenced to a maximum of 2 years in prison or a fine. According to the data collected from the Old Bailey Proceedings, between 1834 and 1901, 110 women were accused of this crime, and 127 were found guilty of it. The discrepancy between the numbers is due to the specific application of this law. In England, even if women were not indicted primarily with that crime and were, for example,

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<sup>365</sup> R. Dixon, *op. cit.*, 93–113.

accused of murder but were proclaimed innocent of this crime, they could still be sentenced for concealment if there was enough evidence for it. In 1850, Ellen Hoar was accused of murdering her new-born illegitimate child by suffocating it with a cord. She was found not guilty of that crime, however, because she denied having a child and its body was found in a box in her room, she was sentenced to 6 months of imprisonment for concealment.<sup>366</sup> A similar scenario took place during the trial of Ann Reed in 1861. She was also accused of murdering her new-born daughter by cutting her throat, however, the surgeon was not entirely sure what this the real cause of death was, as the umbilical cord was not tied, which could have caused haemorrhage. The baby's body was concealed in Ann Reed's box, and she did not mention to anyone that she had had a child, so she was found guilty of concealment and sentenced to 12 months of hard labour.<sup>367</sup>

Analysis of data from Old Bailey Proceedings shows that the jury and judge were rather inconsistent while sentencing of concealment. It might have been due to the unambiguous definition of the law and concerns about what should be considered as the concealment or secret disposal of a child's body. For example, in 1877, a domestic servant Emma Carpenter was accused of concealing the birth of her child. On Sunday morning, March 18, her employer went down to the scullery and found marks of blood there. She then asked the accused what happened, but she did not want to talk about it. Mrs. Susan Ranson then fetched her friend and together they discovered the child's body in the copper. The surgeon claimed that it was suffocated. Regardless of the circumstances of the case, Emma Carpenter was not accused of murder, and during her trial she was found not guilty of concealment.<sup>368</sup> The situation was similar in the case of Catherine Morgan, who in 1888

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<sup>366</sup> *Old Bailey Proceedings Online* (www.oldbaileyonline.org, version 8.0, 26 November 2022), September 1850, trial of ELLEN HOAR (t18500916-1590); *Evening Mail*, September 20, 1850, p. 3; (online <https://www.britishnewspaperarchive.co.uk/viewer/BL/0001316/18500920/012/0003?browse=False>, access: 26<sup>th</sup> November 2022).

<sup>367</sup> *Old Bailey Proceedings Online* (www.oldbaileyonline.org, version 8.0, 26 November 2022), April 1861, trial of ANN REED (18) (t18610408-344); *John Bull*, April 13, 1861, p. 14; (online <https://www.britishnewspaperarchive.co.uk/viewer/BL/0001945/18610413/055/0014?browse=False>, access: 26<sup>th</sup> November 2022); *Bedfordshire Mercury*, April 27 1861, p. 8; (online <https://www.britishnewspaperarchive.co.uk/viewer/BL/0001290/18610427/093/0008?browse=False>, access: 26<sup>th</sup> November 2022).

<sup>368</sup> *Old Bailey Proceedings Online* (www.oldbaileyonline.org, version 8.0, 05 December 2022), April 1877, trial of EMMA CARPENTER (32) (t18770409-378); *Islington Gazette*, April 09, 1877, p. 3; (online <https://www.britishnewspaperarchive.co.uk/viewer/bl/0000438/18770409/078/0003>, access: 05<sup>th</sup> December 2022); *Maryport Advertiser*, April 13 1877, p. 3; (online

was accused of concealing the birth of her child. Surprisingly, she was found not guilty of her crimes, however, according to witnesses she denied being pregnant and hid the child's body in "an old apple barrel in a disused cellar."<sup>369</sup> Her employer also stated that she had no business in the cellar and no reason to go there. Also, no traces of preparing the child's clothes were found in her belongings. Catherine Morgan stated that the child was stillborn, so she put the child in the barrel. The evidence collected was not enough to sentence her for the concealment or secret disposition of the body.<sup>370</sup>

A similar situation occurred in 1890, when Lily Nettleton was tried for concealment of her birth. The child's body was found in a dustbin at the rear of 89 Halton-road. After examination, the surgeon concluded that the child was born dead, however, the place where the body was found inclined a concealment or a secret disposition. Nevertheless, during her trial at Old Bailey, Lily Nettleton was found not guilty. It may be suspected that such a verdict was proclaimed because she admitted to her sister that she was the mother of that child.<sup>371</sup> These examples of trials show that the definition of concealment or secret disposition was understood differently by judges and juries in the Victorian period. Leaving the child's body in a copper, unused cellar or the dustbin indicates that the person who had done that did not want it to be discovered, however, the court decided differently.

That is not the only ambiguity concerning the sentences announced during concealment trials. The severity of the verdict also depended on the circumstances of the crime and the time during which the trial took place. Based on the analysis of the Old Bailey Proceedings, it can be concluded that the harshest sentences were announced in the 1860s. It can also be noticed that at the end of the Victorian period the punishments were milder than in the first half of that epoch.

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<https://www.britishnewspaperarchive.co.uk/viewer/bl/0002275/18770413/024/0003>, access: 05<sup>th</sup> December 2022).

<sup>369</sup> *Islington Gazette*, July 31, 1888, p. 2; (online <https://www.britishnewspaperarchive.co.uk/viewer/BL/0000438/18880731/030/0002?browse=False>, access: 05<sup>th</sup> December 2022).

<sup>370</sup> *Old Bailey Proceedings Online* ([www.oldbaileyonline.org](http://www.oldbaileyonline.org), version 8.0, 05 December 2022), July 1888, trial of CATHERINE MORGAN (19) (t18880730-766).

<sup>371</sup> *Old Bailey Proceedings Online* ([www.oldbaileyonline.org](http://www.oldbaileyonline.org), version 8.0, 05 December 2022), March 1890, trial of LILY NETTLETON (t18900324-321); *Islington Gazette*, February 25, 1890, p. 3; (online <https://www.britishnewspaperarchive.co.uk/viewer/bl/0000438/18900225/045/0003>, access: 05<sup>th</sup> December 2022).

Table 4. Sentences pronounced at the Old Bailey – verdict guilty of concealment of birth, 1834–1901.

Guilty of concealment – sentences per decade									
	none/ respited	less than 3 months	3 months	3–6 months	6 months	6–12 months	12 months	12–24 months	24 months
1834–1840	2	0	1	0	1	0	3	0	3
1841–1850	5	4	4	3	2	1	4	1	2
1851–1860	2	7	1	0	0	0	5	1	3
<b>1861–1870</b>	<b>6</b>	<b>1</b>	<b>1</b>	<b>2</b>	<b>4</b>	<b>3</b>	<b>3</b>	<b>4</b>	<b>3</b>
1871–1880	2	6	0	0	1	1	1	0	1
1881–1890	7	3	1	1	4	2	0	1	2
1891–1901	4	2	1	0	2	0	2	1	0
Total	28	23	9	6	14	7	18	8	14

Source: Compiled by the author based on Old Bailey’s Proceedings.

The analysis also shows that one of the most common verdicts throughout the examined period was none or respited. This means that a person was found guilty of a crime, but no punishment was announced or the punishment was delayed. This happened, for example, during the trial of Fanny Young in 1863. She was a 19-year-old housemaid initially accused of murder but when a grand jury ignored the bill, the charge was changed to concealment. She admitted to this crime and was found guilty, however, inspector Cross stated that during a search of her place, the child’s clothes were found. The judgement was postponed, giving the Ladies’ Committee of Newgate a chance carry out an investigation and see what could be done for her.<sup>372</sup> No further information about the punishment has been found, therefore, it can be assumed that she was not sent to prison.

<sup>372</sup> *Old Bailey Proceedings Online* (www.oldbaileyonline.org, version 8.0, 05 December 2022), December 1863, trial of FANNY YOUNG (19) (t18631214-132). *Globe*, November 30, 1863, p. 3; (online <https://www.britishnewspaperarchive.co.uk/viewer/bl/0001652/18631130/052/0003>, access: 05<sup>th</sup> December 2022); *Globe*, December 16 1863, p. 3; (online <https://www.britishnewspaperarchive.co.uk/viewer/bl/0001652/18631216/023/0003>, access: 05<sup>th</sup> December 2022).

The same pattern can be noticed in the trial of Minnie Morris in 1887. She was also a servant, and after her mistress Mrs. Burns found the body of a child hidden in her bed, she asked her to help her bury it in the garden. Her mistress refused and decided to call the police. Minnie Morris was charged primarily with murder, but at the Old Bailey trial she was found guilty only of concealment of birth and the verdict was respited. As in the Fanny Young case, there is no evidence as to whether the judgement was announced. According to the digital panopticon, a database that contains records of people convicted at the Old Bailey, she was not sentenced to any punishment.<sup>373</sup>

The second most common sentence was a sentence of less than 3 months. Sometimes the ruling was very lenient and the defendants were confined for only a few days, as in 1860 when Hannah Graham was imprisoned for 8 days. According to the *Globe* “the facts of the case, were of very melancholy nature.”<sup>374</sup> Hannah Graham was a 33-year-old widow who was most probably reported to the police by her neighbours. It was suspected that she gave birth to a child, but it disappeared. At first she denied her actions, but then at the station she admitted that the child was born dead, so she wrapped it in some clothes, put a stone in it and threw it off Blackfriars Bridge. She also claimed that she did it because she had no money to bury the child, and what is more, she did not want her family to find out about that. It was also declared that she was a Jewish woman seduced by a Christian. Press reports expressed much sympathy for her, calling her a “poor creature” or informing that she shed tears during the investigation but said nothing.<sup>375</sup> It is also noticeable that not only the press but also the court took pity on Hannah Graham and her

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<sup>373</sup> *Old Bailey Proceedings Online* (www.oldbaileyonline.org, version 8.0, 05 December 2022), January 1887, trial of MINNIE MORRIS (22) (t18870110-202); *The Digital Panopticon* Minnie Morris b. 1865, Life Archive ID obpdef1-202-18870110 (<https://www.digitalpanopticon.org/life?id=obpdef1-202-18870110>). Version 1.2.1 consulted 05 December 2022; *Blandford Weekly News*, January 22 1887, p. 2; (online <https://www.britishnewspaperarchive.co.uk/viewer/bl/0003052/18870122/016/0002>, access: 05<sup>th</sup> December 2022).

<sup>374</sup> *Globe*, September 22, 1860, p. 3; (online <https://www.britishnewspaperarchive.co.uk/viewer/BL/0001652/18600922/041/0003?browse=False>, access: 05<sup>th</sup> December 2022).

<sup>375</sup> *Old Bailey Proceedings Online* (www.oldbaileyonline.org, version 8.0, 05 December 2022), September 1860, trial of HANNAH GRAHAM (33) (t18600917-804); *Globe*, September 22, 1860, p. 3; (online <https://www.britishnewspaperarchive.co.uk/viewer/BL/0001652/18600922/041/0003?browse=False>, access: 05<sup>th</sup> December 2022).

difficult situation. Furthermore, being seduced also played in her favour in court, as she could be described as a victim, so the lenient verdict is not surprising.

Not only the difficult life situation of the defendant but also the medical aspects of the birth could have helped obtain a lower sentence. During the trial of Maria Ruskin in 1848, the surgeon stated that the child was born dead and was not yet fully grown, as the labour most probably took place in the seventh month of pregnancy. For Maria, it was the only mitigating circumstance. The child's body was found in Regent's Canal, near where she worked as a servant. Her mistress, Mrs. Eliza Ann Scott, testified that:

The prisoner was in my service—she was very ill on 18th of March—I told her to lie down and I would bring her some tea—she said her stomach had been out *of* order some months, that she had been taking medicine to correct it, and that she had Hooded a great deal; and remarked that she was much smaller—I then saw that her shape was altered—she said she was dropsical, and had been to the Free Hospital, Gray's-inn-road—I noticed that the bedroom door was stained and recently scoured—next day she did her usual work, and rinsed some sheets as well—I said there was no necessity for that as the laundress would have done it—she said they were very much soiled, and she did not like sending them so—after speaking to two or three people, I said to her, "I feel less delicacy in asking you the question, because I find you have had one child previously, and therefore I know you must have miscarried, or had a child"—she denied it, but afterwards told me she was at Chalk Farm Gardens on 10th of September, and met a person she never saw before or since, and went with him to a house in Seymour-street, and he was the father of the child; and she had thrown it down the water-closet—she afterwards said she had thrown *k* into the Regent's Canal.<sup>376</sup>

Usually, information that the defendant had other illegitimate children was to the accused's disadvantage. Because of that she could not be portrayed as an innocent victim, nor could it be claimed that she was unaware of the pregnancy. In such circumstances, the verdict could be more severe to punish the defendant's immoral conduct. Nevertheless, in this case the child was born prematurely and she was only sentenced to one-month imprisonment in Newgate prison.<sup>377</sup>

It was also quite common practice for the court to proclaim sentences ranging from 3 to 12 months. Compared to the previous years, a total of 36 women were imprisoned for this period. Those sentences were announced when there were some mitigating circumstances or doubts about the cause of the infant's death. For example, during the trial of Sarah Wigley, witnesses testified that the child was found in a cistern behind the kitchen

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<sup>376</sup> *Old Bailey Proceedings Online* (www.oldbaileyonline.org, version 8.0, 05 December 2022), May 1849, trial of MARIA RUSK (t18490507-1069).

<sup>377</sup> *Morning Advertiser*, May 08, 1849, p. 4; (online <https://www.britishnewspaperarchive.co.uk/viewer/bl/0001427/18490508/042/0004>, access: 05<sup>th</sup> December 2022).



with a piece of clothing tied around its neck. During the coroner's inquisition, the surgeon stated that the cause of death was suffocation by strangulation, but at the criminal court hearing he stated that he was not entirely sure whether the child had been born alive within the legal acceptance of that term. That would mean that the new-born's body should not be associated with its mother in any way. Based on that testimony, Sarah Wigley was found only guilty of concealment and sentenced to 6-month imprisonment.<sup>378</sup> At the coroner's inquest into Beatrice Mary Brown, the surgeon also claimed that the child had been born alive and had lived separately from its mother. Moreover, multiple signs of violence were found on its body. Once again, at the trial at the criminal court, the defendant was found guilty only of concealment and was punished with 3-month imprisonment.<sup>379</sup>

In 1865, Frances Fanny Clark, described by the *Morning Advertiser* as "an exceedingly good-looking young woman,"<sup>380</sup> stood trial for killing her new-born child. The infant's body was found in a pile of water at the back of the kitchen. The surgeon confirmed that the cause of death was drowning and also stated that the defendant probably already had one or two children, which she firmly denied. Nonetheless, such a statement caused a lot of anxiety about what could have happened to those children. During the trial at the Old Bailey, the jury found her guilty only of concealment and sentenced her to 8-months of hard labour.<sup>381</sup> No information was provided as to why such a verdict was announced,

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<sup>378</sup> *Old Bailey Proceedings Online* (www.oldbaileyonline.org, version 8.0, 05 December 2022), May 1863, trial of SARAH WIGLEY (25) (t18630511-714); *The Cornish Telegraph*, May 20, 1863, p. 3; (online <https://www.britishnewspaperarchive.co.uk/viewer/bl/0001617/18630520/047/0003>, access: 05<sup>th</sup> December 2022); *Globe*, April 20 1863, p. 3; (online <https://www.britishnewspaperarchive.co.uk/viewer/bl/0001652/18630420/042/0003>, access: 05<sup>th</sup> December 2022); *Morning Advertiser*, April 21 1863, p. 7; (online <https://www.britishnewspaperarchive.co.uk/viewer/bl/0001427/18630421/025/0007>, access: 05<sup>th</sup> December 2022).

<sup>379</sup> *Old Bailey Proceedings Online* (www.oldbaileyonline.org, version 8.0, 05 December 2022), September 1893, trial of BEATRICE MARY BROWN (23) (t18930911-822); *Globe*, August 09, 1893, p. 7; (online <https://www.britishnewspaperarchive.co.uk/viewer/bl/0001652/18930809/070/0007>, access: 05<sup>th</sup> December 2022); *Dundee Courier*, September 14 1893, p. 3; (online <https://www.britishnewspaperarchive.co.uk/viewer/bl/0000162/18930914/034/0003>, access: 05<sup>th</sup> December 2022).

<sup>380</sup> *Morning Advertiser*, April 24, 1865, p. 4; (online <https://www.britishnewspaperarchive.co.uk/viewer/bl/0001427/18650424/029/0004>, access: 05<sup>th</sup> December 2022).

<sup>381</sup> *Old Bailey Proceedings Online* (www.oldbaileyonline.org, version 8.0, 05 December 2022), May 1865, trial of FRANCES FANNY CLARK (20) (t18650508-576); *Morning Advertiser*, April 24, 1865, p. 4; (online <https://www.britishnewspaperarchive.co.uk/viewer/bl/0001427/18650424/029/0004>, access: 05<sup>th</sup> December 2022); *Morning Herald (London)*, May 11, 1865, p. 8; (online

however, it may be assumed that the medical testimony was not fully taken into consideration or amended by the surgeon during the trial. A similar trial took place in 1884, when Annie Pluck was indicted primarily for murdering her child, but was ultimately found guilty of concealment. During the trial, it was stated that there was doubt as to whether the child had separated existence from its mother, so she was sentenced to a 10-month imprisonment with hard labour.<sup>382</sup>

The analysis of the data shows that even though the severity of verdicts in individual cases may be sometimes surprising, the jury was more lenient towards women in a difficult situation or in scenarios in which no marks of violence were found on the child's body. It is also worth noting that the jurors based their judgements on the testimonies of medical expert, and when there was a slight ambiguity concerning as to the cause of death, deciding whether the child was stillborn or led a separate existence from its mother, the punishment was more likely to be longer, because there was always a chance that the child was a victim of deliberate act.

The maximum sentence for concealing the birth was 2 years of imprisonment with or without hard labour. It can be noted that the most severe sentences were rare. Of the 127 women found guilty of this crime during the Victorian period, only 40 heard the verdict of imprisonment of 12 to 24 months. The analysis of the data shows that the harsher sentences were announced when the suspect was also considered guilty of murder or manslaughter, but there was no clear evidence of that. A similar correlation was observed by E. Farrell in her studies on infanticide in post-famine Ireland.<sup>383</sup>

On the 17<sup>th</sup> of January 1898, Janette Child was charged at Marylebone Police Court with the wilful murder of her male child. According to the depositions collected at that time, she stated that the child was born dead. The child's body was found in her trunk, with tape tight three times around its neck. Based on the surgeon's statement, that was the cause of death. During the trial at Police Court, she was found guilty and recommended to the

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<https://www.britishnewspaperarchive.co.uk/viewer/bl/0002408/18650511/066/0008>, access: 05<sup>th</sup> December 2022).

<sup>382</sup> *Old Bailey Proceedings Online* (www.oldbaileyonline.org, version 8.0, 05 December 2022), June 1884, trial of ANNIE PLUCK. (19) (t18840623-721); *Echo (London)*, June 26, 1884, p. 3; (online <https://www.britishnewspaperarchive.co.uk/viewer/bl/0004596/18840626/052/0003>, access: 05<sup>th</sup> December 2022).

<sup>383</sup> E. Farrell, op. cit., p. 85.

trial court. The defendant reserved her defence, which means that she did not make any statement at that time.<sup>384</sup> A few days later a coroner's inquisition took place at Paddington Coroner's Court. Doctor Harris, the surgeon, retained his previous statement, while the defence continued to claim that the child was stillborn. After some time of deliberation, the jury returned the verdict of guilty of concealment, but acquitted her of murder. The justification for the judgment stated that although the child died of suffocation, it was unclear how it occurred. It was such an unexpected and surprising verdict that even the article in the *West Somerset Free Press* was titled "Jury's Strange Verdict". The coroner was also not fully satisfied with their decision, as follows:

The coroner then summed the evidence, and the jury, after deliberation private, returned verdict of concealment of birth. The coroner declined to accept this, and they then brought in death from suffocation, but that there was no evidence to show how the suffocation was caused. This the coroner decided to accept, pointing out, however, that such a verdict was not in accordance with the weight of evidence. He also pointed out that the mother did not escape by their verdict, for the police would take action on the evidence that had been given and charge her.<sup>385</sup>

Janette Child was committed to the trial at Old Bailey and indicted with wilful murder. What may be surprising, the prosecution did not present any evidence support the capital charge, and the defendant pleaded guilty to concealment. Moreover, she received support from the Salvation Army, which was willing to help her with redeeming her actions. Therefore, she was found guilty of concealment and sentenced to 12 months of hard labour.<sup>386</sup> The analysis of this case shows that the evidence against the defendant was strong and the surgeon's testimony was not disregarded, however, the jury during the coroner's inquest offered the defendant benefit of the doubt and most likely assumed that the child could have died during the labour. Nonetheless, the criminal court upheld this decision, but the severity of the punishment suggests that there were some suspicions regarding her innocence.

Such a situation did not happen only during the Janette Child's trial. In 1862, Susan Arter, a twenty-eight-year-old domestic servant, was charged with the wilful murder of her

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<sup>384</sup> CRIM 1/54/8, The National Archives, Kew (access: 27<sup>th</sup> October 2022).

<sup>385</sup> *West Somerset Free Press*, January 22, 1898, p. 2; (online <https://www.britishnewspaperarchive.co.uk/viewer/bl/0001432/18980122/040/0002>, access: 05<sup>th</sup> December 2022).

<sup>386</sup> *Old Bailey Proceedings Online* ([www.oldbaileyonline.org](http://www.oldbaileyonline.org), version 8.0, 05 December 2022), February 1898, trial of JANETTE CHILD (23) (t18980207-170); *Morning Post*, February 11, 1898, p. 7; (online <https://www.britishnewspaperarchive.co.uk/viewer/BL/0000174/18980211/074/0007?browse=False>, access: 05<sup>th</sup> December 2022).

child, but the jury returned a guilty verdict of concealment. At the coroner's inquest in July 1862, Susan's employer testified that when the defendant was ill, he accompanied his wife to her room. He offered to call for medical help, but Susan refused. He then accused her of having the child, which she initially denied, but later she confessed and showed that the child was hidden in her box. Her fellow servant, Eliza Emma Chapman, also testified that she saw that the defendant was sick, but she did not suspect that she had given birth to a child at that time. She had some suspicions about Susan's state, as her figure had changed significantly over the past few months, but they did not talk directly about pregnancy. Moreover, doctor Williams, a surgeon, testified that the child was born alive and that its death was caused the result of violence. Traces of violence were found on the child's throat, and an unidentified blunt instrument had been forced into its throat. During the inquisition she was found guilty of murder and committed to trial at the Old Bailey.<sup>387</sup> Despite the evidence of the violent child's death, she was found guilty of concealment and confined to fifteen months' imprisonment.<sup>388</sup> Susan was very ill after childbirth, and before the trial, when she was kept in custody, she spent most of the time in the infirmary of the Wandsworth and Clapham Union.<sup>389</sup> Her poor health and weakness, which were noticeable during the trial, could also affect the verdict. Therefore, once again, the defendant was acquitted of the murder charge, but the sentence for concealment was harsher because the child's body showed signs of external violence and there was a considerable suspicion that the defendant could have killed the baby.

The same year, another servant, Salome Newman, was charged with infanticide. Her mistress suspected her of having a child, so she called a doctor to examine her. Salome vehemently denied that she had ever given birth to a child, however, a few days later the child's body was discovered wrapped in the Salome's apron in the chimney in her room. The strong staylace was tied twice around the child's neck. The surgeon declared that the

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<sup>387</sup> *Sun (London)*, July 19, 1862, p. 5; (online <https://www.britishnewspaperarchive.co.uk/viewer/bl/0002194/18620719/064/0005>, access: 05<sup>th</sup> December 2022); *Morning Advertiser*, July 19 1862, p. 7; (online <https://www.britishnewspaperarchive.co.uk/viewer/bl/0001427/18620719/054/0007>, access: 05<sup>th</sup> December 2022).

<sup>388</sup> *Old Bailey Proceedings Online* (www.oldbaileyonline.org, version 8.0, 05 December 2022), September 1862, trial of SUSAN ARTER (28), (t18620922-1017).

<sup>389</sup> *Lancaster Gazette*, September 6, 1862, p. 2; (online <https://www.britishnewspaperarchive.co.uk/viewer/bl/0000488/18620906/007/0002>, access: 05<sup>th</sup> December 2022).

cause of death was hanging, and at the coroner's inquest she was found guilty of murder and sent to trial.<sup>390</sup> Nonetheless, as in previous cases, she was acquitted of murder in the criminal trial, but found guilty of concealment and sentenced to 18 months' imprisonment. The change in the indictment could have been due to the fact that she had been seduced by a lodger in her previous place, and since she was only 17 and it was her first offence, the jury sympathised with her.<sup>391</sup>

It should be noted that there were at least some mitigating factors in the trials analysed above; however, the case of Amelia Sutherwood shows that it was not always the case. Like the previously described defendants, she was also accused of wilful murder, but ultimately found guilty of concealment and sentenced to 18 months' imprisonment with hard labour. Nonetheless, the details of her case are even more disturbing. Amelia was a chambermaid at Charing Cross Hotel in London. According to her fellow servant, "she placed the child in a drawer, it being alive at the time, and shut the drawer, leaving the head of the infant outside, so that its neck was broken."<sup>392</sup> The trial also found that the injuries were so severe that the child's head was almost severed from the body. It was also emphasised that there was no evidence as to how those injuries occurred or whether they were wilful or not. Doctor Vernon, a surgeon who also was present when the body was found, testified that the cause of death was a spinal injury. During cross-examination, he also stated that because the defendant gave birth on her own, she could have accidentally harmed the child, but not to such an extent. Nevertheless, at the same time, he stated that there was a possibility that the child's death was caused by haemorrhage because it was not properly attended at the time of birth.<sup>393</sup> Based on that inconclusive statement, Amelia

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<sup>390</sup> *Penrith Observer*, December 2, 1862, p. 3; (online <https://www.britishnewspaperarchive.co.uk/viewer/bl/0002296/18621202/036/0003>, access: 05<sup>th</sup> December 2022).

<sup>391</sup> *Old Bailey Proceedings Online* ([www.oldbaileyonline.org](http://www.oldbaileyonline.org), version 8.0, 05 December 2022), December 1862, trial of SALOME NEWMAN (17) (t18621215-140); *The Evening Freeman*, December 19, 1862, p. 3; (online <https://www.britishnewspaperarchive.co.uk/viewer/bl/0001312/18621219/042/0003>, access: 05<sup>th</sup> December 2022).

<sup>392</sup> *Morpeth Herald*, September 30, 1865, p. 2; (online <https://www.britishnewspaperarchive.co.uk/viewer/bl/0000344/18650930/004/0002>, access: 05<sup>th</sup> December 2022).

<sup>393</sup> *London Evening Standard*, October 25, 1865, p. 3; (online <https://www.britishnewspaperarchive.co.uk/viewer/bl/0000609/18651025/024/0003>, access: 05<sup>th</sup> December 2022); *Old Bailey Proceedings Online* ([www.oldbaileyonline.org](http://www.oldbaileyonline.org), version 8.0, 05 December 2022), October 1865, trial of AMELIA SUTHERWOOD. (22) (t18651023-950).

Sutherwood was acquitted of murder, which may be surprising because her daughter's injuries were severe and seemed to have been intentionally caused.

Furthermore, there were also defendants who were sentenced to a 2-year imprisonment for concealment of birth, and the circumstances of those crimes were also apprehensive. For instance, in August 1844, Sarah Hyland, a 22-year-old servant, was tried for the wilful murder of her illegitimate child. Caroline Gibson, her employer, suspected she was pregnant and even wanted to call a doctor for an examination. She also promised to help the defendant and keep it a secret, however, Sarah denied being pregnant and declined the offer. That is why she was fired and was about to leave in two weeks, but the day before that she fell ill. The child's body was found in her box by her fellow servant, and doctor Walker was called for an examination. He later testified in court that:

I am a surgeon, and was called in on this morning. I saw the child in a box, lying on its back, partly covered with dirty linen—the face and neck were concealed from view by a petticoat, or cloth—the string of the petticoat was tied fast round the neck twice, and the end of the string inserted, and drawn tight—I made further observation of the body—the navel-string had been cut, evidently—I afterwards made an examination—I found the head crushed—I think the cause of death might be threefold, the crushing of the head; the ligature round the neck was sufficient to prevent its breathing, unquestionably, and the other cause was the loss of blood from the navel-string, which was not tied—I think the crushing of the head alone would be sufficient, and the ligature round the neck would alone be sufficient—the ligature would be sudden in its operation.<sup>394</sup>

Dr. Walker was then asked during the hearing, “I suppose there is a great difficulty in a woman delivering herself?” to which he replied that it may be difficult, but usually during the first delivery. He also stated that it was possible that a women in the agony of childbirth without assistance could have crash the child's very delicate skull.<sup>395</sup>

A second surgeon, Charles James Snitch, was also called to testify. At the trial, both of them partially admitted that some of the wounds could have been caused by the fact that the defendant delivered all by herself, so that she could support herself with a ligature, otherwise the child would have fallen on the floor and thus suffered head injuries. Once again, based on the surgeons' inconclusive evidence, the jury announced that Sarah Hyland was acquitted of murder but found guilty of concealment and sentenced to maximum punishment.

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<sup>394</sup> *Old Bailey Proceedings Online* (www.oldbaileyonline.org, version 8.0, 05 December 2022), August 1844, trial of SARAH HYLAND (t18440819-1929).

<sup>395</sup> *Ibidem*.

Another case with similar circumstances was the trial of Hannah Maria Pipkins, who was also sentenced to 2 years for concealment her birth instead of murder. The child's body was found hidden in the box in the coal cellar in the house of Mrs Swift, who was Hannah Maria Pipkins's employer. There was a lot of blood everywhere, and the child's throat was cut. The wound was large, as per the surgeon's statement "extending from underneath the left ear, across the throat, dividing the blood vessels on the left side and the windpipe."<sup>396</sup> The surgeon also testified that the child was born alive, however, the wound could have been caused during life or a few minutes after its death. The baby's separate existence was also discussed and the surgeon admitted that it was possible that the child had been breathing before being wholly born and could have died as a result unattended delivery. The defence also stated that most probably the umbilical cord was tight around the child's neck and the defendant cut it with a knife, accidentally injuring the baby. This kind of statement may sound surprising, but it has been used as a defence in other trials as well. During this trial, the evidence provided by the surgeons was also inconclusive, so despite cutting the child's throat, the defendant was acquitted of murder.<sup>397</sup>

The analysis of court sentencing related to the concealment of birth offence shows that it was a complex phenomenon. It is significant to notice that defendants who were sentenced to mildest punishments were most likely guilty of only this crime. Nonetheless, analysis of cases in which more severe sentences were imposed reveals that jurors and judges suspected foul play. Lacking sufficient evidence to convict them of murder, they often changed the indictment and imposed the maximum penalty for concealment.

### **3.5. Manslaughter**

People accused of infanticide could also be found guilty of manslaughter. Unlike the crime of murder, the crime of manslaughter lacks the intention to cause death. Manslaughter was also a non-capital offence; therefore, it allowed judges and jurors to punish defendants accused of killing their offspring, but without sentencing them to death. It should also be noted that the crime of concealment of birth was exclusively related to the

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<sup>396</sup> *Old Bailey Proceedings Online* (www.oldbaileyonline.org, version 8.0, 05 December 2022), January 1855, trial of HANNAH MARIA PIPKINS (t18550129-261).

<sup>397</sup> *Ibidem*.

neonaticide or was announced when there was no clear evidence that the child was born alive, while a verdict of manslaughter could only be proclaimed if the infant was known to be alive. The Offence Against the Person Act from 1861 it was stated that:

Whosoever shall be convicted of Manslaughter shall be liable, at the Discretion of the Court, to be kept in Penal Servitude for Life or for any Term not less than Three Years,—or to be imprisoned for any Term not exceeding Two Years, with or without Hard Labour, or to pay such Fine as the Court shall award, in addition to or without any such other discretionary Punishment as aforesaid.<sup>398</sup>

It should be noted that people accused of infanticide were not as often found guilty of manslaughter. According to the Old Bailey Proceeding, only 30 people were sentenced for that crime during the Victorian period. Data analysis shows that between 1834 and 1901, 25 women were convicted of this crime, in comparison to only 5 men. In the case of male defendants, all verdicts were passed in the years 1871–1901 (tab. 3.4.). These types of verdict were proclaimed against the female defendants throughout the period. It can be observed that the number of verdicts per decade is quite stable, except for the period between 1834 and 1840, when no one was found guilty, and between 1871 and 1880, when only two women were sentenced for manslaughter of their infants.

*Table 5. Sentences pronounced at the Old Bailey – verdict guilty of manslaughter, 1834–1901.*

<b>Guilty of manslaughter</b>		
	<b>Women</b>	<b>Men</b>
1834–1840	0	0
1841–1850	3	0
1851–1860	4	0
1861–1870	5	0
1871–1880	2	1
1881–1890	6	1
1891–1901	5	3
<b>Total</b>	<b>25</b>	<b>5</b>

Source: Compiled by the author based on Old Bailey's Proceedings.

<sup>398</sup> *Offences Against the Person Act 1861*, (online: <https://vlex.co.uk/vid/offences-against-the-person-808211329>, access 27<sup>th</sup> December 2022).



The sentences announced in those trials varied from no punishment, through fines, to 20 years of penal servitude. During this period of time no one received a life sentence for the manslaughter of an infant. The severity of the punishment announced by judges in those trials was influenced by the circumstances of an accused individual or the severity of the crime. The analysis of the data shows that in the discussed period, 17 people found guilty of this crime were sentenced to the minimum penalty, which means up to 2 years of imprisonment with or without hard labour, and 10 of them were sentenced to penal servitude, which lasted from 5 to 10 years. Of them, only 3 people were punished with the most severe verdict, which was 20 years of penal servitude. It should also be noted that among the men, Geroge Alexander<sup>399</sup> and Clarence Henry Longman<sup>400</sup> received the most severe sentence, William John Cronin<sup>401</sup> received 7 years of penal servitude, and among the last 2 men, Frederick James Chapman was found guilty of manslaughter, but due to the circumstances of the case, he was discharged on recognizances. This trial was widely reported in the press, and the article in the *Morning Post* summarised the defendant's situation as follows:

Frederick James Chapman, 29, labourer, was indicted for the wilful murder of an infant child. — Mr. C. Mathews, for the prosecution, having stated the facts of the case, which were of a very distressing character, said that he would not press the case on the major charge. — Mr. W. M. Thompson, who defended, said that the accused would plead guilty to the manslaughter of the infant. — Chapman was residing in the latter part of last year in the Vassal- road, Brixton, with his wife and two children. About the month of December last he consented to his wife visiting his brother at West Hartlepool, the brother having written stating that his wife and children had left him, and that he was in great distress. On the return of the wife of the prisoner certain matters came to the knowledge of the husband, who taxed his wife with having misconducted herself with his brother. Subsequently a child was born, which showed symptoms of a disease. The wife made an admission, and the prisoner in a fit of frenzy put the child in a pail of water in the scullery and drowned it. He made a statement subsequently to the police, in which he complained bitterly of the cruel manner in which he had been deceived, and added that he had put the child out of the way so that it might be spared a life of misery and disgrace. It was stated that the man had borne previously an irreproachable character for industry and sobriety, and had been an affectionate husband and father. — Mr. Thompson said that the prisoner had been driven to the commission of this act owing to this domestic trouble. — Mr. Justice Hawkins said that he had the strongest sympathy with all that had been said on behalf of the accused. He postponed sentence.<sup>402</sup>

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<sup>399</sup> *Old Bailey Proceedings Online* ([www.oldbaileyonline.org](http://www.oldbaileyonline.org), version 8.0, 28 December 2022), June 1874, trial of GEORGE ALEXANDER ADA CLIFFORD (t18740608-417).

<sup>400</sup> CRIM 1/32/4, The National Archives, Kew (access: 27<sup>th</sup> October 2022).

<sup>401</sup> *Old Bailey Proceedings Online* ([www.oldbaileyonline.org](http://www.oldbaileyonline.org), version 8.0, 28 December 2022), September 1897, trial of WILLIAM JOHN CRONIN (27) (t18970914-563).

<sup>402</sup> *Morning Post*, March 08, 1893, p. 4 (online <https://www.britishnewspaperarchive.co.uk/viewer/BL/0000174/18930308/023/0004?browse=False>, access: 27<sup>th</sup> December 2022).

Such circumstances did not occur often; therefore, the court's leniency is not that surprising. The other male defendant who received quite a compassionate sentence was James Arnold, whose trial is described in chapter 2.

It should be noted that judges and juries also took into account many mitigating factors during the trials of female defendants. For instance, in 1894, Emily Newber was tried for the wilful murder of Ray Maud Myers, a 10-month-old son of her employers. At the trial, the accused denied her guilt and testified that she saw another servant giving something to a child, after which the child became ill. Some kind of acid substance given to the child burned his mouth and intestines, which ultimately led to his death. Emily's defence tried to prove that she was in the state of hysteria because of her menstrual problems, however, the experts who testified during the trial were not unanimous on this matter. The defendant was only 15 years old at the time of the trial. Therefore, even though she was found guilty of manslaughter, the jury strongly recommended mercy for her due to her young age. Finally, she was sentenced to one-week imprisonment and 5 years in the reformatory to correct her behaviour.<sup>403</sup>

Another woman who received a rather lenient verdict for manslaughter was Emily Batt. Her situation was significantly different from that of the previous defendant. Emily Batt was considered a married woman at court, even though she was not. She lived with the father of her children for 7 years, however, they were not legally married. She was accused of drowning her 7-month-old daughter and then trying to commit suicide. The police inspector who arrested her testified in court that:

I was on duty when the prisoner was brought into the station—I charged her with the wilful murder of her child and attempting to commit suicide, and said "Is that correct?" she said "I threw my baby Louisa," and then she said "Emily Bolt, aged seven months, into the water first, and I then jumped off the steps into the river with a view of drowning myself; I wish to die because I have had nothing but trouble lately"—I wrote that down and gave it to her to sign, and she signed it.

*Cross-examined.* I have made inquiries, and find that her sister committed suicide—her husband has been out of work since July—the river was dragged at the time, but nothing was found.<sup>404</sup>

The surgeon who testified at the trial suspected that she may have suffered from puerperal mania. Moreover, her aunt stated that the prisoner's sister killed herself 8 or 9 years earlier,

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<sup>403</sup> *Old Bailey Proceedings Online* (www.oldbaileyonline.org, version 8.0, 27 December 2022), February 1894, trial of EMILY NEWBER (15) (t18940205-246).

<sup>404</sup> *Old Bailey Proceedings Online* (www.oldbaileyonline.org, version 8.0, 27 December 2022), October 1883, trial of EMILY BATT (t18831015-969).

and Emily herself was very strange at times.<sup>405</sup> It was not enough to find her innocent based on temporary insanity; nevertheless, the jury strongly recommended mercy and sentenced her to 6 months of imprisonment in both case. The second sentence was for breaking the peace, as she had attempted to harm herself.

A difficult life situation was not always enough to receive a truly lenient sentence, as analysed above, however, it could help in reclassifying the charge from murder to manslaughter. It can be observed, for example, in the case of Dinah Cohen, a 22-year-old tailoress born in Poland. She worked as a servant before getting pregnant. She gave birth in the Union Workhouse on Poland Street and spent about a month there. A nurse working there testified that Dinah did not feed the child because she was very weak and had very little milk, so the doctor ordered the child to be weaned. While leaving the workhouse, Dinah claimed she had someone to take care of the child and she also had a job. The evidence does not clearly indicate whether she lied or whether the person who should have taken care of the child changed his or her mind. Nonetheless, she could not feed her child and had no money or anyone to help her, therefore she planned to kill the child and then herself. Dinah also mentioned that her cousin promised to marry her, but she could not have an illegitimate child. She is one of the few defendants who gave a full explanation of her deeds. The chief inspector testified that:

About a quarter to nine on the evening of February 18th I saw the prisoner in the station, also the dead body of a female child—I cautioned the prisoner in the usual way, that what she said would be taken down, and might be used in evidence against her—I said, "You will be charged with murdering your child," and, being a foreigner, I asked whether she quite understood; she said yes, she quite understood—she then made a statement, which I took down as follows: "I did not have any place to go to, and they told me in the workhouse that I must not come in again, and that was why I murdered my child. I had not a farthing to bless myself with. The child was crying for milk; I could not give her the breast, and I had no money to buy anything. At about four or five this evening I laid the child on a form in Regent's Park, and was going to kill myself. I could not kill the child in the Park; there were too many people about. I then came to 82, Cleveland Street; the door was open; I went downstairs into the kitchen, there was no one there; I then put a piece of wadding in the child's throat, and it choked her. I then went to Mrs. Shoolman's, crying, and said to her, 'I have done murder'—she signed this by making her mark."<sup>406</sup>

Contrary to that statement, the master of the workhouse and the nurse testified that the defendant misunderstood and that she could always come back to the institution. The data show that she was treated by the police as a foreigner, so there is a slight chance that she

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<sup>405</sup> *Old Bailey Proceedings Online* ([www.oldbaileyonline.org](http://www.oldbaileyonline.org), version 8.0, 27 December 2022), October 1883, trial of EMILY BATT (t18831015-969).

<sup>406</sup> CRIM 1/44/5, The National Archives, Kew (access: 27<sup>th</sup> October 2022).

could not fully understand everything that was told to her. Nonetheless, it was just a word against a word and the fact was that the child was found dead and the cause of death was strangulation. Furthermore, the prisoner initially admitted to her crime and therefore the verdict of guilty of murder should be returned. Notwithstanding, while she was kept at Holloway prison, she spoke with Doctor George Edward Walker, a medical officer there. During the trial he claimed:

I spoke to the prisoner about the cotton wool being in the baby's mouth—she stated that she placed it there in order to prevent its crying, but without any intention of killing the child; that her reason for doing so was that if her cousin heard it crying he would have discovered that she had been delivered of an illegitimate child, and would have consequently turned her out of the house—I, pointed out to her that she had stated she had murdered her child—she said she meant that she had killed it, but that she had not killed it intentionally—she speaks English with a very strong foreign accent; you can thoroughly understand what she says; there is no difficulty in conversing with her.<sup>407</sup>

Considering the evidence and showing compassion for the defendant's difficult life situation, the jury reduced the charge to manslaughter, and the judge sentenced her to 7 years of penal servitude. It is also significant to mention that during the coroner's inquest she stated that she loved her child and did not mean to kill it, she just wanted it to stop crying. The jury then found her guilty of murder but not responsible for her actions at the time of this act, and recommended the officials of the workhouse to be subjected to the inquiry of the Local Government Board.<sup>408</sup> The evidence presented in this case shows that the intention to kill was almost impossible to establish, and the defendant's change in testimony was supported by a medical expertise. They could not have declared her insane at the time of the crime, however, they could have mentioned that her judgment at that time may have been impaired by her difficult situation. In this case, the jury sided with the defendant, wanted to punish her, but probably decided that the capital charge was too high, so the charge was changed to manslaughter. That may imply that maybe if infanticide had not been a capital offence in the Victorian period, more people might have been found guilty of murder and sentenced to penal servitude.

The analysis of the Old Bailey Proceedings also indicates that in the 1860s severe sentences were imposed for manslaughter. For example, in January 1868, Eliza Colley, a

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<sup>407</sup> CRIM 1/44/5, The National Archives, Kew (access: 27<sup>th</sup> October 2022).

<sup>408</sup> *Canterbury Journal, Kentish Times and Farmers' Gazette*, February 29, 1896, p. 7 (online <https://www.britishnewspaperarchive.co.uk/viewer/bl/0001404/18960229/117/0007>, access: 27<sup>th</sup> December 2022); *Hull Daily Mail*, March 25, 1896, p. 4 (online <https://www.britishnewspaperarchive.co.uk/viewer/bl/0000324/18960325/045/0004>, access: 27<sup>th</sup> December 2022).

21-year-old needlewoman, was accused of the wilful murder of her 18-day old daughter, Sarah Collins. Her sister testified that Eliza went to the workhouse and gave birth to a child there. After she returned, she stated that she would place the child in the Hornsey Asylum. Her sister proposed trying to place the child at the Foundling Hospital, but she refused. Apparently, she left her daughter in a field in Hornsey on New Year's Eve. Her sister also testified that Eliza had fainting attacks and was quite often hysterical too.<sup>409</sup> It was most probably stated in order to show the defendant's mental instability, which allowed for a lesser sentence to be proclaimed. The prisoner informed her sister that the child had been admitted to the asylum, however, the next morning her daughter's body was found. The surgeon testified that there were no external marks of violence on the child's body, and it was well cared for, but it died of hypothermia. It should also be mentioned that she confessed to committing the crime, however, the statement was excluded from the evidence due to the threat was made by the police officer to obtain that statement. According to the *Morning Post*, the judge did not want to sentence her for murder and it looked as follows:

The learned Judge, in summing up, observed to the jury that if they were satisfied it was the prisoner who left the child on the bank, and that she did so with that intention that the child should die, they would have no alternative but to find her guilty of murder. If, however she left it there, not in the expectation that it would die but that it would be picked up by some person passing along, she would not be liable to the crime of murder because then the intention would not be to produce death by exposure to cold. The question was whether it was an act merely of careless negligence, in which case the crime would be manslaughter, or whether it was an act of wilful negligence, the consequences which ensued being intended: in which event the crime would be that of wilful murder. If they had any doubt upon the point, it was their duty - to give the prisoner the benefit of that doubt; but at the same time he cautioned them against being guided in their verdict entirely by sympathy.<sup>410</sup>

After 20 minutes of deliberation, the jury found the defendant guilty of manslaughter. The judge was satisfied with this conclusion, but also stated that the circumstances of the crime were serious and caused the death of the child, therefore the sentence should be proportionate to the offence, so Eliza was sentenced to 10 years of penal servitude.<sup>411</sup>

In the same year, in April, another woman, Mary Manning, was charged with the wilful murder of Honora Sweeney. This case was slightly different from the previous one

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<sup>409</sup> *Old Bailey Proceedings Online* (www.oldbaileyonline.org, version 8.0, 28 December 2022), January 1868, trial of ELIZA COLLEY (21) (t18680127-181).

<sup>410</sup> *Morning Post*, January 30, 1868, p. 7 (online <https://www.britishnewspaperarchive.co.uk/viewer/bl/0000174/18680130/049/0007>, access: 28<sup>th</sup> December 2022).

<sup>411</sup> *Old Bailey Proceedings Online* (www.oldbaileyonline.org, version 8.0, 28 December 2022), January 1868, trial of ELIZA COLLEY (21) (t18680127-181).

because the defendant was not the child's mother. When the victim was about 10 months old, her mother left her and another child in their room and went to chop some wood. The defendant, who was very drunk at that time, went into their room, slap the crying baby and put it into the fire. Mary Manning was so drunk at that time that she did not remember what happened, however, the surgeon testified that the wounds on child's body were not accidental burns. Therefore, the jury found her guilty of manslaughter and sentenced her to 7 years of penal servitude.<sup>412</sup>

Another person found guilty of manslaughter that year was Isabella Davidson. She was a 24-year-old domestic servant, who had a one-year-old illegitimate son, William. The child was weak and sickly, and his father paid nothing for him. The defendant left the child with a minding lady, but when she asked for more money, she decided to take the child back. Not soon after that, the baby was found dead on the grounds of the gentleman's house in Fulham. The child was covered with cloth, which was also pressed to the mouth and caused suffocation. The surgeon admitted that the child's death could have been the result of an accident rather than deliberate action, such as the mother falling and inadvertently pressing cloth on his face. The prisoner claimed that she did not want to hurt her child and that she loved him very much. The jury took the benefit of the doubt and treated the child's death as unintentional, therefore Isabella was found guilty of manslaughter. She was also warmly recommended to mercy, as she was pregnant at that time and was soon to give birth to another child. The judge sentenced her to 10 years of penal servitude, and it is not known what happened to her later.<sup>413</sup>

During the Victorian period, judges at the Old Bailey of London announced the sentences of 20 years of penal servitude in two trials. The first of them was proclaimed in 1874 during the trial of Ada Clifford and George Alexander. This case was interesting and different from the others because both Ada Clifford and Margaret Jane Southey, who was

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<sup>412</sup> *Old Bailey Proceedings Online* (www.oldbaileyonline.org, version 8.0, 28 December 2022), April 1868, trial of MARY MANNING (34) (t18680406-345).

<sup>413</sup> *Old Bailey Proceedings Online* (www.oldbaileyonline.org, version 8.0, 28 December 2022), June 1868, trial of ISABELLA DAVIDSON (24) (t18680608-525); *Congleton & Macclesfield Mercury, and Cheshire General Advertiser*, June 20 1868, p. 3 (online <https://www.britishnewspaperarchive.co.uk/viewer/bl/0002154/18680620/030/0003>, access: 28<sup>th</sup> December 2022); *Illustrated Weekly News*, June 06 1868, p. 14 (online <https://www.britishnewspaperarchive.co.uk/viewer/bl/0001513/18680606/048/0014>, access: 28<sup>th</sup> December 2022).

the mother of the dead child, worked as prostitutes, while George Alexander was in some kind of relationship with Ada. Margaret testified that she knew both prisoners and lived with them for some time, they also took her to the hospital when she was confined. Nonetheless, after she was ready to be discharged, they all left the hospital. George Alexander stated that he found a nurse for the child and Ada took it to her. When Margaret later asked about the child, Alexander claimed that it was somewhere outside London and that it was fine; however, he did not want to tell her exactly where. At the same time, he demanded money for the maintenance of the child. When Margaret started to demand more details, they argued and the police were called. Then it turned out that the next day, after Clifford was supposed to take the child to the nurse, a window cleaner found it on the street. The child was identified by the clothes it was wrapped in. The child was alive at that time and was taken to the workhouse, but died shortly afterwards. It was also stated that the child suffered from syphilis and was infected by its mother. It should also be noted that Margaret had another child, Lily, brought up by Robert and Frances Masters, who also received payments for her maintenance. So, the jury saw that regarding her circumstances, she was trying to care for her children, so she was not involved in Alexander and Clifford's scheme.

The surgeon who examined the child stated that it was very weak and suffered from the disease, however, the cause of death was a cold the child caught after being left outside in the cold. The prisoners pleaded not guilty and the defence tried to push the blame on Margaret Southey:

Mr. Montagu Williams, for the defence, said that such a tale of vice, degradation, and immorality as had been brought out in the course of this inquiry was one of a character that was seldom exhibited in a court of justice. It was impossible not to see that a strong prejudice was likely to be created against the prisoners, but he was sure that the jury would not allow this feeling to operate upon their minds. The learned counsel then urged that it was not at all probable that the prisoners committed this terrible crime for the sake of the miserable pittance of 7s. a week ; that the woman Southey had a much stranger motive for getting rid of the child than the prisoners; that the story told by Southey was most extraordinary and improbable, and that there had not been a single atom of corroboration given to the evidence of the witness upon whose testimony the case for the prosecution almost entirely rested.<sup>414</sup>

The jury disagreed with the defence statement and found that evidence was sufficient to return a verdict of guilty of manslaughter. The Lord Chief Baron then sentenced them to

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<sup>414</sup> *Tenbury Wells Advertiser*, June 23, 1874, p. 4 (online <https://www.britishnewspaperarchive.co.uk/viewer/bl/0002097/18740623/035/0004>, access: 28<sup>th</sup> December 2022).

20 years of penal servitude.<sup>415</sup> The sentence was so harsh because they not only left the child to die, but also lied to its mother and scammed her. It can be assumed that George Alexander served his entire penalty, as no source suggesting otherwise. Ada Clifford, on the other hand, was granted a prison license on the 5<sup>th</sup> of November 1883 and was able to leave prison after 9 years.<sup>416</sup>

Another person sentenced to 20 years of penal servitude for manslaughter was Clarence Henry Longman. He married in 1887, and a child was born in December of that year. The prisoner was then about 17 years old and his wife was 18. He did not work, and his father supported them by giving them some allowance. At the time of its death, the child – a boy named after his father, was about 3 months old. Neighbours testified that the he was healthy, but about two days before his death he became ill because he she was crying all the time. They also testified that the prisoner was angry about that. Moreover, he had not treated the child well before and was heard speaking badly to him. Caroline Aldridge, who lived next to the prisoner, testified that on Thursday morning the child was crying, then suddenly stopped and after some time the prisoner left the lodgings. The prisoner took the child somewhere and wouldn't tell his wife or her parents where it was. At some point he stated that he put the child at the nurse, but still refused to say where and claimed that only his parents knew where the child was.

Sometime later, the child's body was found in the Thames near Albert Bridge. The surgeon testified that the child died before it was thrown into the water, but there were no severe marks of violence, so the death may not have been intentional. The prisoner became a murder suspect and escaped to Ireland, where he enlisted in the army under a false name. In 1889, he admitted to his supervisor that he was wanted in connection with the murder of a child, and was then transported to London for trial. The prosecution was unable to prove that the defendant intended to kill his son, but all other evidence, including his escape, proved against him. Therefore, the jury found him guilty of manslaughter, and "Mr. Justice

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<sup>415</sup> *Old Bailey Proceedings Online* (www.oldbaileyonline.org, version 8.0, 28 December 2022), June 1874, trial of GEORGE ALEXANDER ADA CLIFFORD (t18740608-417).

<sup>416</sup> *The Digital Panopticon* Ada Clifford b. 1851, Life Archive ID obpdef2-417-18740608 (<https://www.digitalpanopticon.org/life?id=obpdef2-417-18740608>). Version 1.2.1, consulted 28th December 2022; PCOM 4/53/25, The National Archives, Kew (access: 27<sup>th</sup> October 2022).



Hawkins said Longman appeared to have acted very cruelly, and he sentenced him to 20 years' penal servitude."<sup>417</sup>

The analysis of the processes in which the defendants were found guilty of manslaughter shows that such a verdict was announced only when witnesses appeared who confirmed that the child had lived some time before its death. Many of those verdicts were also announced when the defendants were facing murder charges, however, the jury took pity on them and stated that they were unable to determine whether the accused had intended to kill the children. This allowed them to punish them without sentencing them to death. It should also be mentioned that while announcing the sentence, particular circumstances of each individual and the details of the case were taken into consideration.

### **3.6. Murder**

It was mentioned many times before that infanticide was a capital offence and therefore those found guilty of murdering their offspring should be sentenced to death and hanged. During the Victorian period, only 16 people were found guilty of infant murder, and that statistics includes two baby farmers. Among those 16 people, only 4 were men, of which 2 were sentenced between 1834 and 1850, and the rest in the 1870s. The analysis of verdicts against female defendants shows that until the 1880s, when no murder verdict was announced, the situation remained relatively stable. Previously it was usually 1 or 2 per decade. It should also be noted that in the last decade of the Victorian era, as many as 4 women were found guilty of murder.

The fact that juries and judges returned murder convictions did not automatically mean that the punishment was carried out, as in most cases it was changed to penal servitude for life. Moreover, even then, those people did not spend their whole lives in prison, because after a few years they were able to receive a prison license and were discharged.

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<sup>417</sup> *Whitstable Times and Herne Bay Herald*, November 30, 1889, p. 3 (online <https://www.britishnewspaperarchive.co.uk/viewer/bl/0000338/18891130/008/0003>, access: 28<sup>th</sup> December 2022); CRIM 1/32/4, The National Archives, Kew (access: 27<sup>nd</sup> October 2022).

*Table 6. Sentences pronounced at the Old Bailey – verdict guilty of murder, 1834–1901.*

<b>Guilty of murder</b>		
	Women	Men
1834–1840	1	1
1841–1850	2	1
1851–1860	1	0
1861–1870	2	0
1871–1880	2	2
1881–1890	0	0
1891–1901	4	0
Total	12	4

Source: Compiled by the author based on Old Bailey’s Proceedings.

It is worth noting that only 5 people were executed, including two women sentenced for baby farming, which will be discussed in detail in the next chapter, and one woman who was a child’s grandmother. The first person hanged for murdering his daughter was Frederick Finnegan, whose trial is described in detail in Chapter 2. It should only be mentioned that he testified to being in a state of deep mental disorder and did not remember how the child died. It should be noted that such circumstances of the crime, if it had taken place in the second part of the century, would most likely have ended with a verdict of manslaughter or perhaps the suspect would have been considered insane at the time of the crime. Nevertheless, he was found guilty of murder and executed on the 1<sup>st</sup> of December 1834.<sup>418</sup>

The second man executed for infanticide was James Dilley. The details of his case were described in the previous chapter. It should only be emphasized that both he and the mother of his child were sentenced to death, however, a great number of petitions were sent to Home Office to change her sentence, but no one proposed the same action for the male defendant. Finally, on the 25<sup>th</sup> of August 1879, he was hanged in Newgate Prison, and the

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<sup>418</sup> *The Digital Panopticon* Frederick Finnegan b. 1806, Life Archive ID obpdef1-5-18341124 (<https://www.digitalpanopticon.org/life?id=obpdef1-5-18341124>). Version 1.2.1, consulted 6<sup>th</sup> January 2023.

Home Secretary changed Mary Rainbow's sentence to life imprisonment, and in 1889 she was granted a prison license.<sup>419</sup>

The only woman executed for infant murder was Francis Stewart, sentenced to death in 1874 for drowning her grandson. During the trial, it was reported that she lived with one of her daughters and her family. They argued a lot, so her son-in-law decided it would be better not to continue living together. Francis got very upset about this, took her grandson and did not return home. The day after the child's disappearance, his parents received the following letter:

Mr. Scrivener, 4, Lordship Place, Chelsea—Joe, I have just left Mrs. Sparville. If you or your wife had done what I told you, you would have found your child—it is the only thing that I can do to make your heart ache, as you have made mine for so long you b---s; and the dear boy will be no more. We are in the water at this moment We took the address with us. I hope you will never forget me, Fanny Stewart.<sup>420</sup>

This letter can be treated as a blackmail or a threat to kill the child so that his father would suffer. A few days later, the child was found dead. The child's mother also testified while visiting her mother in prison, she stated that the child slipped out of her hands and fell into the water, however, the Court considered that what the prisoner said in prison did not constitute evidence, so it was not investigated further. Nevertheless, the most damning evidence was probably the note the prisoner left for her second daughter, in which she confessed that she “had done murder.”<sup>421</sup> It was repeatedly emphasized that she loved her grandson very much, however, it was not enough for the jury. They found her guilty of murder, but at the same time strongly recommended mercy to her due to her age and mental excitement in which she was at the time of committing the crime. Surprisingly, even though she was recommended to mercy, the execution was carried out. It was reported by the *Wiltshire Independent*:

Both upon the trial and for some time after her conviction the prisoner's demeanour was sullen and reserved, but after the receipt of an intimation from the Home Office that the law must take its course her manner altered, and she accepted with fervour and earnestness the ministrations of the Ordinary of Newgate. She wrote a letter full of penitence and self-reproach to her daughter, the child's mother, and gave other tokens of her deep remorse for the act she had committed. The execution on Monday morning was held in the presence of both the Sheriffs of London and Middlesex, of Mr. Under-Sheriff Beard, and of the officers of the gaol, and the prisoner, who had been far from well on the

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<sup>419</sup> HO 144/40/83853, The National Archives, Kew (access: 27<sup>th</sup> October 2022).

<sup>420</sup> *Old Bailey Proceedings Online* (www.oldbaileyonline.org, version 8.0, 05 January 2023), June 1874, trial of FRANCIS STEWART (43) (t18740608-418).

<sup>421</sup> *Ibidem*.

previous day, exhibited, it is said, remarkable courage while the dreadful preparations were being made. Her struggles after the drop fell were momentarily prolonged by some unfortunate twisting of the rope. In the afternoon an inquest was held on the body, as usual, before its interment within the walls of the gaol. It is many years since a woman was executed in Newgate; indeed, this was the first private execution of a woman there.<sup>422</sup>

This report shows that even if Francis Stewart had been guilty of the crime, it was still unpredictable that she would have been hanged for her crime, as at that time the Home Office was usually keen to change the sentence to life imprisonment. Perhaps even more astonishingly, none of the women found guilty of murdering their own infants were executed during that period, although their crimes were sometimes more brutal than this.

It should also be noted that in one case it is unknown whether the execution was carried out. In 1841, Sarah Stroud was tried for the wilful murder of her daughter, Harriet. The defendant gave birth in Saint Pancras' workhouse. A few days after leaving the workhouse, the child's naked body was found in Regent's Canal. Suspicions arose when the prisoner returned to her lodging with children's clothes provided by the workhouse. Caroline Edwards, the prisoner's landlady, testified that she firmly denied being pregnant, even when she went to the workhouse to give birth; she only claimed that she was suffering from dropsy and that she had a child 5 years ago, but not now. Nonetheless, upon returning from the workhouse, she acted strangely and had a weird conversation with Mrs. Edwards:

I saw her again on the day she left the workhouse, the 16th of July—she called when I was out, and she came again a little after nine o'clock in the evening—she came down stairs laughing, and my husband said to her, "Well, Sarah, where is your child?"—she turned round and laughed, and said, "Oh, it has *kicked the bucket*, it has been dead a week; it was three weeks old when it died"—I said, "Well, it would have been no matter if you had done the same, for you are a bad character"—she placed a bundle on the table—I said, "What have you got there?"—she said, "These are my baby's clothes, Mrs. Edwards"—I said, "They never gave you these clothes in the workhouse, if they have buried your baby"—she said, "Yes, they do," and she opened them one by one, and said, "These are the little things"—I said, "I suppose they have given you them against you get another, then"—she said, "I suppose that is a form"—I said, "Then you had-better give them to me against I get one"—she staid but a few minutes, for my husband left the room, because she began telling what she had gone through at the workhouse, and I left and went upstairs to my husband, and told him what she had said—I then came down again, and she was gone—she came again on the Monday morning following, and said she was very faint, and could she have anything to drink—I went for a pot of stout, and she drank some—on the Wednesday morning following, I went to Mrs. Parsons, and while I was there the prisoner came in, and I spoke to her—on the same evening I went to fetch her, and found her at No. 1, Wellington-street—she came away with me and Griss—as she came along, when

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<sup>422</sup> *Wiltshire Independent*, July 02 1874, p. 2 (online <https://www.britishnewspaperarchive.co.uk/viewer/BL/0000359/18740702/005/0002?browse=False>, access: 05<sup>th</sup> January 2023).

he charged her with murder, she said, "Oh, don't"—I said "Oh, Sarah, How could you drown your poor baby on Saturday?"—she said "I did it because I had no money."<sup>423</sup>

Upon her arrest, Sarah admitted that she had drowned her child. She also confessed this to her landlady. Based on that evidence, the jury found her guilty of murder, and Mr Baron Rolfe announced the death sentence. She was supposed to be hanged; however, there was information that the execution had been delayed until Michaelmas so that the judges could consider changing the verdict.<sup>424</sup> There were no other records regarding her fate afterwards, therefore it might be assumed that she was not hanged, because the public execution would be commented on in the newspapers.

Furthermore, by 1868 it was possible to commute the sentence to transportation to Australia, and it happened in two cases. The first person was Harriet Longley, who in 1841 was found guilty of murdering her daughter Eliza Harris aged about 3 weeks. In this case, she came to the police station to turn herself in and stated that she murdered her child by throwing her into the river. She was in a very poor state, she had no money and not enough breast milk to feed her child. She tried to get into the workhouse to receive the relief, but she was refused. The jury had no choice but to proclaim her guilty of murder, but strongly recommended mercy due to her distressing circumstances.<sup>425</sup> A few months after the trial, the verdict was changed to 10 years of deportation to Van Diemens Land. Two years after arriving in Australia, she applied for marriage, therefore it may be assumed that she had found a better life there.<sup>426</sup> Moreover, no further criminal records were found related to her name, unless she committed some crimes under her husband's name.

Another person whose verdict was changed from death sentence to transportation was Edward Dwyer. In November 1843, he was charged with the wilful murder of his 3-

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<sup>423</sup> *Old Bailey Proceedings Online* (www.oldbaileyonline.org, version 8.0, 06 January 2023), August 1842, trial of SARAH STROUD (t18420822-2419).

<sup>424</sup> *London Evening Standard*, August 29, 1842, p. 4 (online <https://www.britishnewspaperarchive.co.uk/viewer/bl/0000183/18420829/031/0004>, access: 06<sup>th</sup> January 2023); *London Evening Standard*, August 31, 1842, p. 4 (online <https://www.britishnewspaperarchive.co.uk/viewer/bl/0000183/18420831/024/0004>, access: 06<sup>th</sup> January 2023).

<sup>425</sup> *Old Bailey Proceedings Online* (www.oldbaileyonline.org, version 8.0, 06 January 2023), April 1841, trial of HARRIETT LONGLEY, alias Eliza Harris, (t18410405-1120).

<sup>426</sup> *The Digital Panopticon* Harriett Longley b. 1818, Life Archive ID obpdef1-1120-18410405 (<https://www.digitalpanopticon.org/life?id=obpdef1-1120-18410405>). Version 1.2.1, consulted 6<sup>th</sup> January 2023.

month-old son, James. At the time of the child's death he was drinking in the public house. Then his wife and mother-in-law came there and then:

(...) when his wife came in she put the baby out of her arms into the prisoner's arms, and blowed him up—she scolded him—I cannot tell her exact words, but she got hold of the hair of his head behind, and punched him in the face very hard—I cannot tell how many times—I think thirteen or fourteen times in the face—I cannot recollect what she said at the time, but she was crying, and was very much bad tempered with him—I do not recollect her calling him names, but the mother called him a murderer, a Greenacre, a man-eater, and a whoremonger, and, after her calling him these names, he called her a b—y w—c—she then ran and got hold of a quart pot, abused him as much as she could, came towards him, and hit at him with the pot.<sup>427</sup>

No one knew why they argued, but after the fight his wife left and did not take the child with her. The prisoner wanted to leave with the child, but the people at the public house stopped him because they preferred to wait until someone would take care of the child. The prisoner approached the bar with the sleeping child in his arms, and the child suddenly fell and struck his head on the counter. The baby was taken to a doctor but died shortly afterwards. The surgeon stated that the wounds on the child's head may have been caused by deliberate action or an accident. People staying in the public house at that time also testified that the prisoner seemed to be agitated by his wife's behaviour, but he was not drunk. Based on the evidence, the jury found him guilty of murder, but strongly recommended mercy due to his strong excitement.<sup>428</sup> The sentence was changed to transportation to Van Diemens Land for 21 years. It should be noticed that the sentence was more severe than in the case of Harriet Longley. Edward Dwyer arrived in Australia in July 1844 and attempted to escape 8 times between 1850 and 1858. Finally, in February 1859, he received a ticket to leave, however, it is not known what happened to him afterwards.<sup>429</sup>

The analysis of the data shows that also in case of murder convictions in the second half of the Victorian era, the courts became more lenient towards people found guilty of infanticide, and their verdicts were changed to penal servitude for life with a high

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<sup>427</sup> *Old Bailey Proceedings Online* (www.oldbaileyonline.org, version 8.0, 07 January 2023), November 1843, trial of EDWARD DWYER (t18431127-267).

<sup>428</sup> *Old Bailey Proceedings Online* (www.oldbaileyonline.org, version 8.0, 07 January 2023), November 1843, trial of EDWARD DWYER (t18431127-267); *London Evening Standard*, October 23, 1843, p. 4 (online <https://www.britishnewspaperarchive.co.uk/viewer/bl/0000183/18431026/033/0004>, access: 07<sup>th</sup> January 2023).

<sup>429</sup> *The Digital Panopticon* Edward Dwyer b. 1818, Life Archive ID obpdef1-267-18431127 (<https://www.digitalpanopticon.org/life?id=obpdef1-267-18431127>). Version 1.2.1, consulted 7<sup>th</sup> January 2023.2023).

possibility of obtaining a prison license after several years of imprisonment. That was, for example, the case of Ann Padfield who in 1860 was tried for the wilful murder of her son, William Augustus Bryant. The child was born in June 1860, and after two months the prisoner decided to leave her lodgings. Her neighbours testified that she was affectionate towards the child, however, because she had to start working again, she claimed that she would give the child to her sister-in-law. A month after those events, the child's body was found in the privy. It was in a very decomposed state, so it was difficult to recognise it. Nevertheless, Ann Padfield's son had a birthmark on his naval, the same as the found child. In the beginning, there was a suspicion that the child had been poisoned, but the surgeon said that there were no evidence of that and the cause of death was most probably drowning. It was almost impossible to determine due to the condition of the body. During the arrest, Ann changed the story regarding the child's whereabouts:

You were delivered of a child in June last at Lea-bridge"—she said, "Yes, I was"—I said, "What has become of that child?"—she said, "The friends of the young man, the father of the child, have taken it away to keep it"—she did not mention any names—I said the body of a child had been found in a water-closet at Lea-bridge, and it was supposed to be the body of her child—she said, "I have been in great distress; I have even wanted bread, but indeed I did not do it myself"—I went into the kitchen with her to collect her things together, previous to bringing her away, and she said, "If you take me away I will let it all out, for the father of the child has behaved very cruel to me"—I then brought I her in a cab to Hackney police-station, and charged her with the murder—I asked her on the road to the station the name of her child, and she said, the name of her child was Augustus—I asked her what her name was, and she said, "Ann Padfield".<sup>430</sup>

Despite her mutually exclusive testimonies, Ann Padfield enjoyed the court's sympathy because she could also be seen as a victim. The father of her child was the son of her previous employer, so she was seen as a poor, seduced woman. Moreover, he knew about the pregnancy and promised to pay her some money, but only if she brought a medical certificate. The child was registered as a legitimate one because the defendant named her Emma Bryant and stated that she was the wife of Frederick, the child's father. Nevertheless, all the evidence pointed to the defendant's guilt. She was therefore found guilty of murder and sentenced to death, but strongly recommended mercy "on the grounds of her seduction, her poverty, her mental anguish, and her previous good character."<sup>431</sup>

In December, the Home Secretary decided to change the penalty from death to lifelong servitude. The article in the *Luton Times and Advertiser* stated that:

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<sup>430</sup> CRIM 1/6/11, The National Archives, Kew (access: 28<sup>th</sup> October 2022).

<sup>431</sup> *Ibidem*.

THE CONVICT ANN PADFIELD. A communication was received on Tuesday Newgate, from the Home Secretary intimating that the sentence of death passed this prisoner would be commuted to that of penal servitude for life. Our leaden will probably remember that she was convicted at the last session of the Central Criminal Court of the murder her illegitimate child, and sentenced to death, and who has since been during the pleasure of the Crown. A most extraordinary statement has, however, since appeared. . . It is said that immediately after the prisoner conviction she expressed a desire to make a statement relative to the affair, and in the presence of the Sheriffs and the Rev. Mr. Davis, the Ordinary of Newgate, she declared that the child met its death in the following manner. said that a fortune-teller, who lived in the neighbourhood of one of the great London thoroughfares, in the habit of coming to visit her in Hackney, and telling her fortune, and that they were very intimate, and the fortune-teller told her that if ever she was in trouble she was to come to her, and she would assist her. After she was discharged from her . on her being pregnant with this child, she said she thought what the woman had told soon she was able, after the birth of the child, she went to her house for the purpose of telling her how she was situated. At this time she was if very great distress, and was unable to take another situation on account having the child, and upon her explaining her position to the fortune-teller, she told her that she would take the child from her, and it should never be a trouble to her again. The prisoner declares that she had no idea that any harm would come to the child her accepting the offer, and in consequence of the state of distress in which she was at the time, she readily agreed to it, and never saw the child again alive; but she at the same time admitted that she suspected that it was the dead body of the child that she threw down the water-closet.<sup>432</sup>

This is a very extraordinary story. It is impossible to establish whether she told the truth or just made up such a statement because she wanted her sentence to be reduced even more. Detectives investigated it, but it seemed to be a fabrication. Soon thereafter, the prisoner made another statement and declared that the child had been killed in her presence by a person whose name she had already mentioned, and that she was only guilty of concealing the body.<sup>433</sup> This statement was also treated as a fabrication. It seems that Ann Padfield wanted to get out of prison as soon as possible and hoped that those stories could help her. It should also be noted that Ann Padfield did not spend her entire life in prison, she was granted a prison license in 1872 and has no other criminal records connected to her name, unless she again used aliases to hide her identity.<sup>434</sup>

Another person found guilty of murdering her infant, whose punishment was also changed to life imprisonment, was Amy Gregory, alias Smart. In December 1894, the prisoner came to Richmond's workhouse to give birth to her daughter, Frances Maude Smart. She stayed there for almost a month, and in January she left on her own accord. The

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<sup>432</sup> *Luton Times and Advertiser*, December 22 1860, p. 3 (online <https://www.britishnewspaperarchive.co.uk/viewer/BL/0000479/18601222/064/0003?browse=False>, access: 28<sup>th</sup> January 2023).

<sup>433</sup> *Ibidem*.

<sup>434</sup> *The Digital Panopticon* Ann Padfield b. 1837, Life Archive ID obpdef1-38-18601126 (<https://www.digitalpanopticon.org/life?id=obpdef1-38-18601126>). Version 1.2.1, consulted 28<sup>th</sup> January 2023.



child's body was found in February, lying face down on the ice in the ditch. The child was naked, with only a white pocket handkerchief twisted twice around her neck. The witnesses also testified that there was no intention to conceal the body because no one passing near that place could have done so unnoticed. The surgeon testified that the cause of death was suffocation. Moreover, he also stated that the child was "very emaciated – that was due to starvation – there was absolutely no food in the stomach or intestines, and hardly any fat on the body – it weighed five and a half pounds; the normal weight of a child of that age would be seven or eight pounds – it would suffer from exposure, and more so if unfed."<sup>435</sup>

When arrested, Amy Gregory stated: "I did not murder my child; it died of starvation; I lost my milk through worry; I had no money to get food, and no work."<sup>436</sup> Her testimony could be supported by the surgeon's statement that the child suffered from starvation. During the trial, it was also mentioned that the prisoner had a husband and two other children, but they lived separately, however, it is not known why. Based on the evidence collected during the trial, the jury found her guilty of murder, however, they recommended her to mercy because of her destitution. In April 1895, the Home Secretary changed the death sentence to lifelong servitude.<sup>437</sup> Amy Gregory spent only 4 years in prison. She was granted the prison license in February 1899 and left the prison in March of the same year.<sup>438</sup> As in previous cases, there is no criminal record connected to her name present, so it can be assumed that she managed to find a better life after leaving the prison.

Nonetheless, it should be noted that not all infanticide offenders who were given a second chance were able to live without committing other crimes. In 1894, Minnie Wells was tried for murdering her twin daughters. She initially tried to plead temporary insanity, but the surgeon disputed this, stating that her actions were too rational to suggest that she was suffering from puerperal insanity. She also could not claim she did not intend to kill because her children were found in two separate places to make it more difficult to link them to her. Ultimately, she was found guilty of murder and, as usual in such cases,

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<sup>435</sup> CRIM 1/41/5, The National Archives, Kew (access: 27<sup>th</sup> October 2022).

<sup>436</sup> *Ibidem*.

<sup>437</sup> *Morning Post*, April 02, 1895, p. 7 (online <https://www.britishnewspaperarchive.co.uk/viewer/BL/0000174/18950402/057/0007?browse=False>, access: 29<sup>th</sup> January 2023).

<sup>438</sup> HO 144/263/A56842 The National Archives, Kew (access: 27<sup>th</sup> October 2022). In that file there are also present petitions for her quicker discharge and report regarding her good behaviour in prison

recommended to mercy by jury.<sup>439</sup> Her sentence was also changed to penal servitude for life, but she was granted a prison license 7 years later in January 1901, and left the prison in October of that year. She was recommended for conditional release by the prison officers. A few months after she left the prison, she was still under supervision. There is a note from April 1902 from a Scotland Yard officer informing that she was working as a waitress at the new Red House Coffee Tavern, Commercial Road, and that she conducted herself in a good manner.<sup>440</sup> It did not last long, as in 1909 she was found guilty of murder and sentenced to death, which was later changed to penal servitude for life.<sup>441</sup> There is no information that another prison license was granted to her, so it can be suspected that she spent the rest of her life in prison.

The analysis of the data shows that the jury was reluctant to return a murder conviction. It was usually proclaimed when there was impossible to prove that the accused had no intention of killing the child. This also happened when the defendants confessed to the crimes they were accused of. Nevertheless, even when the death penalty was proclaimed, juries often recommended mercy for the convicted person. It can be also observed that in such situations the death penalty was carried out very rarely, because the Home Secretary usually converted it into penal servitude for life (in the first half of the century it could also be changed to deportation to Australia). Furthermore, it should be stressed that the infanticide offenders did not spend their entire lives in prison; after a few years, they were usually recommended for conditional release upon receiving a prison license. It is difficult to establish what happened to them after they were released – they could have moved to another place or changed their name, so unless they committed another crime, tracing their lives is problematic.

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<sup>439</sup> CRIM 1/41/3, The National Archives, Kew (access: 27<sup>th</sup> October 2022).

<sup>440</sup> HO 144/547/A56415, The National Archives, Kew (access: 27<sup>th</sup> October 2022).

<sup>441</sup> *The Digital Panopticon* Minnie Wells b. 1871, Life Archive ID obpdef1-849-18941022 (<https://www.digitalpanopticon.org/life?id=obpdef1-849-18941022>). Version 1.2.1, consulted 19<sup>th</sup> November 2023.

### 3.7. Insanity and infanticide offenders

The verdicts of guilt or innocence were not the only ones which could be announced in infanticide trials. Another was “non compos mentis”, which meant that the defendant was temporarily insane at the time of the crime. Until 1883, when Parliament passed the Trial of Lunatics Act, the jury announced a verdict of acquittal, which was then changed to: guilty but insane at the time of the act. Nonetheless, the new law stated that:

Where in any indictment or information any act or omission is charged against any person as an offence, and it is given in evidence on the trial of such person for that offence that he was insane, so as not to be responsible, according to law, for his actions at the time when the act was done or omission made, then, if it appears to the jury before whom such person is tried that he did the act or made the omission charged, but was insane as aforesaid at the time when he did or made the same, the jury shall return a special verdict to the effect that the accused was guilty of the act or omission charged against him, but was insane as aforesaid at the time when he did the act or made the omission.

Where such special verdict is found, the Court shall order the accused to be kept in custody as a criminal lunatic, in such place and in such manner as the Court shall direct till Her Majesty’s pleasure shall be known; and it shall be lawful for Her Majesty thereupon, and from time to time, to give such order for the safe custody of the said person during pleasure, in such place and in such manner as to Her Majesty may seem fit.<sup>442</sup>

Because most defendants were women, Victorian court cases often centred around mental health conditions related to the female reproductive system. In the nineteenth century, a new term “puerperal mania” was introduced to describe mental illness related to childbirth. It is worth noting that even before the nineteenth century, it was observed that pregnant women or new mothers were prone to mental disorders and exhibited depressive or aggressive behaviours.<sup>443</sup> The first British physician to write about puerperal insanity was Robert Gooch. In 1820 he published a treatise entitled *Observations on Puerperal Insanity*, and the distinctions he made regarding this illness were used throughout the century.

Based on his observations, puerperal insanity began a few days or a few weeks after childbirth. However, it is worth noting that it could also manifest several months later during nursing or weaning, due to the lactation process. Two types of puerperal mania have been identified and were often discussed in infanticide trials: mania and melancholia. Mania manifested itself as rapid heart rate for no reason, sleepless nights, and a sharp temper. However, it is soon followed by:

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<sup>442</sup> *Trial of Lunatics Act, 1883*, (46 & 47 Vict.) chapter 38, (online <https://vlex.co.uk/vid/trial-of-lunatics-act-808334549>, access: 25<sup>th</sup> February 2023).

<sup>443</sup> H. Marland, *Dangerous Motherhood...*, op. cit., pp. 2-3.

(...) indescribable hurry, and peculiarity of manner, which a watchful and experienced observer, and those accustomed to the patient will notice, her conduct and language became wild and incoherent, and at length she becomes decidedly maniacal; it is fortunate is she does not attempt her life before the nature of the malady is discovered.<sup>444</sup>

Contrary to that, a form of melancholy usually occurred a few months after delivery and it progressed gradually. R. Gooch characterised is as follows:

(...) the patient has suffered in health from nursing, experiences a failure of memory, confusion of mind, and an irresistible and inexplicable depression of spirits; she finds it difficult to think on any subject long, her domestic accounts bewilder her, she is dissatisfied about herself and full of anxiety. This state continues in a greater or less degree for several weeks; at length it becomes more marked, her countenance is mournful and downcast, she is silent and thoughtful, fancies that she has some serious disease, accuses herself of some moral depravity, and supposes herself an object to punishment and scorn.<sup>445</sup>

It should be noted that he also mentioned that those two types of mental illness may appear not only immediately after childbirth, but also in connection with lactation – then the symptoms might be similar, however, the cause of this state was different.<sup>446</sup> For example, in 1889 Julia Georgina Spickernell was found guilty of murdering her infant daughter, but was also found to be insane at the time of the crime. The child was nine months old at that time and the prisoner was still nursing her. She suffered from pain in the back of her head and stated that she felt peculiar at times. The child's body was discovered drowned in the pile of water, and the prisoner claimed "I have done it; the devil made me do it; he has been following me about up and down stairs the last five weeks."<sup>447</sup> Her state could be also linked to insanity caused by religious agitation, however, the surgeon stated differently:

I had attended her in several confinements—as far as I was able to judge she was always a kind and affectionate mother—I should imagine that in this case mania arose from over-lactation; I have known of such cases as long as nine months after confinement; it commonly supervenes speedily after—there are three kinds of puerperal mania: one which comes on in the puerperal state before the child is born, another which comes on during the state of labour or soon after, and another kind which is recognised as the insanity of lactation; she was still suckling her child at this time—it is common to get this condition in women of delicate constitution, who have borne children rapidly, and have a profuse supply of milk, especially after loss of rest or anything likely to exhaust the nervous system—pain in the head is one of the symptoms that would occur.<sup>448</sup>

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<sup>444</sup> R. Gooch, *Observations on Puerperal Insanity*, London 1820, p. 4.

<sup>445</sup> *Ibidem*, p. 5.

<sup>446</sup> In this chapter puerperal insanity is analysed only in the context of infanticide. The mental problems connected to childbirth, treatments of patients and methods used by different doctors are analysed in Hilary Marland's book *Dangerous Motherhood. Insanity and Childbirth in Victorian Britain*, New York, 2004.

<sup>447</sup> CRIM 1/31/5, The National Archives, Kew (access: 26<sup>th</sup> October 2022).

<sup>448</sup> *Ibidem*.

This testimony shows which symptoms indicated insanity. Issues such as over-lactation could cause mental problems in women with delicate constitution who were exhausted by childbirth and later child care. During the trial, it was also mentioned that at the beginning of her stay in she was still delusional and that did not want to talk at all or complained of a headache, however, after some her condition improved significantly and at the time of the trial she was no longer considered insane. This case also demonstrates why this kind of insanity was difficult to diagnose. Soon after committing the crime, defendants usually began to feel a little better, except that they felt guilty. Moreover, in this example, the testifying doctor had known the prisoner for some time; however, in some situations doctors had to make judgment at short notice, and if did not know the defendants, they were not fully aware of their normal behaviour and had to rely on a family members or neighbours who were usually willing to help the defendants.

Those two types of puerperal insanity were often mentioned in cases of suspected “disturbance of mind”, and the defendant's condition was analysed by doctors and witnesses who shared details about the suspects’ medical history or their strange behaviour before the crime. It was often supported by claims of heredity, with witnesses testifying that the defendant’s mother, aunt, sister or other female family member suffered from mental illness or attempted suicide. Those claims, coupled with a doctor’s testimony that the female defendant suffered from puerperal insanity, usually secured a verdict of temporary insanity. There were also external causes of insanity, such as jealousy or religious agitation, which could also cause mental issues and result in murder.<sup>449</sup> An example of religious agitation combined with melancholy is Ann Clarke, tried for murdering her daughter Ann Clarke the Younger in 1835 is. She was married and, based on her neighbours’ testimonies, she loved her child very much and did not argue with her husband. A few days before the murder, she began to behave strangely and complained about her condition:

Mrs. Cole, I feel very ill, in a very low way; I am getting into the nervous way I was in once before: I feel quite alarmed at myself"—she said nothing particular more than that—she looked very ill—her eyes looked very bad—I have seen her very low before at times—she always complained she was fearful of going into the nervous way she had been in before—when she was in that low way, she would sit a long time, then start up, and walk about the room, quite lost—she never talked to me about religion—the last time she was with me, she said she was afraid of herself, and expressed a

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<sup>449</sup> E. Farrell, op. cit., pp. 96–97.

dread of being left alone—she was always a kind mother to the infant, and was afraid to trust it out of her arms to anyone.<sup>450</sup>

This testimony might suggest that the defendant had suffered from some form of melancholia in the past and assumed that it was returning. It is also important to note the phrase regarding Ann Clarke's eyes, because when insanity was debated in the court, the appearance of the eyes could be used as proof of mental illness. The prisoner cut her daughter's throat with her husband's razor. When asked about that, she replied, "the devil had been very busy with me in the afternoon", and "Yes, he tempted me to kill my baby, and wanted me to do it for myself, but I could not."<sup>451</sup> No one knows why she suddenly mentioned the devil, however, it may be assumed that she heard some voices in her head and associated them with Satan. Later, while she was in confined, the governor of Newgate also stated that she was still in a state of melancholy, had not talk with anyone, and had remained silent all day. Due to the testimonies and the defendant's condition, she was found not guilty of her crimes. There is no information on what happened to her after the trial, whether she returned home or was sent to the asylum for treatment.

Another person suffering from insanity and associated with religious agitation was Catherine Savill, who in 1854 was tried for drowning her son in a basin of water. It is also important to mention that she may have been middle class, as she hired servants and lived in a house with a garden, both which indicated wealth. She was under treatment for 7 months, but no one supposed that she would be able do something like that. A witness called to the house after the body was found testified:

On 15th April, about 11 o'clock, I was called by Dr. Clunie to the prisoner's house, and saw her there—she said she had drowned her child—(the child was upstairs then)—I asked her what for, but she would not give any reason, only that she thought that it would be better off to be in heaven—she appeared quite beside herself, in a state of madness, and said that some persons, pointing over her shoulder, persuaded her to drown the child, and that she said, "No, I cannot do it;" and they said, "You must do it".<sup>452</sup>

Moreover, the witness also testified that about 8 days before the murder he was called to restrain the prisoner and tied her hands due to her aggressive behaviour. She managed to leave the house and was running around the street, after she was caught, two men were

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<sup>450</sup> *Old Bailey Proceedings Online* ([www.oldbaileyonline.org](http://www.oldbaileyonline.org), version 8.0, 25 February 2023), March 1835, trial of ANN CLARKE (t18350302-806).

<sup>451</sup> *Ibidem*.

<sup>452</sup> *Old Bailey Proceedings Online* ([www.oldbaileyonline.org](http://www.oldbaileyonline.org), version 8.0, 27 February 2023), May 1854, trial of CATHERINE SAVILL (t18540508-682).

hired to wait with her at home until her husband returned. Such strength could also be treated as a manifestation of insanity. Furthermore, Doctor William Clunie also confirmed that she was insane at that time and stated:

(...) she appeared also to be labouring under some strong religious feeling; she told me she thought she was eternally lost, and when she attempted to pray, innumerable voices told her that they could call upon the name of Christ as well as she, but that she was lost, and it was of no use for her to do so—she is a Roman Catholic.<sup>453</sup>

Interestingly, the doctor mentioned Catherine Savill's religion. It may imply that being Roman Catholic would predominate her to strong religious feelings and cause her condition. The defendants' faith was usually not mentioned at trial; therefore, it can be assumed that the doctor noticed some connections between that and the prisoner's condition. She was ordered to be placed in an asylum until her state improved.

It should be noted, however, that not only female defendants could be considered insane at the time of committing the crime. The Old Bailey Proceedings show that for male defendants, insanity could manifest itself in several forms, such as mania, melancholia or delirium. All of them had different causes, as for instance illness, accident, difficult life situation or, as in the case of female defendants, it could be inherited. For example, Joseph Wood, who hit his daughter on the head with a poker in 1890, was declared to be insane because he suffered from epileptic fits since childhood and, according to doctors, during those fits he was unable to distinguish right and wrong.<sup>454</sup> Another example of a male defendant found guilty but insane is Alfred James Bartlett, who strangled his 5-month-old daughter, Rosina. He had an accident about 10 years before the murder. He fell from a height and since then suffered from epileptic fits and headaches, which was also considered a sign of insanity. During the trial, Philip Francis Gilbert, surgeon of Her Majesty's Prison at Holloway, testified:

I have had him under my observation—on his admission I made an examination of him in order to arrive at his condition of mind—he was very depressed; I thought him suffering from melancholia—he was dazed and confused—he did not know where he was, and he had no idea of the flight of time—he did not know how long he had been there, or how long he was to stay—he complained of sleeplessness—that is very often the case in melancholia—he said at times he felt so miserable that

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<sup>453</sup> *Old Bailey Proceedings Online* ([www.oldbaileyonline.org](http://www.oldbaileyonline.org), version 8.0, 27 February 2023), May 1854, trial of CATHERINE SAVILL (t18540508-682).

<sup>454</sup> *Old Bailey Proceedings Online* ([www.oldbaileyonline.org](http://www.oldbaileyonline.org), version 8.0, 27 February 2023), May 1890, trial of JOSEPH WOOD (24) (t18900519-457).

he contemplated suicide; that often accompanies melancholia—he said he had thought the night before this occurrence that the child was cold and dead—he said he was very fond of the child.<sup>455</sup>

This example shows that men also suffered from melancholia, which although it had similar symptoms to female ones, the cause of that condition was different. In the case of female defendants, it was caused by childbirth, while in the case of men, it could have been the result of an accident that had occurred in the past.

It should also be mentioned that sometimes, in addition to the strange behaviour of the defendants, witnesses also tried to provide information about the traits of insanity in the prisoner's family. Such claims were especially successful in the second half of the century. They were used, among others, during the trial of Henry Dracott Jackson, in which it was stated that his cousin and grandmother were in an asylum. Moreover, like his father and sister, he suffered from diabetes, which, according to the surgeon who testified at the trial, could also cause insanity.<sup>456</sup> Similar testimonies were also given during the trial of Charles Henry Miles in 1900. It was stated that he had attempted suicide, which was considered a manifestation of mental disorders, but also – as the surgeon stated – “Miles, who was admittedly of weak intellect, and had hereditary taints of insanity, was not responsible for his actions at the time he committed the fatal deed.”<sup>457</sup>

During the Victorian period in London, 42 people were found to be insane at the time of their crime. Old Bailey statistics show that the married women predominated among them – a total of 27 out of 36 in total. In the second half of the century, unmarried women had more chances to obtain such a verdict. That was, for example, the case of Sarah Price, who in 1857 was tried for murdering her infant son. She lived with the child's father, however, there was no evidence of their marriage. Therefore, it can be assumed that from a legal point of view she was a single person. She threw the child over the bridge and a policeman saw her. Sarah admitted the crime and stated that she wished to be with her child and also wanted to kill herself. Because her behaviour was strange and there was no

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<sup>455</sup> *Old Bailey Proceedings Online* ([www.oldbaileyonline.org](http://www.oldbaileyonline.org), version 8.0, 27 February 2023), March 1891, trial of ALFRED JAMES BARTLETT (49) (t18910309-286).

<sup>456</sup> *Old Bailey Proceedings Online* ([www.oldbaileyonline.org](http://www.oldbaileyonline.org), version 8.0, 27 February 2023), October 1895, trial of HENRY DRACOTT JACKSON (27) (t18951021-831).

<sup>457</sup> *Daily Telegraph & Courier (London)*, April 06, 1900, p. 8 (online <https://www.britishnewspaperarchive.co.uk/viewer/BL/0001112/19000406/184/0008?browse=False>, access: 27<sup>th</sup> February 2023).



intention of concealment, she was found not guilty on the grounds of insanity.<sup>458</sup> Another single woman who received a similar sentence was Annie Cherry. She was a servant who in 1887 was accused of murdering her female infant. She stayed at her sister's house during the confinement, and at the end of April the child suddenly disappeared. According to the witness:

(...) she remained in the house with the child up to the 29th April—I went out that day about 2 o'clock—I returned about 4, the prisoner met me at the gate and told me that she had given her baby away to a gipsy woman—I said "You have done what, Annie?"—she said "I have given my baby to a gipsy woman"—I said "Let us go for the police or find somebody to go"—she said "If you do, I shall make away with myself"—I went into the house with her—my husband came in shortly after and I made a statement to him in her presence, and he took her to the police-station—the inspector came back with my husband and the prisoner—she made a statement to the inspector in my presence, the same as she had told me, that she had given the baby away, and she gave a description of the van, and the name of Mr. Nelson as the name on the van—she remained at my house that night—on the Saturday morning about 9 o'clock the inspector came again and took her to the police-station. She then said she had drowned it; that she had put some cold water into a pail and some warm to it, and put it head downwards into the pail and put a pan on the top—she said she had put the warm water because she thought it would be cruel to put cold—she said she had buried it in the garden—I said "How could you be so cruel, was the water too warm, or did you hurt the baby before putting it there?"—she said "No, the water was only warm, I put my hand in first to see that it was only sufficiently warm".<sup>459</sup>

It was also testified that the prisoner was very cheerful before the confinement, however, the difficult labour changed her. A surgeon from Holloway Prison testified that she suffered from melancholia and therefore was not responsible for her actions.<sup>460</sup> Another single mother found insane at the time was Mary Spargo Medlin, who, despite decapitating her child, was declared to be not aware of her actions at the time. This verdict was quite surprising because, apart from the prisoner's advocate, no one else commented on her mental state.<sup>461</sup> Furthermore, in 1891 Eve Mary Lonnen, a servant described as suffering from melancholia and based on this evidence was also declared guilty but insane at the time of the murder.<sup>462</sup> Later in this decade, Dinah Cohen, whose case was discussed earlier, was described as having a weak and nervous temperament that, due to labour, may have resulted

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<sup>458</sup> *Old Bailey Proceedings Online* ([www.oldbaileyonline.org](http://www.oldbaileyonline.org), version 8.0, 28 February 2023), April 1857, trial of SARAH PRICE (t18570406-480).

<sup>459</sup> *Old Bailey Proceedings Online* ([www.oldbaileyonline.org](http://www.oldbaileyonline.org), version 8.0, 28 February 2023), May 1887, trial of ANNIE CHERRY. (21) (t18870523-659).

<sup>460</sup> *Ibidem*.

<sup>461</sup> CRIM 1/25/3, The National Archives, Kew (access: 26<sup>th</sup> October 2022).

<sup>462</sup> *Old Bailey Proceedings Online* ([www.oldbaileyonline.org](http://www.oldbaileyonline.org), version 8.0, 28 February 2023), January 1891, trial of EVA MARY LONNEN (24) (t18910112-170).

in puerperal mania. Therefore, she was also declared not responsible for her action and was detained in Holloway Prison.<sup>463</sup>

It should be mentioned that although few single women obtained the verdict of being temporarily insane at the time of committing the crime, the data also show that their situation was changing, especially in the last two decades of the century. The analysis of the proceedings shows that, especially in the first half of the century, puerperal mania and other mental disorders related to childbirth or lactation were reserved for married women, however, as the above-mentioned examples demonstrate, it started to change from the 1850s.

*Table 7. Sentences pronounced at the Old Bailey – verdict temporary insane at the time of committing the crime, 1834–1901.*

<b>Insane at the time of crime</b>		
	<b>Women</b>	<b>Men</b>
1834–1840	2	0
1841–1850	6	0
1851–1860	4	0
1861–1870	3	0
1871–1880	2	1
1881–1890	11	2
1891–1901	8	3
<b>Total</b>	<b>36</b>	<b>6</b>

Source: Compiled by the author based on Old Bailey’s Proceedings.

Interestingly, the group of defendants also included 6 males whose mental state at the time of committing the crime did not allow for a criminal conviction. The analysis of the Old Bailey Proceedings shows that this verdict was more frequently announced in the second half of the century, with a peak in the 1880s. It should be stressed that all insanity sentences in cases in which the accused was a man were proclaimed between the 1870s and 1890s. Arlie Loughnan, in her book entitled *Manifest Madness: Mental Incapacity in the Criminal Law*, claims that by the end of the century, insanity had become a part of a type

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<sup>463</sup> CRIM 1/50/2, The National Archives, Kew (access: 26<sup>th</sup> October 2022).

of female infanticide because women were predisposed to insanity due to their physiology.<sup>464</sup> The analysis of the data from the Old Bailey does not support this claim. There was a belief that women, due to their nature, were more prone to mental disorders, but it does not seem to be a necessary attribute during infanticide trials. Women accused of infanticide were treated leniently due to their poverty, young age, or seductions, however, the insanity claim was not very often used, at least in trials of unwed mothers. It was quite typical of the trials of married women, in which the mental state of defendants was always taken into consideration. Nevertheless, it had more to do with their social position and the Victorian view of motherhood, as discussed in previous chapters.

A classic example of a defendant suffering from the mania type of puerperal insanity was Harriet Goodliffe. She lived with her husband and 3 children, the youngest of whom, James, was about 8 or 9 months old. Her neighbour testified that a few days before the crime she started behaving strangely. At first she was very quiet, then she started screaming and howling. On the day of the murder, she had been behaving strangely since the morning:

I am a shoemaker, of 1, Blossom-place, Norton Folgate—on 10<sup>th</sup> April last, the prisoner, her husband, and three children occupied the second floor of that house—the youngest child was named James, and was 8 or 9 months old—I saw the child after it was picked up—it was not then dead—it died About 6 that night—I had seen the prisoner three times that day—the first time was about 9 in the morning—they were going on very noisily, and I went up and saw her standing near the window with the child in her arms—her husband was with her—she was halloing out in a very senseless state, so that people were coming round to see what was going on—I stopped there till she was quiet, and then went down—about half—past 1, I was called up again by the little boy and girl—I found the prisoner standing in the doorway—I caught hold of her, and she dropped the child to the ground—I thought she was out of her mind—the little boy, ten years old, took the child from the ground—the husband came and took her on his knee, and I went down again; between 3 and 4 o'clock I went up again, hearing a noise, the poor woman was screaming—I saw her standing near the window—the upper part of the window was down, and she had her bands raised like, hanging onto it—the child was then gone—I stayed and took care of the prisoner till the policeman came and took her in charge—I afterwards saw the child outside the house.<sup>465</sup>

Moreover, two separate surgeons declared her to be unsound of mind at the time of the crime and also stated that she could not differentiate between right and wrong. Quite surprisingly, no one called a doctor or tried to restrain her or separate her from her children. The witness's testimony clearly demonstrates that she was in a bad condition and most probably injured the child before throwing it out of the window. Furthermore, her

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<sup>464</sup> A. Loughnan, *Manifest Madness...*, op. cit., p. 214.

<sup>465</sup> *Old Bailey Proceedings Online* ([www.oldbaileyonline.org](http://www.oldbaileyonline.org), version 8.0, 28 February 2023), May 1863, trial of HARRIET GOODLIFFE (31) (t18630511-716).

behaviour is a good illustration of R. Gooch's description of mania – she was incoherent, peculiar and behaved in an odd way. This behaviour did not begin immediately after birth, however, as previously stated, puerperal mania can begin at different periods of time. She pleaded not guilty by reason of insanity, nonetheless, at the same time, she was ordered to be detained in an asylum.

The person who suffered from puerperal mania straight away after the birth of her child was Sarah Norman, a 21-year-old woman who in 1881 was accused of the wilful murder of her infant daughter by stabbing her with the scissors and then setting her body on fire. In this case, it is important to mention that the labour was very difficult and the young mother was ill for a long time afterwards. At first she was very fond of the child, but it changed suddenly. Some witnesses stated that she was out of her mind. She screamed and asked the people around her to take the child away. She was under supervision, but one day, when she was alone, she murdered her daughter. The midwife who was called to her testified:

I was sent for and went at once to her house in Milk Street; I went up to her room and found her in bed, looking very wild and strange about the eyes—I saw blood on the floor, and asked her how it came there; she said “It is where I cut the baby with the scissors”—she said that she took the scissors from a nail over her sister's portrait, and had put them on the mantelshelf—I saw them there covered with blood—Mrs. Charwood was there in a fainting fit in a chair and Mrs. Constance also—I saw the child dead and lying on a pillow—I saw that it was quite dead.<sup>466</sup>

The surgeon present at the trial testified that puerperal insanity often came on suddenly and that he had seen such cases before. Therefore, he was sure that the defendant was not aware of her actions. As in the previous case, it is significant to mention that even when she threatened to kill the child or asked to be taken away, no one was watching her all the time or separated her from the child. Maybe her family members thought this condition was temporary and that she would not do anything cruel. She was found guilty of her crime, but insane at the time, she was also sentenced for detention in an asylum.

There were also defendants who suffered from another type of puerperal insanity – melancholia.<sup>467</sup> One of them was Johanna Culverwell, who in 1883 was accused of

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<sup>466</sup> CRIM 1/11/4, The National Archives, Kew (access: 26<sup>th</sup> October 2022).

<sup>467</sup> It should be noted that melancholia was also a term used to describe a condition that today would be considered a type of depression. The term was commonly used in the 19th century to describe a range of symptoms including prolonged sadness, apathy, loss of appetite, insomnia, and feelings of worthlessness or hopelessness. During the Victorian era, melancholia was often associated with women and their reproductive functions. It was believed that the female reproductive system was connected to a woman's mental and emotional health, and that certain disorders or imbalances in the reproductive system could lead to

drowning her infant son. She had 2 children – the younger one, found in a pile of water, was about 6 weeks old. It is significant to notice that she had a medical history of mental illness. During the trial Doctor Crenonioni testified:

I am physician of Hoxton House, Hoxton, which is licensed for the reception of lunatics—the prisoner was there as a patient under my care from 6th September, 1878, till 1st January, 1879, when she was discharged cured—while there she was a person of unsound mind and a proper person to be confined as a lunatic—I have all the particulars in this book (*produced*)—the supposed cause was intemperance—if she became intemperate afterwards the malady might most likely recur.<sup>468</sup>

Her husband also confirmed that she was in the asylum before, however, he did not suspect her of being able to do something like that, and on the day of the crime they did not quarrel. Difficulties associated with childbirth and nursing an infant most likely resulted in symptoms of mental illness. After the murder, she wandered the streets and went to a public house. At the time of arrest she was drunk, but sober enough to understand what was happening. The surgeon declared that she was aware of the deed itself, but not of its consequences. While in prison, she also tried to commit suicide. All things considered, the surgeon claimed that she was suffering from melancholia. Interestingly, the files contain a note informing about the change in law. So, after some deliberation regarding the form of the sentence, she was found guilty “of the act of causing the death of the child by immersing it in a pan of water, but that she was insane and not responsible for her act at the time she committed it.”<sup>469</sup> She was also ordered to be detained until her mental state improved.

Johanna Culverwell was not the only defendant in such circumstances. Annie Matilda Phelps, who was charged with the wilful murder of her 6-month-old son Arthur in 1896, also had a medical history of mental issues. The defendant strangled her child with a bandage. When asked why she did that, she replied: “I did it in a moment of madness. I have been ill some time and I felt my head gone. I felt my nerves going.”<sup>470</sup> At the time of the crime, she seemed to be unaware of what happened. When asked about the child’s

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melancholia. However, this term was also used by R. Gooch to describe one of the types of puerperal insanity. It is important to remember that melancholia was also treated as separate disease, not always connected to the childbirth. See, H. Marland, *Dangerous Motherhood...*, op. cit., pp. 20–48; A. Scull, *Madness in Civilization. A Cultural History of Insanity, from the Bible to Freud, from the Madhouse to Modern Medicine*, London, 2020, pp. 86–122; A. C. Pedley, op. cit., pp. 9–13.

<sup>468</sup> CRIM 1/19/1, The National Archives, Kew (access: 26<sup>th</sup> October 2022).

<sup>469</sup> *Ibidem*.

<sup>470</sup> CRIM 1/44/3, The National Archives, Kew (access: 26<sup>th</sup> October 2022).

condition and what happened to him, she said that she had to go to feed him, even though he was already dead. Moreover, a surgeon testifying during the trial stated:

I am medical superintendent at the Essex County Asylum at Brentwood—the prisoner was under my care there from September, 1887, to February, 1888, suffering from acute melancholia, which is a disease of the mind—I learned that she had previously been in an asylum at Stoneleigh, Dartford; Stoneleigh Asylum, I believe, suffering from the same kind of mental disease, eight or ten years earlier—under my treatment she improved, and was discharged as cured—it is a disease which, under unfavourable circumstances, is likely to recur, such as overtaxing the strength, by nursing a child too long, and from a shock as described.<sup>471</sup>

The symptoms described by medical professionals were usually so generic that it is difficult to compare those illnesses with modern disorders. It can only be assumed that the majority of female defendants suffered from depression or postpartum depression, and some of them may have also suffered from other genetic illnesses. In those two analysed examples, there was no information whether their family members suffered from mental issues. It could happen that women, exhausted by numerous birth, nursing their children and often living destitute, suffered from various types of breakdowns. Usually, the doctors who treated them mentioned that their condition improved under their care. Perhaps, being separated from their families, they were finally able to rest and eat slightly better food, and therefore their overall condition improved, unless they suffered from serious diseases that could not be cured using the methods used by nineteenth-century doctors.

The analysis of the Old Bailey Proceedings shows that, in addition to an acquittal, juries often proclaimed defendants guilty of concealment. The second most popular verdict was temporarily insane and, therefore, not responsible for the act. It may be considered interesting that manslaughter and murder verdicts were not announced too often in the Victorian London court. Several factors contributed to the jury's verdict. The first factor considered was the individual's circumstances, which included their age, marital status and previous crime history. It was then relevant to establish whether the child was born alive or dead. Based on that the defendant could be found guilty of concealment or manslaughter. Another important factor was the intent of the act, whether the defendant had a plan to commit the crime or whether it was an accident. Moreover, especially in the second part of this period, the mental condition of the accused was also taken into consideration. These data demonstrate that the jurors and judges were usually lenient towards defendants, therefore verdicts of murder or manslaughter were not announced so often. Furthermore,

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<sup>471</sup> CRIM 1/44/3, The National Archives, Kew (access: 26<sup>th</sup> October 2022).

those sentenced to the most severe punishments often had a chance to be granted a prison license, enabling them to leave prison much earlier. It should be noted that the most severe sentences were typically reserved for exceptional circumstances, and infanticide offenders were not usually sentenced to the maximum term. The data also indicate that infanticide was a prevalent social issue at that time. Courts often sympathised with defendants, resulting in verdicts that may seem unusual by today's standards. Nevertheless, these lenient sentences sometimes provided offenders opportunities to reform and start anew.

## Chapter 4

### 4.1. Baby farming in Victorian London

The problem of illegitimate children was one of the most challenging issues of the Victorian period. As mentioned in previous chapters, it is widely acknowledged that the situation of single mothers deteriorated since the *New Poor Law* was passed by Parliament. Receiving child support from putative fathers was extremely challenging for them and the responsibility for supporting the child fell on them. The purpose of the law was to decrease the number of illegitimate births, but it did not happen. Contrary to that, infanticide and child desertion have increased. Unmarried mothers who wanted to keep their children had to look for other ways to support them.

It should be noted that a single woman who found herself with a child was most likely fired, often without receiving references, which made it difficult to find a well-paid job later. Moreover, female workers did not earn much, so they usually did not have enough money to support themselves, and the options for single mothers in the Victorian period were limited. The government's official stance on women having illegitimate children was that they should remain with the family or take sole responsibility for their situation and moral promiscuity, and if they could not do that, they should go to a workhouse.<sup>472</sup> For most single mothers, the first option was not usually possible. Most of them left their homes to work as servants or factory workers, without the support of their family and friends. Furthermore, they did not want to return to their families due to shame or financial issues. It should be noted that those women left their homes to earn a living or support their families, so they had to be aware that they would not receive any support and only be a burden to their families.

Another option, entering the workhouse, was also not appealing. During the Victorian period, these institutions, designed to help the poorest members of society, gained an infamous reputation.<sup>473</sup> People most often decided to enter those institutions when other options had failed, they were ill and old and therefore no longer able to support themselves anymore. It should also be noted that unmarried mothers may have face prejudice and

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<sup>472</sup> For more information regarding The New Poor Law, single mothers and illegitimate children see Chapter 1.

<sup>473</sup> For more information about history of workhouses see <https://www.workhouses.org.uk/life/entry.shtml> (access: 7<sup>th</sup> April 2023).



mistreatment due to their “immoral life.”<sup>474</sup> Furthermore, even if a woman decided to go to a workhouse and was not refused support, it was not the solution to all her problems. At one point, when she wanted to leave this institution, she had to face the harsh reality of finding a job and someone to help her take care of her child.

Unmarried mothers could also seek help from charities. The most famous one was the Foundling Hospital; however, they were unable to take care for all unwanted children and, due to their rules, did not accept all children. Those who were eligible were those who were under twelve months of age and whose mothers “fell pregnant” only once – for example, if it was established that they cohabitated with the child’s father or had a several illegitimate children, they were refused admission.<sup>475</sup> This institution, as well as other charities that tried to help illegitimate children and their mothers, faced criticism, especially from supporters of the *New Poor Law*, who supported it instead of fighting promiscuity and its consequences.<sup>476</sup> It should also be noted that most charities, such as The Rescue Society, were more interested in helping fallen women by finding them a new job, usually as domestic servants, and helping them restore their lives. Sadly, it did not include childcare. Nevertheless, it was almost impossible for those women to keep their children with them. Ultimately, the children were abandoned and had no one to support them.

It is significant to mention that there was another option for women who tried to keep their children. They could hire a baby-minder, a woman taking care of her own children, or an elderly woman looking for an alternative form of employment. They cared for children only during working hours, especially if the mother worked in a factory. Alternatively, they could provide daily care for a weekly or monthly fee, particularly if the mother was a servant or unable to keep her child with her. This system can be seen as a social response to the lack of institutional support for single mothers who, instead of abandoning or harming them, made an effort to keep their children. However, the trials of well-known baby farmers such as Margaret Waters and Amelia Dyer show that this system was unregulated and soon exploited both by those seeking financial gain and those who wanted to relinquish their parental responsibilities without committing a crime themselves.

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<sup>474</sup> S. Williams, “Unmarried mothers...”, op. cit., p. 30.

<sup>475</sup> G. Frost, “Your Mother...”, op. cit., pp. 45–72; C. Phillips, op. cit., pp. 1–11; J. A. Scheetz-Nguyen, “Calculus of Respectability...”, op. cit., pp. 13–36; Eadem, *Victorian Women...*, op. cit.

<sup>476</sup> J. Pearman, op. cit., p.75.

It should be noted that not all Victorian nurses or adoptions resulted in murder, and paying for childcare was not necessarily illegal. Nevertheless, deterioration of this phenomenon outraged and frightened public opinion.

#### **4.2. The birth of baby farming**

The term “baby farming” was coined in the Victorian era and referred to the act of accepting unwanted or neglected children, often in exchange for a modest fee. In essence, a baby farm operated as a profit-driven version of an orphanage. The term most often referred to a situation in which a nurse accepted the payment for caring for a child. It could be a weekly or monthly fee and was usually popular with women who did not have a lot of money and had to work, so they decided to leave their children in care and visited them once in a while. Another option was a lump sum payment. Usually in this latter scenario, mothers believed they were paying for the child to be adopted. Unfortunately, children abandoned in this way did not live very long, because it was not profitable for the nurses to keep them, and they were often not interested in finding a new family for them. It is not possible to establish the exact time of the onset of this phenomenon, but it was first described in the late 1860s by journalists from the *British Medical Journal* (BMJ). It should be stressed that the concept of “farming” babies was already known. It was used, for example, by the Foundling Hospital, which sent infants to the rural areas and paid nurses to care for them. Doctors and governors of this institution believed that infants should be breastfed, so they arranged wet nurses to look after them. These were usually tenant farmers’ wives or the wives of agricultural labourers who already had several children and could demonstrate the ability to properly care and nourish a child. Nurses could take more than one child, were paid by the Foundling Hospital, and the health and state of those children was checked. The same approach to infants was also used in the workhouses, however survival rates were better for foundling infants.<sup>477</sup> Nevertheless, in the second half of the century, a deteriorating form of paid care in “private sector” developed on a large scale.

The baby farming “industry” seemed to consist of three major branches. The first one involved laying-in houses, i.e., facilities where women could come and be nursed

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<sup>477</sup> J. Pearman, op. cit., p. 92; H. Berry, op. cit., pp. 55–58.

during their pregnancy and shortly afterwards. They provided midwifery services and sometimes abortion services or the procurement of “quiet” birth in which the child was killed during its birth. People running lying-in hospitals also dealt with transferring unwanted children to foster homes or adoptive ones.<sup>478</sup> They also contacted the baby farmers and arranged the process of transferring the child. The second branch was described by Benjamin Warden in 1890. He called them “procuress”, people who transported the infants to their new homes to be cared for or killed.<sup>479</sup> The last one was the receiver, the person who took the child to nurse it or kill it. People involved in the baby farming industry did not work exclusively in one branch, they often worked in two at once and evolved from one to the other. For example, in the cases of Waters and Dyer, as will be discussed later, it can be noticed that they started out running a lying-in house and later moved to provide foster care. In the meantime, they also fulfilled the role of procuress.

Judith Knelman, in her book on the portrayal of female murderers in the English press, suggests that the first baby farming scandal occurred in 1847, almost twenty years before this issue gained medical, judicial and public attention. Ann Barnes, who lived in Ely, Cambridgeshire, was accused of poisoning several infants who were left with her while their parents worked nearby as field labourers. One of the deceased infants was her granddaughter. It was later established that three of her siblings also died in their grandmother care. Ann Barnes was arrested, and during the inquest it was determined that the children had died due to poisoning by an unknown person. As a result, Ann Barnes was acquitted.<sup>480</sup> At that time, it was still preposterous to think that women could kill babies for money. This case did not attract much attention, perhaps because the issue of infanticide had not yet been publicized. However, the case of Ann Barnes shows the existence of nurses who made a living by killing infants, as well as mothers who sought to find a place to abandon their illegitimate children.

Furthermore, Ruth Ellen Homrighaus, who examined the BMJ’s narratives of baby farming and partially infanticide, stated that in the early 1860s the journal was primarily concerned with infanticide, its causes, and possible reforms. However, no plausible

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<sup>478</sup> J. Pearman, *op. cit.*, p. 94.

<sup>479</sup> B. Waugh, *Baby Farming*, London, 1890, p. 4.

<sup>480</sup> J. Knelman, *op. cit.*, pp. 160–161.

solutions have been found to eliminate this issue, apart from the idea of “civilizing” the working class.<sup>481</sup> Her research also shows that:

By 1865, BMJ coverage of the topic was fairly frequent, but because the journal had not yet been able to define an enemy against which medical reformers could mobilize, no viable campaign had emerged. The baby-farming moral panic might have foundered at this point, six years before the execution of Margaret Waters, had it not been for the arrest and sensational trial of Charlotte Winsor.<sup>482</sup>

So it was the trial of Charlotte Winsor that slightly shifted public focus from maternal infanticide to baby farming. In February 1865, the body of a four-month-old male child was discovered on a turnpike road near Torquay, a seaside town in Devonshire. At first it seemed like a case like many others before. However, two women were initially arrested as suspects: Mary Harris, the child’s mother, and Charlotte Winsor, the nurse hired to care for him. During the inquest it was revealed that the boy was born in October 1864 and was placed under nursing care by his mother for a fee of 3s per week. Witness Lucy Gibson testified that she visited Charlotte Winsor’s house several times and saw the child being properly cared for. Sometime before the body was found, Mary Harris visited Winsor and claimed that she would transfer the child to her aunt, who would charge a lower fee for the child's care. Based on the evidence presented at the trial, it appeared that both women were involved in the murder, although Mary Harris tried to put the blame on Winsor. The *Western Times* trial description quotes part of her testimony:

Mrs. has done it before, she has put away many; she murdered one three weeks old and threw it into the Bay, and another she carried out on the Moors. The Thursday after my child was found she came to my house and said, 'I want four shillings.' I said, 'What for?' She said, 'To take your child away by train on the Moor.' I replied, 'There's been one picked up, and it's three or four months old, and partly eaten by rats; is it mine Winsor replied, 'No it's not yours, rest your contented; yours is all right, no one will ever know a Word about it, I've done it before.'<sup>483</sup>

Contrary to that, Charlotte Winsor denied everything and stated that the child had been transferred to Harris’s aunt a month earlier. Another testimony used against Winsor was that of her granddaughter’s. Charlotte Selina Pratt said her grandmother had sent her to buy candles in Torquay about two weeks earlier. When she left, Harris and her son were both at Winsor’s house, but when she returned, the boy was gone and Mary claimed that her

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<sup>481</sup> R. E. Homrighaus, “Wolves in Women’s Clothing...”, op. cit., p. 353.

<sup>482</sup> Ibidem, p. 354.

<sup>483</sup> *Western Times*, February 28, 1865, p. 4; (online <https://www.britishnewspaperarchive.co.uk/viewer/bl/0000265/18650228/027/0004>, access: 25<sup>th</sup> March2023).

aunt had taken him to the other side of Exeter. Based on that evidence, the coroner's inquest found both women guilty of murder. The trial then was moved to the Essex Assizes and took place in March 1865. This time, the *Western Daily Press* provided more details regarding the defendants: Mary Harris was a 23-year-old servant and Charlotte Winsor was a married woman of 45. It is also important to mention that the doctor was not able to unambiguously determine the cause of death. It was stated that death was result of foul play involving exposure to the cold, which could be proceeded by immersion in water. Nevertheless, it was clear that the child did not die of natural causes. Police determined that the child was placed in the Winsor's house in December 1864 and was well cared for at least until the end of January. It was also stated that sometime in February, Mary Harris visited her child and during that visit the child disappeared.

When questioned, both women stated that the child was taken by Harris's aunt. The mentioned aunt was interrogated and claimed to know nothing about the child. But once again, the testimony of Winsor's granddaughter's was damning. She mentioned that a few days after the child's disappearance, she saw her grandmother ironing his clothes, which she wanted to give back to Mary Harris. When they left the house to do so, she had a bundle and a carpet-bag with her. On their way, Winsor suddenly changed the route, left Pratt for a moment, and when she returned, the bag was empty. When Pratt took the police to that place, they found it to be the same place where the child's body was found. It was therefore clear at this point that Winsor was involved in abandoning the child's body, who according to Pratt's testimony, was probably dead at that time. All of that was followed by the prisoners accusing each other of murder – Harris claimed that Winsor had killed the child and told her to lie about his whereabouts, and Winsor stated that had Harris tried to poison the child before she took him to his aunt. It should be noted that, theoretically, Harris should have no chance of avoiding punishment because she had another illegitimate child, a daughter who was under the care of another nurse. The courts and society took a more lenient approach to women who had fallen only once. Usually, poor servants or other very young and inexperienced females were depicted as victims of seduction. However, it was not the case for Harris. Moreover, the prosecution had a clear theory of what had happened between those women and the child:

The theory of the prosecution of these facts was that for motives easily accounted for—a desire on the part of the mother to get rid of a burden and encumbrance, and on the part of Winsor the baser motive of endeavouring to make money out of Harris the hold which she would have on her—one or both of the prisoners was the means of causing the death of the child; that it was placed in the

road by Winsor; and the story about its having been taken by the aunt was one agreed on between them.<sup>484</sup>

The trial lasted two days, but even after a long deliberation, the jury was not able to agree on a verdict. It was unfortunate news for Winsor, as the *Exeter Flying Post* later reported that eight jurors opted for acquittal and only four returned a guilty verdict.<sup>485</sup> Therefore, the prisoners were ordered to remain in custody and the preparation for a second trial began. It is significant to emphasize that until then, Mary Harris was treated the same as Charlotte Winsor and both women faced murder accusations, however, in the situation changed before the second trial began. The trial took place in July 1865 at the Essex Assizes, but this time only Charlotte Winsor was accused of murder, and Mary Harris testified against her as a witness. Winsor was evidently distressed by that fact, so she sobbed and covered her face with her hands during the trial. Mary Harris testified that Winsor offered to kill her son and claimed to have done so previously for Elizabeth Darwen, who gave birth in her home, and for her sister too. Winsor received payments for both murders and stated that she was “doing good.”<sup>486</sup> This time Harris refused, however, when they met again a few weeks later, Winsor renewed her offer and stated she would get rid of the baby for £5. Harris testified that after Winsor sent her granddaughter away, the following happened:

She asked me if she should do it. I asked her how she would do it. She said, put it between the bed-ticks. She then took the child into the girl Pratt's bedroom. I did not go. She stayed ten minutes; then came back without the baby. She asked me to look in; she said it would soon die. I looked in, and saw the bed made, but no child. The child did not cry. The prisoner's husband came in and asked, "Where's the boy?" She said her aunt had been and taken it away. He said, "Oh!" She brought him a pail and he fastened the handle. He went away and the prisoner said to me, "Did you hear the child cry?" I said, "No." She said, "I did and I was afraid my husband would hear it." The girl Pratt came back and stayed a short time, but was sent out again by the prisoner to fetch some buns. The girl went out, and the prisoner said she must make haste, as her girl would soon be back. She went out of the room, and came back with the baby. It was dead. She undressed it, and we went into the bedroom and opened a box. I took out the things it contained. She wrapped the child up in the newspapers, and then she put it into the box. I put down the lid, and she locked it and put the key

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<sup>484</sup> *Western Daily Press*, March 21, 1865, p. 3; (online <https://www.britishnewspaperarchive.co.uk/viewer/bl/0000264/18650321/022/0003>, access: 25<sup>th</sup> March 2023).

<sup>485</sup> *Exeter Flying Post*, March 22, 1865, p. 7; (online <https://www.britishnewspaperarchive.co.uk/viewer/bl/0000103/18650322/019/0007>, access: 25<sup>th</sup> March 2023).

<sup>486</sup> *Pall Mall Gazette*, July 29, 1865, p. 4; (online <https://www.britishnewspaperarchive.co.uk/viewer/bl/0000098/18650729/004/0004>, access: 25<sup>th</sup> March 2023).

into her pocket. Pratt came home, and the prisoner told her that Mary's aunt had been and taken away little Tommy, and put red socks on it.<sup>487</sup>

Later she also stated that she did not want her child to be killed, but she did nothing to prevent it, nor she went to the police to inform them of the murder. When asked why she did not do anything about that, she responded that she did not know why she behaved in such a way. This testimony undoubtedly sealed Charlotte Winsor's fate. The court was shocked by Harris's revelations. Finally, the jury found Winsor guilty of murder. However, what is even more surprising is that although Mary Harris was mentioned as an accomplice and detained in custody, she was never tried for murder. It may be assumed that she was ultimately acquitted because the court found it unbelievable that she could have colluded with Winsor. Harris also stated that it was the defendant who put ideas in her head and she did not want her son to die. It is impossible to determine what really happened when Mary Harris's son was killed, but only Winsor took full responsibility for that. As a result, Charlotte Winsor was sentenced to death.

The press was initially quite sure that the sentence would not be changed to imprisonment. The *Western Morning News* stated:

Sentence death, without the slightest hope of commutation, was on Saturday afternoon passed upon Charlotte Winsor, a woman forty-five years of age, for the murder at Torquay of an infant two months old, which had been placed in her hands to nurse. The sordid and cruel wretch persuaded the mother to allow her infant, an illegitimate child, thus to be put out the way, stating that she had different times rendered similar services to other mothers—she deemed no crime, “it was doing good”. There is no reason to doubt that the capital sentence will be executed, and the younger woman, Harris, who has turned Queen's evidence against her accomplice, is retained in custody, and will probably subjected to a less punishment than her tempter, though scarcely less guilty.<sup>488</sup>

It is fascinating to observe how the narrative regarding this murder shifted over a few months, and how Mary Harris was able to escape prison, despite her participation in the murder. It should also be noted that the verdict announced sentencing Winsor to hanging in July was not the final decision. Winsor had already had her last talks with her family when news came that the execution had been postponed until November due to legal issues arising from her first trial and public dissatisfaction. Importantly, this information was

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<sup>487</sup> *Pall Mall Gazette*, July 29, 1865, p. 4; (online <https://www.britishnewspaperarchive.co.uk/viewer/bl/0000098/18650729/004/0004>, access: 25<sup>th</sup> March 2023).

<sup>488</sup> *Western Morning News*, July 31, 1865, p. 2; (online <https://www.britishnewspaperarchive.co.uk/viewer/bl/0000329/18650731/036/0002>, access: 25<sup>th</sup> March 2023).

granted at the very last moment, informing the public, which led to the gathering of witnesses to the execution. Additionally, the *Western Daily News* informed the public about Charlotte Winsor, reporting that she had at least five husbands, engaged in prostitution, was arrested for riots and using obscene language, had an illegitimate child, and several dead infants were found near her house.<sup>489</sup> Although the veracity of these claims is uncertain, they were used to depict Winsor as a malevolent nurse and portray her as a threat to moral life. The appeal trial took place on 24 February 1866 and the verdict was upheld, setting a new execution date for May. However, on 12 May, the Home Office commuted her punishment from execution to life imprisonment, even though this decision was highly unpopular and the press and public widely viewed Winsor as a monster:

Charlotte Winsor, the professional child murderess, is not to be hanged. It will be remembered that the sentence was respited, in order that certain legal technicalities connected with the first trial might be discussed; and the respite, it is supposed, has been considered a sufficient ground for commutation of sentence. We disapprove both of this particular decision and of the policy of the Home Secretary. If ever a woman deserved hanging, this wretched old hag deserves it; but it is apparent that the Home Secretary willing avail himself of any excuse to save a woman the gallows. Every such excuse is a confession of the barbarity of the scaffold, and, rendering the final effect of the law uncertain, robs it of its terrors. Would not better to away with the gallows?<sup>490</sup>

In later years, Winsor petitioned several times for reemission of her sentence. She claimed she was not the real culprit, but apart from that she suffered enough. Charlotte Winsor was never released and passed away on 19 June 1894 in Woking Prison.<sup>491</sup>

It may be assumed that she was condemned by her contemporaries because she terrified them. Her actions were seen as a transformation of natural relationship between mother and child towards monetary transactions. She took orders to kill the child and did it for the money, which was astonishing and horrifying to Victorian society. Perhaps even more terrifying was the fact that there could be women like her, which is why the BMJ started its investigation.

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<sup>489</sup> *Western Daily News*, August 12, 1865, p. 3; (online <https://www.britishnewspaperarchive.co.uk/viewer/bl/0000264/18650812/014/0003>, access: 25<sup>th</sup> March 2023).

<sup>490</sup> *Suffolk Chronicle*, May 19, 1866, p. 5; (online <https://www.britishnewspaperarchive.co.uk/viewer/bl/0001325/18660519/055/0005>, access: 25<sup>th</sup> March 2023).

<sup>491</sup> J. Knelman, op. cit., p. 166.



### 4.3. BMJ's investigation and campaign against baby farming

The emergence of baby farming as a problem can be directly linked to Charlotte Winsor. Although, she was not technically a baby farmer, as such a concept did not exist at that time, her trial and extensive press coverage introduced this issue to the attention of general public. Surprisingly, the government has taken no specific action to regulate child nurse placement or adoption, nor has it attempted to investigate the extent of this phenomenon. It was the *British Medical Journal* and its journalists who began delving into this problem. Ruth Ellen Homrighaus argues that the problem was “discovered” by Ernest Hart and Alfred Wiltshire in the winter of 1867.<sup>492</sup> They conducted an undercover investigation to gather information on infant mortality and paid care. At the beginning, their main target was laying-in hospitals. It is also worth noting that these articles conflate women running laying-in institutions, midwives and childcare providers, thereby blurring the lines between those three separate entities. It is significant to note that women who ran laying-in hospitals, where women could give birth to their illegitimate children without questions, often facilitated adoption arrangements. They could also be trained as midwives or employed to assist with the labour. In some cases, individuals could maintain all three roles, as exemplified by the case of Amelia Dyer. Nevertheless, the people involved in baby farming were not a homogenous group, despite the BMJ's occasional attempt to depict them as such.

It should also be stressed that many articles conflated the terms ‘baby farming’ and ‘baby murder’. They even stated that those two notions are “frequently convertible.”<sup>493</sup> BMJ journalists further claimed that there was a secret understanding among working-class women to intentionally end infants’ lives, seek abortions and promote immorality. It should be noted that they partially noticed that not all paid care activities were always criminal in nature:

We have assured ourselves, in a considerable number of instances, that they do their duty to the children, and that they regard their nurslings in a number of cases with feelings of tenderness and affection. More than this, we have been brought face to face with numerous instances of adoption of children from pure motives of tenderness, and from that yearning for the young which is one of the most sacred instincts of humanity. Even in these instances the means have not always been equal to the will, and lamentable consequences sometimes ensue; but, side by side with this, and under the mask of feelings which we respect and which all would desire to cherish, and of a business which is

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<sup>492</sup> R. E. Homrighaus, “Wolves in Women’s Clothing...”, op. cit., p. 356.

<sup>493</sup> “Baby-Farming and Child-Murder”, *The British Medical Journal*, Vol. 1, No. 369, Jan. 25, 1868, p. 75.

useful if duly regulated, and perhaps even indispensable, there lurks a wide-spread conspiracy against morality, against law, and against law.<sup>494</sup>

Nonetheless, once again the negative aspects of baby farming dominated the discourse, overshadowing any positive examples. Additionally, the journalist visited some of those places and described the conditions there:

Visited, to see Mrs. - , who lives in a quiet new street there. A young woman of about twenty answered the door, and called another of about twenty-three, who asked me into a small parlour, at the back of which was a bedroom. The rooms were not exactly dirty, but were untidy. Mrs. was not at home, as she had gone to the funeral of her father, and would not be home until Wednesday. All she could tell me was, that the rooms were a guinea a week; but, as there was a young "person" upstairs who had been confined there, she would speak to her about it. On her return, she said that she could not tell me much more, and that I had better see Mrs. , which I arranged to do, and was about to leave the house, when the young woman who had opened the door to me came down stairs, and said perhaps I would like to speak to her; and, if so, would I walk up.?-an invitation which I gladly accepted. I was shown up to a front bedroom, and there I saw a stout but unhealthy-looking young woman in bed. She said she could speak well of Mrs., and that she was a very experienced person. She herself had been confined a month; but she was not well, as she had erysipelas down her back. Mr. was the doctor who had attended her; his fee was £2:2, and Mrs.'s terms were twelve guineas for the month. The children could be adopted by making arrangements with Mrs., who would tell me the terms when I called again.<sup>495</sup>

This investigation showed the general operating rules of baby farming. The laying-in hospitals placed advertisements in the press allowing women who found themselves pregnant with illegitimate child to enter them before giving birth. It also shows that those institutions were mainly affordable for the richer classes of society due to the relatively high fees. Once a woman gave birth to a child, she could stay until she got better. If there were any complications, even a doctor would come. Women could live with the child, or the owner of the laying-in hospital could help arrange the adoption. It should be stressed that in the Victorian period, adoption was not legally regulated, so the child could be given to anyone, even if it involved payment. What happened with those children after they were adopted differed. Some of them were actually able to find a loving family who wanted to have a child but could not have one due to infertility issues. They could be handed to people who neglected them, which could even result in death, but no one asked any questions because the most important thing was to transfer the baby to another place. The BMJ focused mainly on these negative examples of laying-in facilities and demanded that the government take action and regulate this problem.

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<sup>494</sup> "Baby-Farming and Child-Murder", *The British Medical Journal*, Vol. 1, No. 369, Jan. 25, 1868, p. 75.

<sup>495</sup> "Baby-Farming and Child-Murder", *The British Medical Journal*, Vol. 1, No. 373, Feb. 22, 1868, p. 175.

In later articles, the BMJ focused more on actual baby farming, defined as putting the children out to nurses. Journalists prepared a fake advertisement in which they offered a premium for adopting a child. They claimed to have received approximately three hundred and thirty-three letters and several personal applications. They found that it was not difficult to put a child up for adoption for £10, and some were eager to adopt for as little as £5. They also noticed that advertisements posted by people wanting to take care of unwanted children included the following phrases:

Either the writers have "none of their own", or, having had children, they "have lost them"; or a "person of mature age" wishes for a child to bring up, because she thinks she is exceptionally well qualified for the duty, and "wants something to fill up her time".<sup>496</sup>

They also claimed that after some investigation, it seemed that most such statements were genuine. However, as the examples of Margaret Waters and Amelia Dyer will show, it was not always the case. These could simply be empty platitudes used in advertisements to convince people who were considering giving their children up for adoption, as described in the example used by the journalist in the article. Apparently they decided to visit one of the nurses who wanted to adopt a child. They saw several dirty neglected and starving children at her place who were afraid to even cry. Furthermore, they checked the death register in that area and it seemed that many children had died under that lady's care. Nevertheless, she still frequently announced to nurse or adopt the child. They then also visited the other woman, where they saw similar cases of neglect and starving infants. It should be noted that the BMJ aimed to detect and eliminate a social evil – baby farming, which eroded the mother-child relationship, prioritising the love of money above the love of children. They also presented several proposals to fight against this phenomenon. For instance, they advocated for compulsory registration of all births and that nurses who want to care for these children should not be allowed to care more than two children. They suggested that all of this should be supervised by an elected Poor Law officer.<sup>497</sup> The Home Office did not consider this suggestion until the 1870s.

Despite the campaign against laying-in hospitals and baby farming dominated medical discourse and received widespread support from medical practitioners, as stated by R.E. Homrighaus, may not have produced any results. The new liberal government

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<sup>496</sup> "Baby-Farming and Child-Murder", *The British Medical Journal*, Vol. 1, No. 378, Mar. 28, 1868, p. 301.

<sup>497</sup> "Baby-Farming", *The British Medical Journal*, Vol. 2, No. 364, Dec. 21, 1867, p. 570.

elected in November 1868 refused to honour the previous administration's promise to investigate this issue. Ernst Hart, one of the main BMJ's investigators, took a leave of absence and no more sensational cases such as Charlotte Winsor captured public attention.<sup>498</sup> It all changed when one of the baby farms the BMJ investigated came under police surveillance. Finally, in 1870, the police managed to enter the house of Margaret Waters and Sarah Ellis, and the one of the most infamous trials of the Victorian period began.

#### **4.4. Margaret Waters and Sarah Ellis, 1870**

Margaret Waters is known as one of the most infamous baby farmers in British history and she was the first person hanged for this crime. It should be noted that her activities were discovered by accident. In the late 1860s, news spread of a number of dead infants found on the streets of Brixton and Sergeant Richard Relf was ordered to launch an investigation. He focused mainly on the laying-in hospitals, which were seen as the main source of concern at that time. Mainly due to the series of BMJ articles mentioned earlier. Several anonymous letters were also sent to the Metropolitan Police, in which the authors suggested possible addresses that the police should pay attention to. One such letter drew attention to a laying-in hospital run by Mrs. Castle, a midwife. This was a catalyst for the investigation that led to the discovery of the Margaret Waters' baby farm.

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<sup>498</sup> R. E. Homrighaus, "Wolves in Women's Clothing...", op. cit., p. 358.

A2352  
W.

Anonymous.

June 27<sup>th</sup> 1870.

Baby Farming at Brixton.

Stating that if the drain just outside the house in Frederick Terrace is taken up, and the ground dug a little way down, something will be found that will tend to alter the case.

W. Special

Baby - Farming.

Anonymous.

Immediate.

If you think there is any thing in this, give the necessary directions.

W. B. St.

Capt. Baynes.

J. R.

Baby Farming at Brixton.

June 28<sup>th</sup> 1870.

W Division.

The place has been carefully examined and the ground turned over to a considerable depth - nothing has been found.

H. Baynes

27.70

Figure 7. Anonymous letters sent to Metropolitan Police in 1870.<sup>499</sup>

Source: MEPO 3/93, The National Archives, Kew. Photos taken by the author.

While Sergeant Relf was observing Mrs. Castle's house, one of the pregnant women staying there was Janet Cowen.<sup>500</sup> Her father, musician Robert Tassie Cowen, testified at

<sup>499</sup> MEPO 3/93, The National Archives, Kew (access: 28<sup>th</sup> October 2022). Photos taken by the author.

<sup>500</sup> The spelling of all names is consistent with the spelling present in Old Bailey Proceedings.

the Old Bailey that his daughter was seventeen at that moment and unmarried. It is not entirely clear what happened to Janet. The trial heard that at the age of sixteen she left home, it was either to visit friends or work as a servant, and during that time she became pregnant. It is not known whether she was seduced or raped, and the name of the child's father was not revealed during the trial. When she was close to the confinement, she was sent to a laying-in house at 164 Camberwell Road, run by a midwife. Robert Cowen was not sure what her name was, because he saw on the door "Mrs. Barton", however, during the trial she was also identified as Mrs. Castle. On 14 May, Janet gave birth to a son. Robert Cowen also testified that even before the child was born, he had found a place for him. On 1 May, he saw the following advertisement in the *Lloyd's Weekly Newspaper*:

A respectable couple desire the entire charge of a Child, to bring up as their own - they are in the position to offer every comfort - premium required £4. Letters only, Mrs Willis, Post office Southampton Street, Camberwell.<sup>501</sup>

He responded to this advertisement and received the following letter from Mrs. Willis, who was one of Margaret Waters' aliases:

To J. P. W., Fenton's Post Office, Brixton. Monday, 2nd May. Sir, In reply to your letter, beg to say 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.<sup>502</sup>

It should be noted that this evidence shows how baby farming worked. Usually, baby farmers advertised their services via the press. The announcement of the adoption was nothing extraordinary, as this issue had not been regulated by the state until the Adoption of Children Act passed by Parliament in 1926. The baby farmers most often desired to adopt children for a lump sum and usually targeted married women, who could not have children, and it was a chance for them to start a family. As a result, they wanted to ensure that the person giving up the child would not contact them again or demand the child's return. Moreover, if the child died soon after being "adopted", then all the money went into their pockets.

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<sup>501</sup> *Lloyd's Weekly Newspaper*, May 01, 1870, p. 10; (online <https://www.britishnewspaperarchive.co.uk/viewer/bl/0000079/18700501/028/0010>, access: 7<sup>th</sup> April 2023).

<sup>502</sup> *Old Bailey Proceedings Online* ([www.oldbaileyonline.org](http://www.oldbaileyonline.org), version 8.0, 7 April 2023), September 1870, trial of MARGARET WATERS (35) SARAH ELLIS (28) (t18700919-769).

Robert Cowen and Margaret Waters met at Brixton Railway Station about a week after the advertisement was printed. He explained his daughter's situation to make Waters aware that she would be adopting an illegitimate child, but Waters stated that it did not change anything for her. The child was handed to Waters on 17 May. It can be assumed that Robert Cowen cared about his grandson to some extent, because he asked Waters to contact him, and she did so a few days later. He stated:

I saw her and asked how the child was—she said she was delighted with it, it was a beautiful baby, and that her husband was equally fond of it, "In fact," she said, "it is all a boy"—I then asked when she would bring it, when I could see it she said she was busy making nice clothes for it, naming certain articles, I forget what they were, a hood, a pelisse, and something—I said "Allow me to make it a present of those"—she said "No, I don't require it, I have bought the materials, and I am having them made up"—I then took two sovereigns from my purse and put them on the table before her—she pushed them back to me, and refused to take them, saying "I know you have taken at a great expense, and I won't take it"—she got up to go away and I forced the 2*l.* upon her, and as she left the room she returned with the 2*l.* in her hand, offering it back to me—I refused it, and told her to spend it on the child, and when she brought me the child I would give her 2*l.* more—she then left, and took the 2*l.* with her—during the whole of the interview she was speaking in praise of the child—as she was going away she said "I pass nearly every day, and I suppose if I call with it you won't turn me away"—I said I should be glad to see her, and it, at any time she called—she did not call again I neither saw or heard of her afterwards—up to that time I did not know where she lived.<sup>503</sup>

This behaviour of Margaret Waters was quite unexpected. Usually, baby farmers did not want any contact with the person who gave up the child unless they were hoping for more money. Nevertheless, to do that she needed to keep the child alive, and Cowen's testimony suggests that he was eager to see the child again, which was not a good sign for Waters.

While all this was happening, Sergeant Relf continued to monitor Mrs. Castle's laying-in establishment. He discovered that Janet Cowen had left on 28 May, but without her child. He then made some enquiries regarding her name and the child, and contacted Robert Cowen. Relf had some suspicions about Mrs Willis's actions, particularly the aforementioned situation. He checked *Lloyd's Weekly Newspaper* and came across a similar advertisement from 5 June 1870, this time by a woman named Mrs. Oliver, offering to adopt unwanted children and provide them with love and care. All expenses were to be covered by the payment of £5.<sup>504</sup>

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<sup>503</sup> *Old Bailey Proceedings Online* (www.oldbaileyonline.org, version 8.0, 7 April 2023), September 1870, trial of MAGARET WATERS (35) SARAH ELLIS (28) (t18700919-769).

<sup>504</sup> *Lloyd's Weekly Newspaper*, June 05, 1870, p. 10; (online <https://www.britishnewspaperarchive.co.uk/viewer/bl/0000079/18700605/032/0010>, access: 7<sup>th</sup> April 2023).

Relf replied to the advertisement and arranged a meeting on 10 June. Mrs. Oliver's story was similar to that of her sister and other baby farmers; she stated that she had been married for a long time, but could not have children, so they wanted to adopt one and raise it as their own. She also refused to provide her address because she did not want to be bothered by the child's family.

Furthermore, Relf also asked Cowen to accompany him. The latter did not participate in the face-to-face meeting, but later testified that the woman he saw this time was not Mrs. Willis but the second defendant, Mrs. Ellis. However, he spotted the connection between the two women by their clothes and testified: "I noticed that she had on the same dress that I had seen on Waters."<sup>505</sup> Following the meeting, Sarah Ellis was therefore followed, and it was established that she was living at 4 Frederick Terrace, Gordon Grove, Holland Road, Brixton. The next morning, Relf was accompanied by Cowen and Mrs. Guerra, who participated in the adoption process on Cowen's side. They forced an entry and demanded to see Cowen's grandson. The child was finally presented, but based on testimonies, he was already dying:

It 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, not any of them, that I heard; it appeared to be dying almost; it could not make any noise, it was much too weak, I think, to make the slightest sound; 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, not a bit of flesh on its bones—it would be much lighter in weight.<sup>506</sup>

At first, Margaret Waters denied all accusations that she murdered or neglected infants. She insisted that the child was sick with diarrhoea and that a doctor had been called to see him, but his condition had not improved. The child was then taken to a wet nurse, however, he died two weeks after he was rescued.

Nevertheless, the condition of Janet Cowne's son was not the worst thing discovered at Margaret Waters' house. The police found ten more children, some of them in a similar emancipated state. The view in the house was described as follows:

I then asked her if she had got any more children in the house, and she said "A few"—I said "I should like to see them"—she said I could, and I went down stairs into the front kitchen; when I first went in I saw nothing, but I thought I could see something that looked like the shape of a head under some black clothes on a sofa—at last I removed some clothing from the sofa, and there laid five infants,

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<sup>505</sup> *Old Bailey Proceedings Online* ([www.oldbaileyonline.org](http://www.oldbaileyonline.org), version 8.0, 7 April 2023), September 1870, trial of MARGARET WATERS (35) SARAH ELLIS (28) (t18700919-769).

<sup>506</sup> *Ibidem*.



all huddled up together—the clothing I removed was some old black stuff like an old shawl—three of the infant were lying on their sides along the sofa, all close together; the other two laid on their backs, with their mouth open, at the lower end of the sofa—they were all together, only the three were more towards the head of the sofa, and the others lower down; all five lay in the same direction—they were all quiet, and all appeared to be asleep from some cause—they all had some clothing on, infant's clothes, and very dirty indeed, saturated with wet, and smelt very offensively—I did not see any appearance of food about—two of the infants appeared to me to be dying, the two that were lying on their backs; they were in an emaciated condition—I did nothing towards awaking them at that time—I said "To whom do these children belong?"—Waters said she did not know who the parents were—I said "Are these some more by adoption?"—she said "Yes"—I then said, in the presence of Ellis, "Have you anymore?"—she said "Yet, a few; there are some older ones in the yard"—I went into the back yard, and there found five more; they appeared in better condition, one boy was a very fine child.<sup>507</sup>

All the children were taken to the workhouse, and within the following weeks five of them died. Two of them were claimed by their mothers, the rest remained in the workhouse. It was also established that the children were given narcotics, probably to quiet them down, and that malnourishment and neglect additionally contributed to their deaths.

The question remains, who was Margaret Waters and how did she end up as one of England's most infamous baby farmers? At the time of the trial, she was a 35-year-old widow whose living situation deteriorated rapidly after her husband's death in 1864. Her business as a collar manufacturer in Camberwell bankrupt, so she then rented rooms. During that time, one of her tenants was the mistress of the City solicitor. She gave birth at Margaret's house and paid her for farming the child out, which was how she entered the baby farming business.<sup>508</sup> She was assisted by her sister Sarah Ellis, who was quite an intriguing figure. It should be noted that when the press started to report on this case, both women were depicted as widows.<sup>509</sup> However, it was later established that Ellis was married but did not live with her husband. Moreover, one of the children found during the investigation was hers and was also neglected, like the others. She also had issues with

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<sup>507</sup> *Old Bailey Proceedings Online* ([www.oldbaileyonline.org](http://www.oldbaileyonline.org), version 8.0, 7 April 2023), September 1870, trial of MAGARET WATERS (35) SARAH ELLIS (28) (t18700919-769).

<sup>508</sup> L. Rose, op. cit., p. 96; *Illustrated Police News*, October 15, 1870, p. 1 (online <https://www.britishnewspaperarchive.co.uk/viewer/bl/0000072/18701015/004/0001true>, access: 11<sup>th</sup> April 2023).

<sup>509</sup> *The Times*, June 28, 1870, p. 11 (online <https://www.thetimes.co.uk/tto/archive/article/1870-06-28/11/1.html#start%3D1785-01-01%26end%3D1985-01-01%26terms%3Dbrixton%20baby%20farming%26back%3D/tto/archive/find/brixton+baby+farming/w:1785-01-01~1985-01-01/1%26next%3D/tto/archive/frame/goto/brixton+baby+farming/w:1785-01-01~1985-01-01/2>, access: 9<sup>th</sup> April 2023).

alcohol and narcotics.<sup>510</sup> This case highlights how the difficult economic position typical of many women living in the Victorian period could push them to find a very unexpected source of income, such as baby farming.

Both women started their business about 1866. When they were arrested, they stated that they had started four years earlier and that they had about forty children in their care. Sergeant Relf testified that the women could not provide him with details about what exactly happened to those children. They only mentioned that some of them were taken away whereas the others were taken home. Even more incriminating for Waters was the fact that children in the best condition were under their care for a weekly fee. This suggested that they cared for those children because it brought them a stable income, while those who were adopted for a lump sum were destined to die. That information, along with the discovery of emancipated infants, fuelled public debate and intensified public scrutiny on the matter.

It may be surprising, but Margaret Waters and Sarah Ellis were not immediately arrested. Sergeant Relf wanted to consult his superior before taking further steps, so the women were not detained until Monday, even though the house was searched on Saturday. There is no evidence to suggest that either of them wanted to flee. They were initially accused of “not providing proper food and nourishment for the illegitimate male child of Janet Tassie Cowen, whereby his life was endangered.”<sup>511</sup> However, when the child died, the charge was changed to murder.

It should be noted that they were only tried for the wilful murder of John Walter Cowen. Other infants who also died were excluded from the indictment, even though including those children would have strengthened the case against Waters and Ellis. There may be two reasons for this omission. The first reason may have been that those infants were “not claimed”, meaning there were no family members to fight for justice on their behalf. A second reason may have been that the infants were placed in workhouse where conditions may not have been ideal, and their deaths could potentially be attributed to those

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<sup>510</sup> *Old Bailey Proceedings Online* (www.oldbaileyonline.org, version 8.0, 9 April 2023), September 1870, trial of MAGARET WATERS (35) SARAH ELLIS (28) (t18700919-769).

<sup>511</sup> *Ibidem*.

circumstances. John Walter Cowen, on the other hand, was placed under the care of a nurse and attended by a doctor, but unfortunately it did not save him.

During a search of the house, police found children's clothes and milk bills, and also managed to trace people delivering milk to the house. Police also found seventeen pawn tickets, a receipt, and a medical certificate of attendance on Waters' husband. Based on that evidence, it appeared that the women intended to care for those children and not solely to harm them through adoption. However, even before the trial began, Margaret Waters had already been judged and condemned by the press and public. A journalist uncovered that their maiden name was Forth and that they changed addresses frequently. It was also claimed that shortly after the trial, dead infants were discovered near the house they resided in. It was reported that:

From here they are traced to No. 1, Boston- cottages, John-street, Southampton-street, Camberwell; here they only stayed four days, and then suddenly left. Next it is ascertained they lived in a house close by Clapham Junction Railway Station, where they remained a week. Their residence is next traced to Lockington- road, York-road, Battersea; and from here it is believed they went direct to No. 4, Frederick- terrace, where their baby farm was discovered, on the 23rd of March. Whilst the prisoners were residing at Battersea the dead body of a female child was found in St. Georges-terrace, Battersea, and on the 13th of March a male infant was found alive in St. George's- road, Battersea. On Sunday morning last the dead body of a child was found in an advanced state of decomposition under a pile of wood near to the bouse the prisoners resided in at Peckham. This body, which is supposed to have lain there nearly four months, was taken to the Camberwell Workhouse, and an inquest opened on it yesterday. On the 24th of February a female child was found in an old rush-basket in Stewart's-lane. Peckham. Several other women came forward yesterday to endeavour the trace of the children they had entrusted to the care of the prisoners. One young woman from the neighbourhood of Lisson-grove is in great anxiety about her child. At the close of the evidence given on Tuesday at the Lambeth Police- court she was permitted to see the prisoners She begged of them to tell her where her baby was, but they treated her in a cool, impudent manner, and the only reply she could get was, "We shan't tell you anything about it."<sup>512</sup>

There were also articles informing that two women recognised their children, who they entrusted to Margaret Waters's care. One of them, named Carter, arrived with a child that she had placed in Waters' care in 1867. She had been paying a weekly sum for the child's care, but upon retrieving the child, she found him in an emaciated condition. The other woman claimed that one of the found children belonged to her. She also presented a receipt confirming that the child was adopted:

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<sup>512</sup> *Morning Post*, June 30, 1870, p. 7 (online <https://www.britishnewspaperarchive.co.uk/viewer/bl/0000174/18700630/058/0007>, access: 10<sup>th</sup> April 2023).

Received the sum £4, for which I take this child, and I promise to adopt entirely as my own, never again to give it up, but always to strictly study its present and future happiness.<sup>513</sup>

All of these revelations were incriminating for Waters and Ellis, exposing the operating model of baby farmers. Additionally, their physical appearance was commented on. They were described as follows: “in personal appearance they are of a low type, having very narrow foreheads, large heavy lower jaws, and puffed, flabby faces, giving them all exceedingly dull appearance.”<sup>514</sup> The purpose of such a description, particularly highlighting their prominent lower jaws, was to portray them as masculine, because according to Victorian views, no ‘normal’ woman could commit such a crime. Their appearance was deliberately used to create prejudices against them. Some newspapers, such as the *Illustrated Police News*, even included their portraits alongside those of deceased and malnourished infants. This was intended to attract public attention and ensure that the defendants would be found guilty and sentenced to death. Moreover, conviction alone was not deemed sufficient; there was a specific desire, especially concerning Margaret Waters, to see her hanged. She was seen as the embodiment of all the evils of infanticide. Charlotte Winsor, who had been charged several years earlier, managed to avoid imprisonment, and in the 1860s there were many voices arguing that state laws were too lenient toward infanticide offenders.

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<sup>513</sup> *Bristol Times and Mirror*, June 24, 1870, p. 4 (online <https://www.britishnewspaperarchive.co.uk/viewer/bl/0000983/18700624/089/0004>, access: 10<sup>th</sup> April 2023).

<sup>514</sup> *Illustrated Police News*, July 09, 1870, p. 2 (online <https://www.britishnewspaperarchive.co.uk/viewer/bl/0000072/18700709/008/0002>, access: 10<sup>th</sup> April 2023).



Figure 8. *Illustrated Police News*, Saturday 09 July 1870

Source: Image © The British Library Board. All rights reserved.<sup>515</sup>

In this atmosphere, Waters and Ellis were committed to the trial at Old Bailey. They were charged with conspiracy to obtain money by fraud and murdering baby Cowen. The trial lasted from 21 to 23 September 1870. The case was known in the press as “The Brixton

<sup>515</sup> *Illustrated Police News*, July 09, 1870, p. 1 (online <https://www.britishnewspaperarchive.co.uk/viewer/BL/0000072/18700709/004/0001?browse=true>, access: 10<sup>th</sup> April 2023).

Baby Farming Case” and most of the articles were printed under this title. Additionally, the articles printed after the trial claimed that the sisters were charged with a series of murders,<sup>516</sup> while the indictment clearly states that they were only charged with the murder of Cowen’s baby. Furthermore, during the trial, the defence objected to the mention of the other infant. They claimed it could affect the view of the case of the baby in question, who was only Cowen’s baby.<sup>517</sup> One may assume that other babies were constantly mentioned in various articles to maintain Waters’s image as a cruel murderer or perhaps to remind readers that Janet Cowen’s son was not the only one who suffered.

During the trial, the prosecution stated that the child was a victim of an atrocious system. They also claimed that the defendants obtained the children through various lies and deceptions, promising that they would raise them as their own and only to collect money and dispose of the infants as soon as possible. The prosecution further suggested that it was one of the most heinous crimes in the history of the English Court of Justice. They addressed the jury directly, emphasising that it was their duty to determine whether the defendants intended to cause the child’s death or whether it was an unintended outcome.<sup>518</sup> On the first day, Robert Cowen, Sergeant Relf, Mrs. Castle and the nurse hired to take care of Cowen’s grandson were interrogated and given a recounting of the events as previously described. The following day, interrogated doctors found narcotics, most likely opium, in the child’s intestines. The defence attempted to demonstrate that the child could have caught a cold while being transferred from its mother to Waters. They also

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<sup>516</sup> Please see, *Western Morning News*, September 22, 1870, p. 3 (online <https://www.britishnewspaperarchive.co.uk/viewer/bl/0000329/18700922/089/0003>, access: 10<sup>th</sup> April 2023); *Western Daily Press*, September 22 1870, p. 3 (online <https://www.britishnewspaperarchive.co.uk/viewer/bl/0000264/18700922/014/0003>, access: 10<sup>th</sup> April 2023); *Globe*, September 22 1870, p. 5 (online <https://www.britishnewspaperarchive.co.uk/viewer/bl/0001652/18700922/027/0005>, access: 10<sup>th</sup> April 2023).

<sup>517</sup> *Old Bailey Proceedings Online* (www.oldbaileyonline.org, version 8.0, 10 April 2023), September 1870, trial of MAGARET WATERS (35) SARAH ELLIS (28) (t18700919-769).

<sup>518</sup> *The Times*, September 22 1870, p. 9 (online <https://www.thetimes.co.uk/tto/archive/article/1870-09-22/9/3.html#start%3D1870-01-01%26end%3D1870-12-31%26terms%3Dbrixton%20baby%20farming%26back%3D/tto/archive/find/brixton+baby+farming/w:1870-01-01~1870-12-31/2%26prev%3D/tto/archive/frame/goto/brixton+baby+farming/w:1870-01-01~1870-12-31/13%26next%3D/tto/archive/frame/goto/brixton+baby+farming/w:1870-01-01~1870-12-31/15>, access: 10<sup>th</sup> April 2023).

emphasised the difficulties of raising a child without breastfeeding, as introducing any other food could potentially lead to diarrhoea and other gastrointestinal problems.

One of the doctors admitted that most of the children who were abandoned and raised without breastfeeding died in workhouses. That statement supported the defence's claim that the prisoners had no intention to kill the child, as the child's death and health issues were attributed to the food. Nonetheless, the defendants fed the child themselves and had no intention to murder it. Moreover, two witnesses testified that they supplied Margaret Waters with milk for the children.<sup>519</sup> One of the most compelling testimonies came from Ellen O'Connor, a 14-year-old servant girl employed by Margaret Waters. She confirmed that milk was delivered to the house every day and when it ran out, she was sent to buy more. She also attested that the children received adequate nourishment and she herself provided them with additional food. Margaret Waters and Sarah Ellis were responsible for preparing the food. Furthermore, O'Connor's testimony indicated that Margaret Waters displayed more care and concern for children compared to her sister, Sarah Ellis, who was frequently intoxicated and squandered a portion of their earnings. Nonetheless, there was another part of this testimony when Ellen stated:

I think there were four children brought into the house while I was there, besides the ten who were there when she was taken away—those four were infants; one of them was six months, and that was taken away by Mrs. Waters about 10 o'clock at night—she came back the same night without the child—the two that were taken by Mrs. Waters when she said she missed the train were taken another night by Mrs. Waters and Mrs. Ellis, each carried one; they took them away about 9.30 or 10, and returned about 12.30 without the children—he took away one on another night, about two or three weeks before she was taken; it was taken away about the same time, 9.30 or 10, and she came back about 12.30—she said she had taken the children home—son times they used to have a cape on, sometimes a shawl and a hood, when they were taken away—I remember a shawl and cape and a hood being brought back—the four children that were taken away were ill; one of was not very ill, but three of them were—I don't know what they were ill of—they used to cry sometimes, and I made them food and put it into the bottle for them, but generally they were as silent as the other children, and slept a good deal, nearly all day—I used to give lime-water to all of them except Mrs. Ellis's baby and a little girl named Emily.<sup>520</sup>

That statement confirmed that some of the children had disappeared at night, and the description of the defendants' appearance indicated that those children were abandoned to die. She also

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<sup>519</sup> *The Times*, September 23 1870, p. 11 (online <https://www.thetimes.co.uk/tto/archive/article/1870-09-23/11/1.html#start%3D1870-01-01%26end%3D1870-12-31%26terms%3Dbrixton%20baby%20farming%26back%3D/tto/archive/find/brixton+baby+farming/w:1870-01-01~1870-12-31/2%26prev%3D/tto/archive/frame/goto/brixton+baby+farming/w:1870-01-01~1870-12-31/16%26next%3D/tto/archive/frame/goto/brixton+baby+farming/w:1870-01-01~1870-12-31/18>, access: 10<sup>th</sup> April 2023).

<sup>520</sup> *Old Bailey Proceedings Online* (www.oldbaileyonline.org, version 8.0, 10 April 2023), September 1870, trial of MAGARET WATERS (35) SARAH ELLIS (28) (t18700919-769).

mentioned that Sarah Ellis's child was not given a certain type of food, which could indicate that the children may have been deliberately given something harmful.

After hearing from all the witnesses, the Lord Chief Baron addressed the audience and claimed that in the case of Sarah Ellis she was not involved neither in murder nor manslaughter. He directed the jury to pronounce the verdict in her favour. Sarah Ellis was therefore acquitted of murder, but was later found guilty of fraud and sentenced to eighteen months imprisonment.<sup>521</sup> After Ellis's acquittal, the court was adjourned, and the trial ended the next day. The defence and prosecution summed up their evidence, leaving only the jury to decide about the fate of Margaret Waters. Before that happened, Lord Chief Baron addressed them with the following questions to consider when reaching the verdict:

The first question was, was the death of this particular child caused by the want of sufficient and proper nourishment which the prisoner ought to have supplied; by the administration of laudanum, or any other narcotic, by the prisoner, or by her direction, or with her concurrence; by the want of medical attendance, which she ought and was bound to have provided; or by one or the whole of these three causes combined? If they were satisfied that its death was so caused, then their verdict must be one of murder. There was a grave and serious question also to be considered—namely, did the prisoner, in their opinion, know or believe that the treatment she was administering, and the line of conduct also was pursuing towards the unfortunate child, would probably accomplish or accelerate its death; or, still more, did she intend by that course of treatment, and that line of conduct, to shorten its life? If they should be of opinion that the child died from the of natural disease, or any of the ordinary ailments that might affect the life of an infant, without any intent being shown by the prisoner to bring it to an untimely end, then their verdict would be one of an acquittal.<sup>522</sup>

After about an hour of deliberation, the jury returned a verdict: guilty of murder. This verdict also meant that Margaret Waters was automatically sentenced to death, leaving her with only two options: appeal or hope for her sentence to be commuted to life imprisonment. Despite the verdict, Margaret Waters did not accept her guilt and maintained her innocence until the very end. At the Old Bailey she stated:

I am sorry (she said) that I have been led into life deceit and falsehood, for which I very sorry; and no words can express how much I feel the degraded position in which I am placed. I deserve punishment—but guilty murder am not, not in the remotest degree and, with death and eternity before me, staring me in the face, I solemnly declare that I am innocent as the babe unborn of such

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<sup>521</sup> *The Times*, September 23 1870, p. 11 (online <https://www.thetimes.co.uk/tto/archive/article/1870-09-23/11/1.html#start%3D1870-01-01%26end%3D1870-12-31%26terms%3Dbrixton%20baby%20farming%26back%3D/tto/archive/find/brixton+baby+farming/w:1870-01-01~1870-12-31/2%26prev%3D/tto/archive/frame/goto/brixton+baby+farming/w:1870-01-01~1870-12-31/16%26next%3D/tto/archive/frame/goto/brixton+baby+farming/w:1870-01-01~1870-12-31/18>, access: 10<sup>th</sup> April 2023); *Old Bailey Proceedings Online* (www.oldbaileyonline.org, version 8.0, 10 April 2023), September 1870, trial of SARAH ELLIS (28) (t18700919-770).

<sup>522</sup> *Andover Chronicle*, September 30, 1870, p. 6 (online <https://www.britishnewspaperarchive.co.uk/viewer/bl/0004551/18700930/059/0006>, access: 11<sup>th</sup> April 2023).



crime. I knew of couple in affluent circumstances who wished for an infant. They had every comfort and wanted a child. I undertook to get one, and they promised to lavish upon every care: and the loss of this child would have been very great pecuniary loss to me. I have urge simply that I have done all my power for the child. I tell you in reference to those children who died in the workhouse that they were taken away from home early the morning, with their clothes still wet, to Lambeth police court, and kept there until late in the afternoon, and then taken the workhouse. All that time they had wet clothes on, and they had no care and am held responsible for it. I am innocent of any of these little ones having perished.<sup>523</sup>

The defendant's words were hardly heard at all, but Margaret Waters's statement was recorded. It should be noted that she admitted to some of her wrongdoings, however, she strongly denied being guilty of murder or intentionally harming the children in her care. She even went a step further and accused the police of neglecting and causing the deaths of four infants who died in the workhouse. It is significant to notice that the period between sentence and execution was not futile. Margaret's brothers tried to find evidence that could help overturn the murder verdict.

Moreover, a debate was also sparked in the press because not everyone believed that the sentence was adequate. Letters were written to newspaper editors. For example, the *Echo (London)* published a letter in which the author was truly surprised by the announcement that the capital sentence for the death of baby Cowen thirteen days after the arrest of Margaret Waters. Furthermore, the person recalled statistics that almost 30% of infants brought up by hand die. The author also stated that working-class mothers are known for giving their children soothing syrups so that they do not cry. That person also did not find it weird that Waters took money for her services, because even doctors charge for their help. Considering all, the category of the crime should be changed to manslaughter, and it was also the government's fault because there were no laws which regulating such acts.<sup>524</sup> Others claimed that no right-minded mother would give her child narcotics and even if Waters were to be released from prison in the future, the public should be guarded against her.<sup>525</sup>

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<sup>523</sup> *Western Daily Press*, September 26, 1870, p. 3 (online <https://www.britishnewspaperarchive.co.uk/viewer/bl/0000264/18700926/007/0003>, access: 11<sup>th</sup> April 2023).

<sup>524</sup> *Echo (London)*, September 27, 1870, p. 2 (online <https://www.britishnewspaperarchive.co.uk/viewer/bl/0004596/18700927/017/0002>, access: 11<sup>th</sup> April 2023).

<sup>525</sup> *Echo (London)*, September 29, 1870, p. 1 (online <https://www.britishnewspaperarchive.co.uk/viewer/bl/0004596/18700929/010/0001>, access: 11<sup>th</sup> April 2023).

Moreover, except issues described above, there was also the one related to Sarah Ellis. Quite surprising is the fact that she was not found guilty of manslaughter. She was involved in baby farming activities, she also looked after the children in the house, it was also established that she disappeared at night with several children and then returned without them. It should be stressed that Margaret Waters tried to protect her sister from the very beginning and took all the blame. Soon after they arrest, she testified: “Believe me, what my sister has done has been entirely under my direction; I am the sinner, and I must suffer.”<sup>526</sup> Another thing that could be an advantage for Ellis was the charge – the murder of baby Cowen. It was Margaret who was fully involved in the adoption process, so maybe her sister was seen as less important. Furthermore, unlike Waters, who was a childless widow, her younger sister had children and was therefore perceived differently by Victorian standards. Nonetheless, it should be noted that Watters’s solicitor, who fought for a reprieve, claimed that Ellis hated children and fed them with narcotics that belonged to her. In a private conversation, she also admitted that she was a baby dropper.<sup>527</sup> What is even more interesting, the press at that time was also reported about it, but no one demanded a harsher sentence for Ellis.<sup>528</sup> Evidence was also later provided that Margaret hired a wet nurse before Cowen’s death. Why did she do such a thing if she wanted the child to die? Furthermore, the strongest evidence for a reprieve were two letters from jurors who stated that the verdict was not unanimous because they voted for guilty of manslaughter.<sup>529</sup> Margaret Waters was denied a retrial and her sentence was not commuted to imprisonment. She was hanged on 11 October 1870 at Horsemonger Lane Gaol. It was also stressed by the press that it was the first execution within the prison walls and without public participation since the Parliament had passed the *Capital Punishment Amendment Act 1868*.<sup>530</sup>

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<sup>526</sup> *Old Bailey Proceedings Online* (www.oldbaileyonline.org, version 8.0, 11 April 2023), September 1870, trial of MAGARET WATERS (35) SARAH ELLIS (28) (t18700919-769).

<sup>527</sup> L. Rose, op. cit., pp. 100–101.

<sup>528</sup> *Weekly Dispatch (London)*, October 09, 1870, p. 7 (online <https://www.britishnewspaperarchive.co.uk/viewer/bl/0003358/18701009/032/0007>, access: 11<sup>th</sup> April 2023).

<sup>529</sup> L. Rose, op. cit., p. 101.

<sup>530</sup> *The Times*, October 12, 1870, p. 11 (online <https://www.thetimes.co.uk/tto/archive/article/1870-10-12/11/4.html#start%3D1870-01-01%26end%3D1870-12-31%26terms%3Dbrixton%20baby%20farming%26back%3D/tto/archive/find/brixton+baby+farming/w:1870-01-01~1870-12-31/2%26prev%3D/tto/archive/frame/goto/brixton+baby+farming/w:1870-01-01~1870->

The question remains, was Margaret Waters a scapegoat? The answer to this question may be positive. The evidence gathered after the trial and partially during it shows that she cared for those children. Food for them was delivered to her house, and the doctors were called when children were sick. Those are not the actions of a person planning to kill. Furthermore, it was established that narcotics belonged to Sarah Ellis and she was the one who gave them to infants in their care. It does not mean that Margaret Waters was innocent. She had too many children in her care, they were neglected and malnourished, because it was very difficult to raise infants without breastmilk. Nonetheless, baby Cowen died two weeks after her arrest. She could be found guilty of manslaughter, but there was no proof that she intended to kill. It should be noted that her trial was preceded by the trial of Charlotte Winsor, who was not executed, which was not fully accepted by the public, the BMJ's investigation of the baby farming industry and a whole decade of increased panic concerning the scale of infanticide in the country. Her execution both an example and a warning to those involved in baby farming. Right after her death, the journalists of the *London Evening Standard* wrote:

Her terrible case had excited the strongest interest, but, in relation to herself, not the slightest public sympathy. At all times, it melancholy to see woman thus condemned, the prime of her life, to a wretched and ignoble death; and it is the saddest office of the law exact these retributions. But the example has been made, and, may we hope, will be effectual. Too long has infanticide been treated in this country as a secondary crime, too long have its systematic practitioners been taught that neither will juries convict them of the extreme offence, nor, if juries obey their oaths, will Home Secretaries fulfil their duty without flinching. Charlotte Winsor, a worse monster, if possible, than Margaret Waters, after being sentenced to hanged, escaped with penal servitude. Thereupon arose great encouragement in the baby farming camp. For the future a little less recklessness may be displayed. The story Margaret Waters's fate will perhaps deter a good many candidates for the profits which she confessedly derived from her heinous trade. Her execution was once deserved punishment for proved crimes the most unnatural and revolting nature, and a social necessity. It brought home retribution where it was deserved; but it may also check a widely-spreading evil.<sup>531</sup>

It was wishful thinking to believe that executing Margaret Waters would make the issue of infanticide disappear. Children were still died, either placed with nurses or put up for adoption by their families. Baby farming, with or without criminal intent, was a source of income for many, and filled a gap in the illegitimate children's care system. It was being exploited, but if it was not controlled by the state, the execution of one woman could not

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12-31/10%26next%3D/tto/archive/frame/goto/brixton+baby+farming/w:1870-01-01~1870-12-31/12, access: 11<sup>th</sup> April 2023).

<sup>531</sup> *London Evening Standard*, October 12, 1870, p. 1 (online <https://www.britishnewspaperarchive.co.uk/viewer/bl/0000609/18701012/003/0001>, access: 11<sup>th</sup> April 2023).

stop it. Other newspapers also focused on Margaret Waters' solicitor and her brothers' actions to commute her sentence or delay the execution date. They also cited a statement she wrote before the execution, when she once again explained that she may have been guilty of fraud and negligence, but she had never intentionally harmed baby Cowen or other children. Nonetheless, the press still did not have any sympathy for her and did not consider the execution a mistake, although not everyone had as high hopes for it as the *London Evening Standard*.<sup>532</sup>

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<sup>532</sup> For mor details, please see: *The Times*, October 12 1870, p. 11 (online <https://www.thetimes.co.uk/tto/archive/article/1870-10-12/11/4.html#start%3D1870-01-01%26end%3D1870-12-31%26terms%3Dbrixton%20baby%20farming%26back%3Dtto/archive/find/brixton+baby+farming/w:1870-01-01~1870-12-31/2%26prev%3Dtto/archive/frame/goto/brixton+baby+farming/w:1870-01-01~1870-12-31/10%26next%3Dtto/archive/frame/goto/brixton+baby+farming/w:1870-01-01~1870-12-31/12>, access: 11<sup>th</sup> April 2023); *Morning Post*, October 12 1870, p. 2 (online <https://www.britishnewspaperarchive.co.uk/viewer/bl/0000174/18701012/005/0002>, access: 11<sup>th</sup> April 2023); *Driffield Times*, October 15 1870, p. 3 (online <https://www.britishnewspaperarchive.co.uk/viewer/bl/0001065/18701015/027/0003>, access: 11<sup>th</sup> April 2023); *Evening Mail*, October 14 1870, p. 5 (online <https://www.britishnewspaperarchive.co.uk/viewer/bl/0003187/18701014/012/0005>, access: 11<sup>th</sup> April 2023); *Western Gazette*, October 14 1870, p. 6 (online <https://www.britishnewspaperarchive.co.uk/viewer/bl/0000406/18701014/012/0006>, access: 11<sup>th</sup> April 2023).

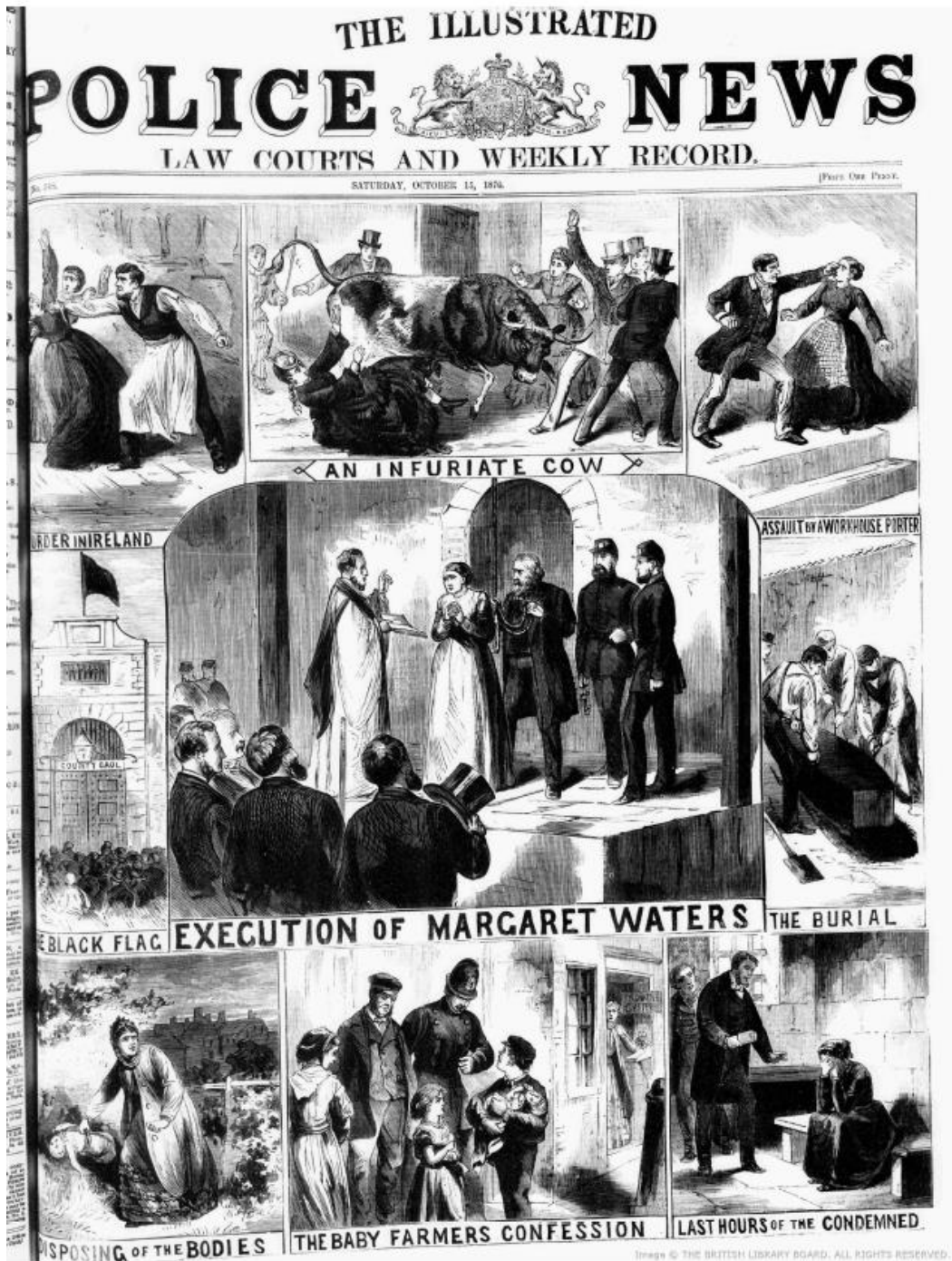


Figure 9. *Illustrated Police News*, Saturday 15 October 1870

Source: Image © The British Library Board. All rights reserved.<sup>533</sup>

<sup>533</sup> *Illustrated Police News*, October 15, 1870, p. 1 (online <https://www.britishnewspaperarchive.co.uk/viewer/bl/0000072/18701015/004/0001true>, access: 11<sup>th</sup> April 2023).

#### 4.4. Infant Protection Act and its implementation

Many scholars, including Ruth Ellen Homrighaus and Lionel Rose, have examined the connections between the Margaret Waters case and the passage of the *Infant Protection Act*. Both of them emphasized the role of the Infant Life Protection Society, established after the trial of Waters begun, and played a key role in creating the new law. They also stated that it was undisputable that there was such a connection between Waters trial and the new law.<sup>534</sup> One of them was Margaret Arnot, who used a feminist stance to examine this issue, and also focused more on the construct of motherhood in the Victorian era and the treatment of women who were not able to achieve the status of ideal mothers. She argued that the discourse around Waters and the committee working on the new law made the passage of a the women-friendly unlikely.<sup>535</sup>

Nevertheless, it is also significant to mention the manner in which the law was passed. The government was not especially eager to address the issue of baby farming, even after Margaret Waters's trial. Despite that, the Infant Life Protection Society (ILPS) was formed shortly after her execution. They prepared a bill that included a list of reforms. Most of them have been previously discussed on the pages of the *British Medical Journal*. The society's first and most important objective was the registration and supervision of childminders. They proposed that any person who took charge of a child under the age of six and who was not the child's relative or legal guardian, should register with a local justice of the peace. Moreover, the justice of the peace should seek character reference from a local magistrate, clergyman or medical practitioner. They also required the local Poor Law Medical Officer to visit each baby farm in their area once a month and prepare a quarterly report to the Poor Law Board.<sup>536</sup> Those propositions looked like amendments to the last Poor Law, but they were also supposed to give medical men more power and control and strengthen their position in society.

As R. E. Homrighaus's research shows, those propositions were not warmly welcomed by the Home Secretary because they would have cost a lot of money and time. It also sparked a strong opposition among feminists, who, led by Josephine Butler,

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<sup>534</sup> R. E. Homrighaus, "Wolves in Women's Clothing...", op. cit., pp. 363 –365; L Rose, op. cit., pp. 106–108.

<sup>535</sup> M. L. Arnot, op. cit., pp. 271–311.

<sup>536</sup> R. E. Homrighaus, "Wolves in Women's Clothing...", op. cit., p. 363.

established the Committee for Amending the Law in Point Where It Is Injurious to Women (CALPWIW). They criticised the bill and medical professionals for trying to eradicate female source of income and focusing exclusively on women, forgetting about the fathers of illegitimate children. Women who created CALPWIW:

(...) regarded the Infant Life Protection Act, like the Contagious Diseases Acts, as a product of male bias in the medical profession and in Parliament, which tended to blame and punish women for problems created by men's sexual and social irresponsibility.<sup>537</sup>

Despite their strong opposition, this did not delay or stop the preparations for the new law. However, Home Secretary promised ILPS that if they withdraw the bill, he will establish a select committee to investigate the problem of baby farming.

The Select Committee on Protection of Infant Law was formed in 1871. On 20 July of that year, the committee published a report in which it described two types of baby farming. The first and most harmful involved placing infants in the care of nurses with the intention of harming or even killing them. The second type involved entrusting infants to childminders during the day or week time so that mothers could pick them back after work. The committee also defined baby farming as an urban phenomenon occurring primarily in London, its surrounding areas, and other major cities in England and Scotland.<sup>538</sup> However, this assumption was later corrected by Shirley A. Smith, whose research revealed the presence of baby farmers in rural areas of Wales.<sup>539</sup>

Furthermore, the committee continued to consider laying-in hospitals the great danger. It claimed that the most children in these institutions did not survive, and neither births nor deaths were registered. If infants did leave these establishments, they were often sent to baby farmers, where negligence, improper food, lack of hygiene, overcrowding, or narcotics administration led to their deaths. The committee also praised workhouses where child mortality was lower, which they believe was due to medical and state supervision. They also proposed six rules as a solution to the baby farming issue:

1. That there should be a compulsory registration of all birth and deaths within a limited period after the occurrence of those events.
2. That there should be a permissive registration of any house where children are put out to nurse for hire.

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<sup>537</sup> R. E. Homrighaus, "Wolves in Women's Clothing...", *op. cit.*, p. 363.

<sup>538</sup> MEPO 3/95, The National Archives, Kew (access: 28<sup>th</sup> October 2022).

<sup>539</sup> S. A. Smith, *op. cit.*, pp. 51–99.

3. That a license should be previously given for such registration, and the condition of the license should be, that the house is open to the inspection of the police at all reasonable times and hours.
4. That such license should be liable to forfeiture or suspension in case of misconduct.
5. That there should be a compulsory registration of all lying-in establishments where women come to be confined.
6. That a license should be given for such last-mentioned registrations, and the conditions of the license should be: 1<sup>st</sup>. That the establishment is open to the inspection of the police at all times of the night or day, provided ta the inspection, if demanded at night should only be authorised under the warrant of the magistrate. 2<sup>nd</sup>. That all children born in such establishments shall be registered at least within one week of their birth. 3<sup>rd</sup>. That in case any child should die, a medical certificate of the causes of its death should be sent to the registrar, an also to the coroner, before its burial. 4<sup>th</sup>. That in case a child should be removed, a record should be kept upon the premises of the place to which it has been sent or taken; and 5<sup>th</sup>. That non-compliance with any of the conditions above enumerated should subject the parties to penalties for non-compliance, and should render the license liable to forfeiture or suspension, on a summary application stating the facts, and made for that purpose to a justice of the peace.<sup>540</sup>

The above recommendations show that it was believed that the only solution was to increase the control of women who, due to their professions or life situations, could be involved in baby farming. It is also significant to emphasise that the committee did not propose any reforms that could improve social care for illegitimate children and their mothers, especially those who were left without family support. They simply wanted to reduce the harmful aspects of baby farming, but not eliminate the core of the problem.

Following the broad press coverage of the baby farmers' trials and the suggestions from the Select Committee on Protection of Infant Law, in 1872 Parliament finally passed the first Infant Protection Act. According to the new law, no one could provide paid care for more than one infant under one year of age, for more than twenty-four hours, unless they were registered by local authorities. The authorities could refuse to register unsuitable premises or remove those that were on the list but no longer met the requirements. Nurses should also keep a record of all babies in their care, including pertinent information such as the identity of the individuals from whom the infants were received, the dates of their admission, and records of when and by whom they were taken. It was also required that a coroner conduct an inquest after the infant's death. Anyone found guilty under the requirements of this act could be sentenced to a maximum of 6 months of imprisonment with or without hard labour, or a fine of £5.<sup>541</sup> It should be emphasised that this law had its loopholes. Firstly, if a nurse only had one infant at a time, she did not have to register, which meant that immediately after the death of one child, she could take another one and

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<sup>540</sup> MEPO 3/95, The National Archives, Kew (access: 28<sup>th</sup> October 2022).

<sup>541</sup> Ibidem.



thus cause the deaths of many. She could also take under her care any number of children over the aged of one, without the need to register them. Moreover, no forms of inspection of these rules were mentioned in this law. The only form of control was registration, but it meant that baby farmers could only be penalised if they were caught or could be placed under surveillance due to suspicions arising about their activities, but that also had to be reported for investigation to start.

Shortly after this law was passed, it became quite clear that it was not working as it should. In August 1879, Amelia Dyer was tried in Bristol for baby farming. This trial was only a prelude to what would be discovered seventeen years later. Amelia Dyer ran a foster home where she nursed infants, several of whom had died over the previous few years. One of them passed away at her home on 13 August 1879, the other a few days later on 17<sup>th</sup>, and this one died at Dr. J. Milne's surgery, where it was taken by the defendant. During the investigation, it was also established that nine infants died in her home over the previous twelve to eighteen months.<sup>542</sup> It should be noted that two of the dead infants were Amelia Dyer's children. She was placed under supervision when the doctor refused to sign the death certificate of one of the children who died in 1879. It was also established that she lied in the past by claiming that some of the children in her care were her own. What was also interesting about this case was the fact that Amelia Dyer farmed out children, whom she took care of primarily for other people. Two women testified that they had taken their infants from her and these children were in a terrible condition. They were ill, malnourished and did not cry at all, which raised suspicion that they may have been drugged with laudanum. Although there was no conclusive evidence linking the children's deaths to poisoning, the jury determined that they had died of natural causes. Nevertheless, the jury recommended that Amelia Dyer face punishment for her mistreatment of the children under her care.

It is significant to mention that the case was quite extraordinary due to some other reason. When Amelia Dyer realized the inquest and all the problems she had to face, she decided to commit a suicide. She went to two chemists in her neighbourhood, where she purchased a large quantity of laudanum. However, it turned out that one of the portions she

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<sup>542</sup> *Bristol Mercury*, August 30, 1879, p. 11 (online <https://www.britishnewspaperarchive.co.uk/viewer/bl/0000035/18790830/221/0011>, access: 3<sup>rd</sup> May 2023); *Dundee Weekly News*, August 30 1879, p. 6 (online <https://www.britishnewspaperarchive.co.uk/viewer/bl/0001431/18790830/043/0006>, access: 3<sup>rd</sup> May 2023).

purchased was weaker and thanks to that, doctors were able to save her.<sup>543</sup> The motives behind her actions cannot be clearly explained. Obviously, she wanted to avoid a potential trial and punishment. Nonetheless, the question remains whether she really wanted to take her own life, or whether she only took enough laudanum to make her sick and unable to appear in court, but was unable to kill her. In her second trial, it will be seen that she always tried to find a way to escape when the police began to suspect her. In 1879, she was acquitted of murder, but was found guilty of not registering her house, and sentenced to six months' imprisonment.

Another baby farming scandal occurred in the same year. Annie Took, a widow and mother of four, was charged at Assizes in Exeter with the murder of Reginald Hede, the illegitimate child of Mary Hoskings. Interestingly, the defendant did not know any details about the child's mother. Apparently the only people who knew about Mary Hoskings' condition were her siblings, who tried to help her to concede her shame of having an illegitimate child. The baby boy was placed in the care of Annie Took, for which she received £12. It was supposed to cover the first year of the child's life, and she was promised she would receive more in the future. She quickly spent all the money and the child became a burden to her. As the *Western Times* reported:

(...) according to her statement, not knowing either the names or residences of its friends, and believing it would never be inquired after— placed a pillow on it when in the cradle and suffocated it. She three four days afterwards cut up the body and threw the remains into the mill-leaf where they were subsequently found, and a peculiar malformation which distinguished the child, led to its identification.<sup>544</sup>

Contrary to other baby farmers, there were no reports of Annie Took nursing any children other than the one killed by her. It should be also noted that she admitted her guilt, then changed her testimony, claiming that she had met some women who promised to take the child to the workhouse.<sup>545</sup> It was all futile, as she was sentenced to death and executed in August 1879. It should be mentioned that she was the second woman executed for baby farming and murder since Margaret Waters.

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<sup>543</sup> *Bristol Mercury*, August 30, 1879, p. 11 (online <https://www.britishnewspaperarchive.co.uk/viewer/bl/0000035/18790830/221/0011>, access: 3<sup>rd</sup> May 2023).

<sup>544</sup> *Western Times*, August 15, 1879, p. 2 (online <https://www.britishnewspaperarchive.co.uk/viewer/bl/0000265/18790815/007/0002>, access: 3<sup>rd</sup> May 2023).

<sup>545</sup> *London Evening Standard*, August 24, 1879, p. 3 (online <https://www.britishnewspaperarchive.co.uk/viewer/bl/0000183/18790724/025/0003>, access: 3<sup>rd</sup> May 2023).

Nonetheless, that was not the end of baby farming affairs that year. In September, John and Catherine Barnes were tried for the wilful murder of three children and the neglect of the others, who were found emaciated in their house. The children's death was caused by malnutrition. During the investigation, it was established that they had been acting as baby farmers for nine years. They advertised the adoption of children for large sums of money, such as £40,<sup>546</sup> and sometimes passed the adopted children to other people. It was the residents of their neighbourhood who noticed not ordinary behaviour in the defendants' house. They reported hearing prolonged cries of anguished children, which Barnes initially denied. However, they later admitted that a child in their care was indeed very ill. It was established that John Barnes did not work anywhere, so it seems that their only source of income was baby farming. The condition in their house was terrifying and clearly indicated that the children were neglected and starved:

Detective Nelson described the filthy condition of the Prisoners' house, and said the stench was something terrible. When he and Superintendent Clarke saw the two children Mabel and Alice, the female Prisoner said, "These two dears are twins. They belong to a gentleman, and they are going back in a week." These children differed considerably in their ages. The bed, a flock one, was full of fleas. There were hundreds of them. He saw no food or appliances for it in that room. Afterwards he searched the house and found no feeding appliances or food of any kind except three pints of a loaf of bread, some crusts, a few potatoes, and a jar of cold coffee.<sup>547</sup>

The evidence gathered during the trial could have suggested the intention to kill those children, however, they were found guilty of manslaughter and sentenced to life imprisonment.<sup>548</sup>

All these cases led to the discussion about the effectiveness of the *Infant Protection Act*. In March 1880, Home Secretary began consultations on the matter, but elections were held shortly thereafter and the new government was not interested in changing the law or taking any additional action to stop baby farming.<sup>549</sup> The only thing that could stir a debate once again were other baby farming scandals. Without that and public attention focused on

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<sup>546</sup> *London Evening Standard*, September 26, 1879, p. 2 (online <https://www.britishnewspaperarchive.co.uk/viewer/bl/0000183/18790926/007/0002>, access: 3<sup>rd</sup> May 2023).

<sup>547</sup> *Ibidem*.

<sup>548</sup> *Manchester Evening News*, October 30, 1879, p. 2 (online <https://www.britishnewspaperarchive.co.uk/viewer/bl/0000272/18791030/002/0002>, access: 3<sup>rd</sup> May 2023).

<sup>549</sup> L. Rose, *op. cit.*, pp. 112–113.

that problem, the possibility of amending the law was almost non-existent. It did not happen until the late 1880s, when new shocking cases of infants' deaths stirred the public opinion.

#### **4.5. The end of the century – Jessie King and Amelia Dyer**

In October 1888, some boys playing on the streets of Edinburgh found a bundle containing the decomposing remains of an infant. It raised the suspicion of a woman renting lodgings in the area. She remembered that one of her tenants, Jessie, had moved in with a baby who then suddenly disappeared. She told her landlady that she had adopted the child for £25 and gave it up for the lesser sum. The investigation showed that the cause of death was strangulation. Police were led to Jessie and Thomas Pearson, the man she lived with. In their house, the body of another child was found, and they were both arrested as the murder suspects. The baby was dead for about three or four weeks, and the cause of death was also strangulation.<sup>550</sup> Both infants were illegitimate children, born to unmarried servants. Jessie, seeking to adopt such infants, placed advertisements in newspapers to facilitate the adoption process. It was established that she adopted a total of three children: Alexander Gunn, twelve months old, strangled in April or May 1888, Violent Duncan Tomlinson, six weeks old, strangled in September 1888, and Walter Anderson Campbell, approximately 5 months old, killed in November 1887. She admitted that she strangled the children and then disposed of the body on the street near her lodgings. Baby Gunn was killed because she had no money to keep him, and wanted to admit him to a destitute house, but was refused due to his illegitimacy.

Baby Tomlinson died soon after she brought her to the house. She gave her whisky to stop her from crying, but it was too strong for the girl and she got sick, and Jessie put her hand over the baby's mouth and killed it. The body was later put in the cellar. During the trial, she denied everything, but was found guilty and sentenced to death. It should be noted that Pearson testified against King, who stated that he only knew about one child and believed that it had been taken to a destitute house. He was unaware of the infants' bodies in his home. Moreover, Jessie excluded him from her statements and he was acquitted. Nonetheless, it seems unlikely that he did not know what happened to the infants, as he

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<sup>550</sup> *Driffield Times*, November 10, 1888, p. 4 (online <https://www.britishnewspaperarchive.co.uk/viewer/bl/0001065/18881110/117/0004>, access: 3<sup>rd</sup> June 2023).

knew how Jessie earned money and admitted that she used it for household expenses. When Jessie heard the sentence, she fainted and had to be carried out of the dock.<sup>551</sup> Just before her execution, she claimed that two other people were involved in this crime. Nonetheless, she was hanged in March 1889 at Calton Gaol in Edinburgh, becoming the second woman after Margaret Waters to be executed for such a crime.<sup>552</sup>

Discussions about the limitations of the *Infant Protection Act* started again and in 1890 the Select Committee prepared an amended version of the bill, however it was not adopted by Parliament. It was not until the trial of Amelia Dyer in 1896 that the amended law was passed. Seventeen years after her first trial in Bristol, Amelia once again stood at the Old Baily in London. In 1879, she managed to avoid the harsh fate of other baby farmers, but there was no chance of that during the second trial. Who were the women who terrified public opinion and whose scale of crimes will never be fully known?

Amelia Elizabeth Dyer (née Hobley) was born in 1838, the youngest of five children. When she was eleven, her mother died of typhus. She received a relatively solid education, and until the age of fourteen she attended the Church-run National School for working-class children. After leaving school she was sent to live with her aunt in Bristol, and by the age of twenty-four she was reported to live on her own. During that time, she met her first husband, fifty-seven year old George Thomas. Two years after their marriage, in 1863, she began training as a nurse at Bristol Royal Infirmary. A year later she had to stop working because she was pregnant with her first child, Ellen. During that time, she also met a midwife Ellen Dane, who lived with Amelia and her husband for a time. Ellen Dane cared for pregnant women and adopted their children for a lump sum after they were born. The money was not enough to look after the children, so she also acted as the intermediary and passed those children to other baby farmers.<sup>553</sup> It may be assumed that observing this type of activity encouraged Amelia to earn money this way. Her husband died in 1869, and at this time Amelia began advertising adoptions in Bristol newspapers,

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<sup>551</sup> *Glasgow Herald*, February 19, 1889, p. 9 (online <https://www.britishnewspaperarchive.co.uk/viewer/bl/0000060/18890219/035/0009>, access: 3<sup>rd</sup> June 2023).

<sup>552</sup> *Sheffield Independent*, February 19, 1889, p. 4 (online <https://www.britishnewspaperarchive.co.uk/viewer/bl/0000181/18890219/030/0006>, access: 3<sup>rd</sup> June 2023); *London Evening Standard*, March 11 1889, p. 1 (online <https://www.britishnewspaperarchive.co.uk/viewer/bl/0000609/18890311/019/0001>, access: 3<sup>rd</sup> June 2023).

<sup>553</sup> A. Rattle, A. Valle, op. cit., pp. 30–42.

using the pseudonyms “Mrs. Harding” or “Mrs. Thomas”. Following the trial and execution of Margaret Waters and increased investigation into infant adoption, Amelia began working as a nurse at the Bristol Lunatic Asylum. In 1872 remarried. Her second husband, William Dyer, was an illiterate unskilled worker. Since he was often unemployed, she revived her baby farming activities. She placed advertisements in newspapers, ran laying-in hospitals and adopted babies, usually for a lump sums, because it was the most profitable for her. As described above, the first suspicions about her activities arose in the late 1870s, when several infants died under her care. She was lucky to avoid a more severe punishment, and until 1896 she earned money as a baby farmer.

In March and April of that year, a number of dead infant bodies were discovered in the Thames at Reading. During the coroner’s inquest, a verdict of guilty of murder was passed in on the person who committed such crimes. In all cases, a piece of tape was found tied around the children’s necks. Furthermore, the bodies were wrapped in linen or some other material, and a brick was placed in each package to ensure that the body would drown. In one of the bodies found in the river, a piece of paper with an address was found. The address led police to Amelia Dyer’s house, where police found letters, telegrams, pawn tickets and receipts for advertisements in a number of London newspapers. The content of the letters led police to Arthur Ernest Palmer, Amelia’s son-in-law. Both were arrested. Amelia was charged with suspicion of murder, and Arthur with accessory to the crime. Following their arrest, they were brought before a magistrate in Reading. They were described as follows:

Dyer is a woman about fifty years of age, with grey hair. She was dressed in black, and carried on her arm a black and white plaid shawl. Palmer is a man apparently from twenty-five to thirty years of age. He has hair of reddish hue and a pale complexion, and wears a moustache. He was well dressed in a frock coat, and wore a fashionable black and white check tie.<sup>554</sup>

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<sup>554</sup> *Illustrated Police News*, April 18, 1896, p. 1 (online <https://www.britishnewspaperarchive.co.uk/viewer/bl/0000072/18960418/010/0003>, access: 9<sup>th</sup> June 2023).



*Figure 10. Amelia Dyer - Illustrated Police News – Saturday 25 April 1896*

Source: Image © The British Library Board. All rights reserved.<sup>555</sup>

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<sup>555</sup> *Illustrated Police News*, April 25, 1896, p. 6 (online <https://www.britishnewspaperarchive.co.uk/viewer/BL/0000072/18960425/020/0006?browse=true>, access: 9<sup>th</sup> June 2023).



Figure 11. Amelia Dyer - *Weekly Dispatch* (London) - Sunday 03 May 1896

Source: Image © The British Library Board. All rights reserved.<sup>556</sup>

In theory, Amelia still had a chance to avoid the death sentence because there was no conclusive proof of her guilt, however, that chance disappeared when the two infants were recognised and she was identified as the person who adopted them. One of the women who identified the child was Evalina Edith Marmon. In January she gave birth to her daughter, Doris, and in March she saw an advertisement in a Bristol paper: “Couple with no child, want care of or would adopt one: terms £10. Care of Ship Exchange, Bristol.”<sup>557</sup> She replied to the advertisement and received the following letter:

Dear Madam,—In reference to your letter of adoption of a child, I beg to say I shall be glad to have a little baby girl, one that I can bring up and call my own. First, I must tell you, we are plain, homely

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<sup>556</sup> *Weekly Dispatch* (London), May 03, 1896, p. 11 (online <https://www.britishnewspaperarchive.co.uk/viewer/bl/0003358/18960503/128/0011>, access: 9<sup>th</sup> June 2023).

<sup>557</sup> *Old Bailey Proceedings Online* ([www.oldbaileyonline.org](http://www.oldbaileyonline.org), version 8.0, 09 June 2023), May 1896, trial of AMELIA ELIZABETH DYER (57) (t18960518-451).



people, in fairly good circumstances. We live in our own house, and have a good and comfortable home. We are out in the country, and sometimes I am alone a great deal. I don't want the child for money's sake, but for company and home comfort. Myself and husband are dearly fond of children. None of my own. A child with me would have a good home, and a mother's love and care. We belong to the Church of England. I would not mind the mother or any friend coming to see the child at any time, and know the child is going on all right. I only hope we may come to terms. I should like to have the baby as soon as you can arrange it. If I can come for her, I don't mind paying for one way. I could break my journey at Gloucester; I have a friend in the Asylum there I should be so glad to call and see. If you will let me have an early reply I can give you some references.—Yours, MARY HARDING.<sup>558</sup>

The above advertisement and letter present how Amelia Dyer operated. She usually depicted herself as a childless, married woman eager to adopt a child and raise it as her own. She also promised that the child's mother would be able to visit them from time to time, however, it was used to gain the mother's trust. She never provided her exact details and stopped responding to letters, so the person who gave up the child could not find her. Furthermore, it was probably for that reason that she gave up running laying-in hospitals and often moved to avoid detection by the police suspicion of neighbours. Evalina Marmon met with Dyer and allowed her to adopt her daughter. She sent letters to Dyer asking about the child's well-being, but receives no response. When Dyer was accused of murdering the children and the bodies were found in the Thames, Evalina went to the mortuary in Reading and identified her daughter there. She also recognised some clothes she had made for her. Evalina did not question Amelia Dyer, had no suspicions and claimed that she only wanted to find a better house for her child, as she was unable to take care of Doris by herself.

Dyer's fear of detection was also connected with one of her clients. The story sounds like a Victorian melodrama. In 1890, a young governess from Exeter came to the defendant's house and was nursed there throughout her pregnancy and labour. The governess fell in love with the older son of the family she worked for. Even when she became pregnant, the family opposed the marriage. The young woman had no choice but to give the child up for adoption. It was reported that after leaving the child in Dyer's arms, they met again after two months because she wanted to see the child. Nevertheless, she suspected that the child was not hers. Dyer asked for more money and promised to bring the child the next time they meet. Shortly afterwards, the child's father reappeared and, as having managed to convince his family, he married the governess. Now they started

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<sup>558</sup> *Old Bailey Proceedings Online* ([www.oldbaileyonline.org](http://www.oldbaileyonline.org), version 8.0, 09 June 2023), May 1896, trial of AMELIA ELIZABETH DYER (57) (t18960518-451).

looking for their child together. They met with Dyer a few times but were unable to obtain any information, so in January 1891, they reported it to the police in Bristol.

Before they could catch Dyer, she went into hiding. Nonetheless, in late October 1891, the governess, her husband and a police officer knocked on Dyer's door. She was unable to provide any details about the child and shortly after that meeting she had a nervous breakdown and, according to her family members, tried to commit suicide. As a result, she was placed in the County Asylum in Gloucester. The story repeated itself in 1893 and 1894, each time when the governess managed to track down Amelia, she soon entered asylum due to her poor mental state.<sup>559</sup> It is surprising that the police did not arrest Dyer at that time, as the governess identified her as the woman who had adopted her child. She could have been arrested and charged with fraud, as Sarah Ellis was in 1870. The governess was never named, and her story was mentioned by Mary Ann Palmer, Dyer's daughter. She never found her child, but she made Dyer feel persecuted and haunted by the thought of being discovered.

Another woman who identified the child she gave up for adoption was Amelia Hannah Sargeant. She was a married woman and arranged for the adoption of Harry Simmonds, her friend's son. She testified that she had not received any money from his mother and that she paid Dyer £10 out of her own pocket. The child's mother found a job as a servant and wanted someone to take care of him. Hannah testified that she met Amelia Dyer's daughter, Mary Ann Palmer, who was also involved in the adoption process. When the bodies of infants were found in the river, she visited the mortuary and recognised one of the dead infants as Harry. She identified some clothes she gave Dyer at the time of adoption, which were used as evidence in court.

It should also be noted that Amelia Dyer was only indicted for the murder of the two children mentioned above, however, the police suspected that she may have killed up to fifty infants. At first she denied the crime. When her daughter Mary Ann Palmer was also arrested as an accessory to the crime, it probably led to Dyer's confession. She wrote the following letter:

To the Chief Superintendent of the Police

Mr. —Will you kindly grant me the favour of presenting this to the magistrates on Saturday the 18<sup>th</sup> inst. I have made this statement now as I may not have an opportunity then. I must relieve my mind.

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<sup>559</sup> A. Rattle, A. Valle, *op. cit.*, pp. 129–135, 143–146, 158–162, 169–178.

I do know and I feel my days are numbered on this earth, but I do feel it is an awful thing to draw innocent people into trouble. I do know I shall have to answer before my maker Heaven for these awful crimes I have committed, and as God Almighty is my judge in Heaven as on earth, neither my daughter, nor her husband, and I do most solemnly declare that neither of them had anything to do with it. They never knew I contemplated doing anything until it was too late. I am speaking the truth, and nothing but the truth, as I hope to be forgiven. I myself, I alone shall have to stand before my Maker in heaven to answer for it. Witness my hand, Amelia Dyer.<sup>560</sup>

The confession letter was followed by another one that she wrote to her son-in-law:

My poor dear Arthur, Oh, how my heart ached for you and my dear Polly. I am sending this to tell you I have eased my mind and made a full statement. I have told them the truth, and nothing but the truth, as I hope to be forgiven. God Almighty is my judge, and I dare not go into His presence with a lie. I do hope and pray God will forgive me. I had a letter from Polly. She is going down to a lawyer. For myself it is only throwing away money. I know I have done this dreadful crime, and I shall have alone to answer for it. I have just written a long letter to 'Willie.' and another to father. I have also wrote out a true and faithful statement of everything. I hope God will give you and Isaacs strength to bear this heavy trial. God bless you, my dear boy, from your broken-hearted mother, A. Dyer.<sup>561</sup>

It was established that these two letters were written by the defendant on her own free will. Thanks to that, suspicions about her daughter were dropped. Amelia Dyer's letters are now stored in National Archives in Kew:

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<sup>560</sup> *Weekly Dispatch (London)*, May 03, 1896, p. 11 (online <https://www.britishnewspaperarchive.co.uk/viewer/bl/0003358/18960503/128/0011>, access: 11<sup>th</sup> June 2023).

<sup>561</sup> *Ibidem*.

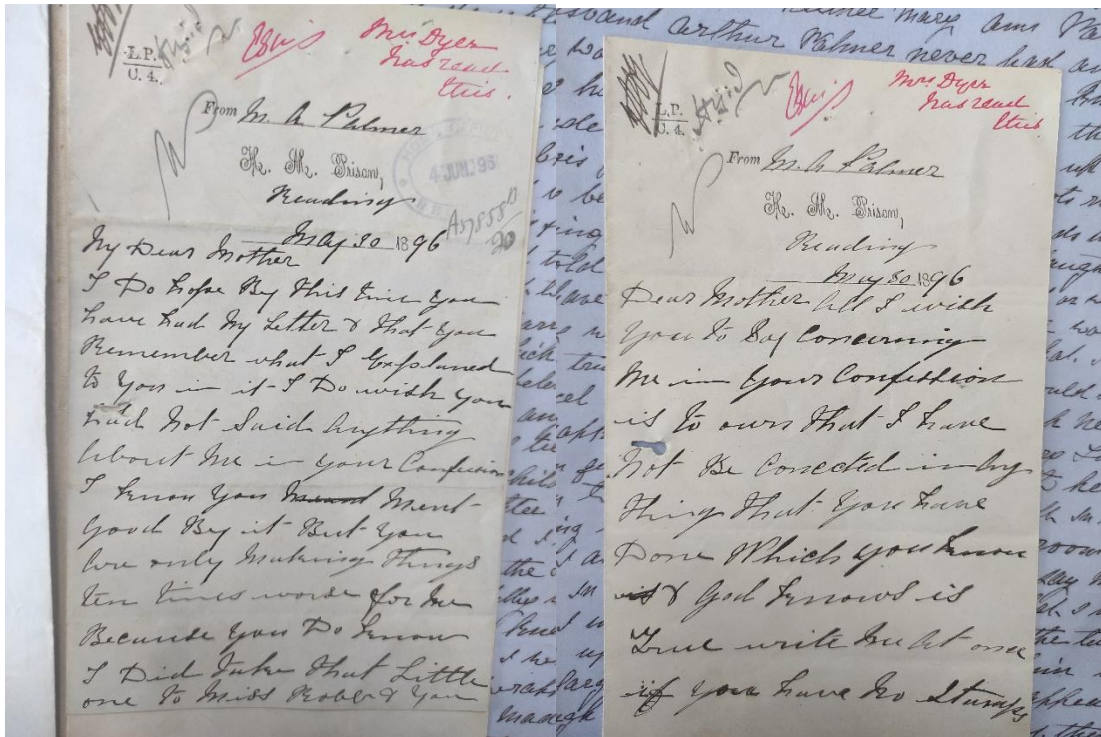


Figure 12. Amelia Dyer and Mary Ann Palmer's letters, *The National Archive Kew*.<sup>562</sup>

Source: HO 144/267/A57858B, The National Archives, Kew. Photos taken by author.

The police did not have enough evidence to indict Polly Palmer, and with Dyer's confession, it was almost impossible. It was known that she adopted the child herself, the boy was in poor condition, but he was alive. Nevertheless, it was hard to believe that she knew nothing about her mother's business, having lived with her almost her entire life. Dyer's confession, supported by evidence provided by her daughter – in which she put all the blame on her mother and Jane Smith, an elderly woman Dyer had met at the Barton Regis Workhouse and whom she had asked to help her with nursing the children – made the final verdict obvious. Her defence tried to play the insanity card, as Polly Palmer also testified:

In 1891 I was living with my mother in Bristol; she was confined in Gloucester County Asylum in 1891—a doctor examined her in that year, and I told him my mother tried to commit suicide by cutting her throat—she made three attempts, and I said that she was very violent—in 1893 she was sent to the Wells Asylum—she was very violent then—in 1894 she was again sent to Gloucester County Asylum, and after coming out of there she tried to drown herself; she was taken to Bristol Hospital—in 1891, 1893, and 1894, the only thing she seemed to want to do was to com nit suicide—she said she heard voices, and she had a delusion that I was going to murder her—she threatened my life on several occasions, and once she attempted it—these fits appeared at certain times with her—

<sup>562</sup> HO 144/267/A57858B, The National Archives, Kew (access: 28<sup>th</sup> October 2022). Photos taken by author.

in between them, as a rule, she was calm and quiet—at times she used to go off like that—during her calm moments she was very kind and affectionate—on March 31st, when she came, she seemed all right at the door, but when she was indoors she seemed very flurried—I left her at the open door—I did ask her in—I could not say whether she undressed" herself that night—I found her dressed in the morning—she did not appear to have gone to bed that night; none of her things were undone—she seemed to me not to have taken her clothes off—during the time my mother was at my house we had meals in the sitting-room—two infants came to the house—when I asked my mother, "What will the neighbours think of your bringing babies here, and going out without them?" she was perfectly quiet—she pushed me away when I wanted I to go near the baby, and I did not attempt to go near it after the push; I was afraid of her. Q. When she is in that mental condition (you know she was confined in asylums in 1891, 1893, and 1894) is she very dangerous?—A. Yes.<sup>563</sup>



Figure 13. Polly Palmer - *Weekly Dispatch* (London) - Sunday 03 May 1896

Source: Image © Reach PLC. Image created courtesy of The British Library Board.<sup>564</sup>

Testimony may have suggested that Dyer had several mental issues. Her defence also claimed that the insanity ran in her family because her mother suffered from it.

<sup>563</sup> *Old Bailey Proceedings Online* (www.oldbaileyonline.org, version 8.0, 09 June 2023), May 1896, trial of AMELIA ELIZABETH DYER (57) (t18960518-451).

<sup>564</sup> *Weekly Dispatch* (London), May 03, 1896, p. 11 (online <https://www.britishnewspaperarchive.co.uk/viewer/bl/0003358/18960503/128/0011>, access: 9<sup>th</sup> June 2023).

Nevertheless, none of the doctors who testified at the trial confirmed that Amelia Dyer was mentally unstable. Moreover, her brother stated that no one in their family was insane, and he did not want to be associated with Amelia, whom he had not seen for many years.<sup>565</sup> She was found guilty of murder and sentenced to death. The execution took place in June 1896. It is impossible to establish how many children died in Amelia Dyer's hands, however, considering that she operated as a baby farmer from the 1860s until 1896, the number is most likely mortifying. Moreover, contrary to other baby farmers, she never gained sympathy from the public and was always perceived as a cruel murderess.

Shortly after the trial, a new *Infant Protection Act* was passed. Registration was obligatory for all childminders who looked after more than one child under the age of 5. They were also obliged to notify local authorities if the child was transferred to another place. Local authority could also appoint inspectors to check conditions at baby minders' premises, however, it was not mandatory. Criminal baby farming did not suddenly disappear after the events of 1896. It was 1908, when the registration of foster parents was introduced, and later, in the 1930s, when the infanticide and adoption laws were passed, the phenomenon finally started to diminish.<sup>566</sup> It should be noted that baby farmers remained a horrifying memory of the past well into the twentieth century. Margaret Winsor and Amelia Dyer were displaced in the Chamber of Horrors at Madame Tussauds Museum, the former until 1891, the latter until 1979.

Baby farming was part of discourse on infanticide in Victorian London. It dominated a debate from the mid-1860s until the end of the century. It may be suggested that it was even more terrifying to the public than simple infanticide. Victorian society could have found an explanation for the behaviour and plight of unwed mothers; however, it was different for baby farmers. Baby farmers received money and promised to care for the children only to neglect them until they died or murder them shortly after receiving the payment. This phenomenon arose as a result of the lack of social support for single mothers. Those who did not kill their children, but did not have support from their families or the infants' fathers, tried to find new homes for them. Not all who adopted such babies did so to kill them – some genuinely wanted to have a child, others earned a living caring for small

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<sup>565</sup> HO 144/267/A57858B, The National Archives, Kew (access: 28<sup>th</sup> October 2022).

<sup>566</sup> L. Rose, *op. cit.*, pp. 170–174.

children. The baby farming scandals and the name given to this phenomenon suggested that leaving a child in someone else's care was the same as murdering it, but some had no other choice. The actions and laws undertaken by Parliament and government were not enough to stop this criminal procedure, and in the following century the situation only improved. Baby farming still remains a haunting memory of the past, and the number of children who died due to these activities will never be fully established.

## **Conclusions**

Infanticide was a concealed crime and highly challenging to detect. This is confirmed by press articles, statements by medical professionals and documents from the Metropolitan Police. Many dead infants' bodies were discovered throughout London, and their murderers often remain unidentified. Moreover, it is reasonable to assume that many cases have remained completely undiscovered. Historians generally agree that the true extent of infanticide will never be known.

This dissertation explores the phenomenon of infanticide in Victorian London. Based on the Old Bailey Proceedings, it was determined that 371 individuals were accused of this crime between 1834 and 1901. This figure represents a significant number of people suspected of infant neglect. It should be noted that the actual number of infanticide offenders could have been higher because only cases with sufficiently strong evidence were brought to court. The Central Criminal Court in London was the final legal authority for criminal cases from London, its surrounding areas and Middlesex.

While it is commonly believed that infanticide was committed primarily by single working-class women, an analysis of the proceedings reveals that defendants can be categorised into four groups: unmarried women, widows, married women and men. It is important to note that the involvement of married women and men in this crime was often overlooked. Those two groups of infanticide offenders constitute 18.3% of all defendants tried at the Old Bailey, but their trials, verdicts or sentences differed from those of the other two groups. Additionally, although the most of the defendants were from the working class, some of the married women belonged to the less affluent middle class.

Research also shows that single women and widows were under constant surveillance. Neighbours or co-workers often commented on their physical changes and inquired about potential pregnancies. The women usually denied all suspicions and when the time came to give birth, they were left to their own devices. Some panicked, others were determined to get rid of the child. Dead infants were frequently found under beds, in boxes, closets, or in secluded areas of households such as scullery or basements. Hiding the dead child or a pregnancy and its aftermath was exceedingly difficult for them. Even if a woman managed to remove the child's body from the house, it was often abandoned near her workplace, ultimately leading to a search for the mother. This made it likely to detect women who had recently given birth. The situation became even more challenging for



police when children were abandoned in parks or in the Thames, especially when no clothing or identifying papers were left with them. However, if the infant's body was found near a specific area, it was a slightly easier to identify the suspect. A key differences in the situation of unmarried mothers and widows was age – widows were usually older, in their late twenties or early thirties, and it was difficult for them to claim that they were not aware of their pregnancy. Therefore, the analysis of the sources confirmed that in the case of unmarried women, they were accused of infanticide most often after their first pregnancy, however, in the case of widows, they usually had children.

As mentioned above, another group of infanticide offenders – married women – has typically been excluded from infanticide research due to the lack of a significant number of such trials. However, between 1834 and 1901, 42 women were brought to trial at the Old Bailey. While this may not seem like many, they were treated differently than the previous two groups. Married women were either found not guilty of their crimes or deemed insane at the time of the crime. The killing methods they used were also more brutal – throwing children out of windows, cutting off heads, and using knives or razors was typical of them. It should also be noted that, contrary to previous research indicating that the married women committed the crime because they were adulteresses, this has not been confirmed. Of the 42 married women accused of this crime, only two were in extramarital relationships. It is also important to emphasise that this group of offenders was often connected to various forms of puerperal insanity, which nowadays might be associated with postpartum depression, which allowed them to avoid the death penalty. Notably, the insanity claim was initially used exclusively in trials involving married women, a practice that changed by the end of the century. This differential treatment in the court system may be attributed to the Victorian ideal of woman and mother, which made it seem inconceivable that a mother and a married woman, responsible for household duties, could commit such brutal acts against their own babies.

The last group of infanticide offenders that was usually excluded from general research were men. As infanticide was primarily seen as a crime committed by women, the statistics did not include men accused of killing children under 12 months of age. The dissertation includes an analysis of male offenders because they also collaborated with the mothers of their babies in an attempt to dispose of them. It was also assumed that men were typically treated more harshly by the court and were often found guilty of an offence.

Surprisingly, out of 26 men accused of this crime, only 4 were found guilty of murder. It should also be noted that at the end of the century many of them successfully used the insanity plea. This highlights that, especially in the second part of the nineteenth century, the court took into account the mental health of the defendants. As the number of men tried for this crime was relatively low, their involvement in such cases should also be acknowledged.

As presented, those tried at the Old Bailey for infanticide were not a homogenous group. Although the vast majority of defendants were single women, the analysis of the collected data reveals that they were not the only ones who committed the crime. It should be emphasised that in their cases the main factor leading to the crime was the lack of support from friends and family. Furthermore, the motives for committing this crime could vary for each of these groups; however, the common factor among them was poverty, caused by many different circumstances, but very often leading to tragic decisions. The analysis of the Old Bailey Proceedings confirmed that economic factors were one of the main reasons for committing infanticide. This economic pressure was evident among single women, who often faced job loss after their pregnancy was discovered, as well as among married women, who most often struggled to feed large number of children due to financial constraints. The research also affirmed that in London, as well as in different parts of Britain or Ireland, social stigma remained a significant motive. During the Victorian period, illegitimate children were still considered 'filii nullius'. Consequently, if a woman gave birth to such a child, she lost the chance for marriage and her social position deteriorated. The analysis of collected data also confirmed the occurrence of mental illnesses, which today could be associated mainly with postpartum depression, hereditary mental illnesses or disorders caused by alcoholism and accidents. However, it should be emphasized that, contrary to previous research, this study also highlights the lack of state support for unmarried mothers, such as day-care facilities that would enable them to work. Moreover, support for the poor or unemployed was insufficient or almost non-existent, which also contributed to disastrous decisions.

The aim of this dissertation was also to examine the frequency and severity of sentences in the Old Bailey proceedings. The analysis confirms that the court was lenient towards the infanticide offenders. Contrary to previous research, the author of the dissertation focused on a detailed analysis of individual verdicts and their bases. Apart from

“not guilty”, the second most common verdict was “guilty of concealment”, followed by “temporary insanity” – as the third most frequent verdict. It should be emphasised that at the Old Bailey, verdicts of “guilty of manslaughter” or “guilty of murder” were rarely declared. The jury’s verdicts were influenced by several factors, including the circumstances of the accused. They took into account the defendant’s age, marital status and family history. Notably, young, single women without children, portrayed as victims of seduction, were likely to receive lighter sentences. Additionally, the court examined the defendant’s history of previous offences. If it was their first offense and they had a good character reference, they were more likely to get an acquittal or a minimal sentence. Furthermore, determining whether the child was born dead or alive played a crucial role in the verdict as it could lead to “guilty of concealment”, “manslaughter” or “murder”.

The research revealed that despite the presence and testimony of medical practitioners during trials, it was relatively easy to undermine their credibility. These practitioners lacked sufficient knowledge and methods to make accurate determinations, and even the sole test available to them had been criticised for centuries. It should also be noted that the author’s findings regarding the medical practitioners involved in Old Bailey trials align with those of Rachel Dixon, who examined expert evidence in child murder trials.<sup>567</sup> This similarity extended to the difficulty of determining the cause of death.

Another crucial factor for the jury was the defendant’s intention, whether the act was premeditated or occurred under stressful or unusual circumstances. This aspect was closely linked to determining the cause of death. The research indicated that surgeons often struggled to definitely establish the cause of death due to a lack of methods and knowledge. Consequently, it was challenging to unequivocally ascertain the defendant’s intent. Furthermore, by the end of the century, defendants’ mental health began to be considered when delivering verdicts. The analysis of the proceedings shows that the jury was reluctant to condemn an innocent person to death. Therefore, when doubts arose and the evidence remained unclear, it was more likely for the individual to be found guilty of concealment than of murder.

The analysis of the collected data also reveals that juries and judges were lenient towards women who committed this crime, due to their life situation and public opinion

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<sup>567</sup> R. Dixon, *op. cit.*

that often sympathised with them. During the Victorian period, numerous novels were published depicting the difficult lives of working-class people and the social issues faced by the poorest. This includes George Elliot's novel *Adam Bede*, which tells the story of a young, seduced woman forced by her circumstances to abandon her child in the field to die. This novel, along with its discussion of the *New Poor Law* and the *Bastardy Clauses*, illustrates that a segment of the public viewed women as victims of the system or as victims of men who took no responsibility for their illegitimate offspring.

Another factor in the court leniency was the belief that the capital offense was too severe for this type of crime, a sentiment that had been voiced since the eighteenth century. Analysis of the data presented in this research also demonstrates that even if someone was sentenced to death, this did not necessarily lead to their execution. In The National Archives, among the records of individuals sentenced to death, many petitions requesting a change in the sentence can be found. This suggests that the public was not indifferent to the plight of infanticide offenders; on the contrary, they did not consider this crime worthy of a capital punishment.

The last part of the research delved into the various types of infanticide that prevailed in the second half of the century, particularly in the 1870s and 1890s, with particular emphasis on the phenomenon known as 'baby farming'. Historians typically treat baby farming as a distinct crime when examining infanticide. However, the author of this dissertation considers it integral to completing the entire picture of this social issue. Baby farming featured prominently in late nineteenth century discourse, with some of the most notorious baby farmers being tried at the Old Bailey. Including this practice in the study also helped shed light on another cause of infanticide often overlooked in other works on this topic – state actions.

Undoubtedly, some works underscore the significance of the *New Poor Law* and the *Bastardy Clauses* in the rise of infanticide. Nevertheless, it is important to note that neither the state nor the London authorities took meaningful steps to support single mothers, widows and married women who were struggling financially or emotionally due to having more children than they could adequately care for. With the exception of workhouses that were established in the 1830s, all initiatives aimed at assisting fallen women, illegitimate children or the impoverished were organised by private individuals. There were no state-run nurseries, an insufficient number of orphanages, and the adoption

process was largely unregulated. This situation led to the proliferation of illegal practices and the tragic deaths of many children. It began to change only in the twentieth century.

Except for the Old Bailey's proceedings, the press was also used to analyse the phenomenon of infanticide in Victorian London. It should be noted that this issue was discussed in specialist journals like BMJ and daily press. It should be noted that the topic of infanticide was mainly debated by medical professionals, especially in the second half of the century. It was shown in the example of baby farming when BMJ's journalist investigated this phenomenon and advocated for a change of law. Nonetheless, the issues concerning this crime were also raised in the daily press, for example via letters to the editors. In the 1860s, when the interest in this subject was the greatest, articles about the leniency of the courts and the immorality and cruelty of women were written. This research also shows that except for the general issue of infanticide, the press was also interested in the specific trials which were reported there. The examination shows that the events from courts were reported not only in local press but also in national ones, e.g., in *The Times*. The attention towards different trials varied. Unfortunately, it is not possible to determine why some cases aroused more publicity than others. Undoubtedly, there were trials of criminals like Margaret Waters or Amelia Dyer which shocked not only London but the whole country and were reported on the front pages. However, usually, the articles regarding infanticide were put in the middle or at the end of the newspaper. Furthermore, it should be emphasised that the reports regarding the most common infanticide trials also varied. There were multiple mentions of one trial when the very similar one went almost unnoticed. Based on the data examined during this research no specific pattern for this phenomenon could be established.

The importance of the press in infanticide research should be also emphasised. The research shows that additional information can be found in the articles. Some of them contained information about the defendant after the trial, usually about the execution or its cancellation. However, there were also cases where the proceedings did not disclose any details except the shortened indictment and the verdict, while in the newspaper the full account of the trial could be found. The combined examination of the proceedings and the press articles led to the more complex examination of the phenomenon of infanticide in Victorian London. Moreover, it should be mentioned that the articles contained information about the defendant's behaviour in court or their appearance. Toward the end of the century,

more sketches of the most notorious offenders also appeared there. The depiction of the defendants either as pitiful or evil influenced public opinion and sometimes also the verdict, e.g., it happened during the trial of Margaret Waters.<sup>568</sup> It was observed that when the defendant was depicted in a better light, they had more chances for petition for the change of the punishment to be written and sent to the Home Office. Such a situation happened for example in the case of Mary Rainbow.<sup>569</sup> The examination of the press helped to understand the patterns of interest in infanticide and baby farming, and also provided additional data to examine the phenomenon of this crime.

In conclusion, the dissertation explored the complex phenomenon of infanticide in Victorian London. The offenders encompassed a diverse group in terms of gender, age, marital status, and social position. Their motivations for committing this crime varied, but the vast majority faced severe poverty. Infanticide was intricately linked to the social challenges of the Victorian era, including a lack of state and social support and the enduring stigma attached to illegitimate children that persisted until the end of the century.

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<sup>568</sup> *Old Bailey Proceedings Online* ([www.oldbaileyonline.org](http://www.oldbaileyonline.org), version 8.0, 7 April 2023), September 1870, trial of MAGARET WATERS (35) SARAH ELLIS (28) (t18700919-769).

<sup>569</sup> HO 144/40/83853, The National Archives, Kew (access: 27<sup>nd</sup> October 2022).

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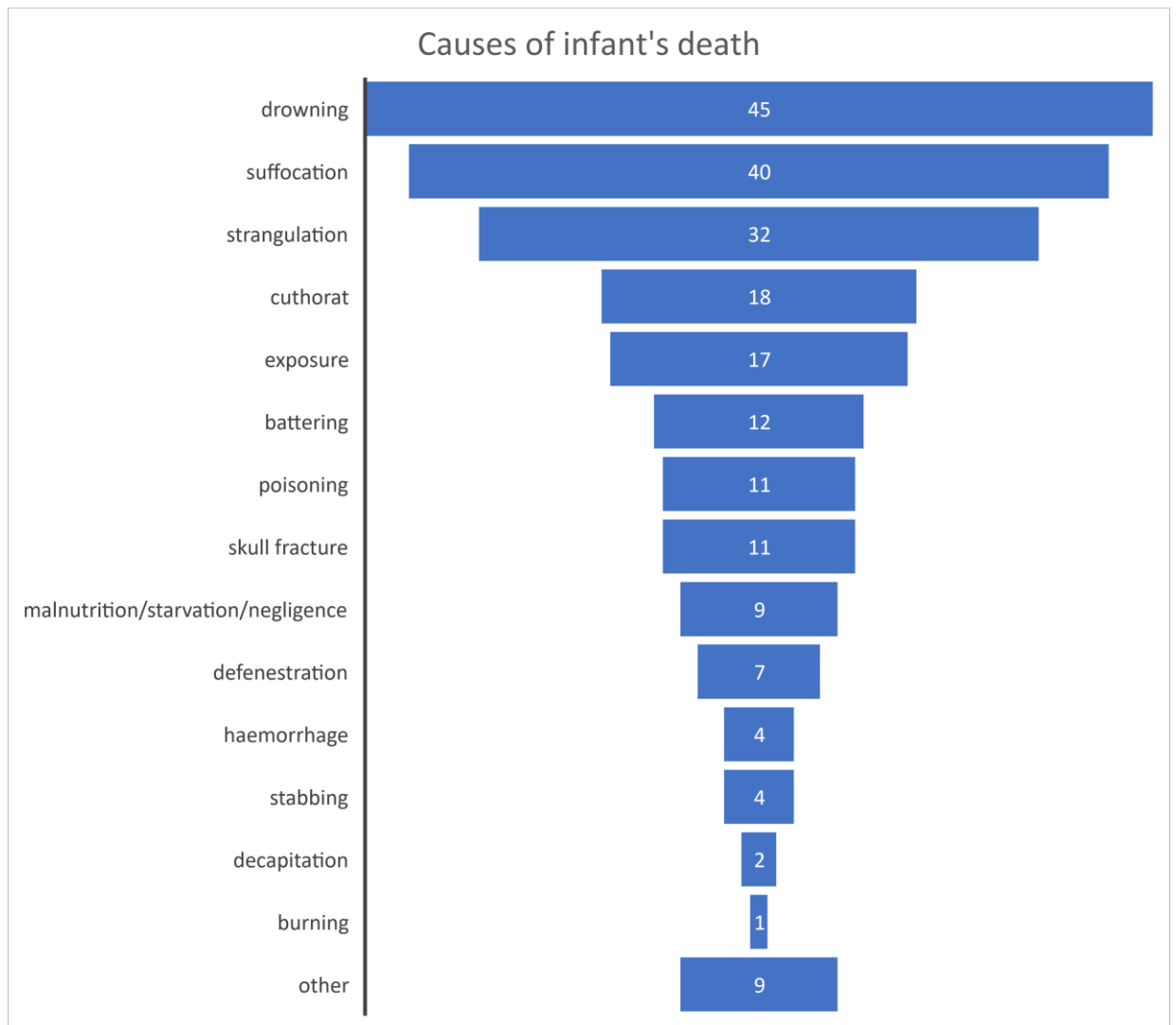
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## Appendix



*Figure 14. Suspected causes of infants' death, Old Bailey 1834 - 1901.*

Source: Compiled by the author based on Old Bailey's Proceedings.