

‘Abominations of the female sex’¹:

Five Case Studies of Late Nineteenth Century Criminal Women

by

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¹ Attenborough, G., (December 2005), *Kate Webster: A Conversation at Her Hanging*.



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ABSTRACT

This thesis focuses upon media and legal representations of five case studies of women who kill taken from the decade 1870-1880. All of the five women, Mary Ann Cotton, Mary Ann Barry, Frances Stewart, Selina Wadge and Kate Webster through their murderous acts, challenged the ideal of Victorian femininity. The women were 'othered' due to their failed gendered performance and cast as double failures, or 'doubly deviant', failures to the laws of gender and failure to abide by the laws of the land.

This research is a work of passion. Upon reading media and legal texts it became apparent that criminal women (both within my chosen decade and also, today) were both tried and represented as essentially different to 'normal' women. The woman who kills is either 'mad' or 'bad' with the main purpose of this categorisation to deny her agency. If she does not have the tools to communicate through the dominant mode of expression, then her experience will also remain muted. Within this thesis, I highlight the discursive undercurrent of the media and the law and emphasise the need for women who kill to be given their own agency; I also question the application of Victorian 'justice'.

Legal and media discourse are dominant knowledge's, dominant discourses, which are readily available to the masses and due to their power can be regarded as 'truth' over lower ranking, subjugated knowledges such as personal experience. However, there are competing discourses: The petitions within this thesis are alternative truths and important examples of subjugated knowledge's, which serve to challenge the dominant discourses surrounding the five cases.

I undertook this research utilising both relevant literature (contemporary and historical) and original historical documentation analysed using critical discourse analysis. The documents were sourced from both The National Media Library (newspapers), which then led me to The National Archives (petitions, transcripts and depositions) in London. These documents provided an essential view of the five women and allowed for their discursive construction or 'abnormality' to be highlighted.

The aim is to draw upon the theoretical position of standpoint feminism and by applying Foucault to prioritise experience over patriarchal (or dominant) knowledge (such as the law and media). Utilising the above documentation this thesis aims to allow criminal women their agency; not to relate to these women or condone their actions, but to give these women the same legal standards, which are afforded to men.

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INTRODUCTION

History had always been professionalised as a discipline by white heterosexual middle-class men who taught the subject in British universities. The subject was then shaped in particular ways allowing a very one-sided male idea of life.² History was therefore a man's truth, women were outside of this domain and from the outset were 'othered'. Before 1930, women were generally documented in mainstream history through a sex-stereotypical lens.³ The family, or how women's paid work affected the family, seemed to be the only discussions worth having in conjunction with nineteenth century women. However, history is not frozen, it calls for re-visitation and it is in the interest of both the present and the future that history is reviewed through a feminist lens.⁴ Utilising a feminist history in this thesis, I consider questions of knowledge rather than truth or falsity and challenge the power held by the discourses of the media and the law.⁵

The research question

This thesis seeks to answer the following research question:

Utilising feminist standpoint epistemology and the method of Critical Discourse Analysis, critically evaluate five case studies of women who kill in media and legal discourse between 1870-1880.

The main thesis question necessitates a consideration of the following three component questions:

² Purvis, J., (1995), *Women's History Britain, 1850-1945 An Introduction*, pg. 5.

³ Ibid.

⁴ Glenn, C., (2000), *Truth, Lies and Method: Revisiting Feminist Historiography*, pg. 389.

⁵ Ibid.

1. What is Feminist Epistemology and standpoint feminism; what are the main theories, which facilitate an understanding of the factors involved in the construction of criminal women within the discourses of the media and the law?
2. What is Critical Discourse Analysis (CDA) and how can this method illustrate the discursive practices shaping the historical construction of criminal women?
3. Who are the five women under study? What are their experiences, how do these experiences influence those who knew them or related to them and what are the consequences?

The above component questions have shaped the choice of method and structure of this thesis.

The behaviour of women both within the public and private sphere was controlled, regulated and disciplined by a system which prefers definitions made by men;⁶ definitions of exactly what it is to be a ‘normal’ woman and what exactly ‘normal’ and ‘appropriate’ behaviour is for women. Discourses surrounding sexuality, respectability, domesticity and appearance are examples of the regulation of women’s behaviour⁷ and will become even more apparent within the five following case studies of criminal women.

This thesis focuses upon my chosen five case studies, therefore it is relevant here to introduce the women. The first woman under examination is Mary Ann Cotton. Mary Ann was a

⁶ Ballinger, A., (2000), *Dead Women Walking*, pg. 3.

⁷ Ibid.

woman of low-income social standing from the North East of England.⁸ She moved from place to place throughout her life, marrying various men and conceiving children as she went.⁹ This was until July 1872 when Mary Ann became the infamous accused murderess of various members of her own family, husbands, lovers and the vast majority of her children. Mary Ann Cotton challenged the very ideals of Victorian femininity; a mother who may kill her own children using the despicable weapon of poison is not the maternal, selfless, domestic carer her gender dictates she should be.

The second case analysed is another example of the ‘despicable’ female poisoner. Mary Ann Barry was accused of poisoning her employer’s illegitimate baby daughter with strychnine (rat poison) in September 1873 and was originally committed as an accessory before the fact, with her employer (Bailey) being the accused principle offender.¹⁰ It was alleged that Mary Ann had used her femininity and evoked pity at the loss of her own child in order to infiltrate and gain the trust of the family of Bailey’s baby. Although the evidence against Mary Ann was circumstantial, she failed to perform to her gender expectations, which worked against her in court.

The case of forty-three year old Frances Stewart the ‘Murderous Grandmother’ is the third case under examination. Frances came from a deprived level within the social classes and was accused of murdering her grandson by throwing him off a bridge after having a heated row with her son-in-law in June 1874.¹¹ Due to Frances’ drinking habits she was cast as a failure in the crucial area of domesticity and this served to work against her in court. Although it becomes apparent when researching the case that a perversity of mind was

⁸ Webb, S. & Brown, M., (2012), *Mary Ann Cotton: Victorian Serial Killer*, pg. 10.

⁹ *Ibid.*, pg. 12.

¹⁰ The Cheltenham Examiner 17th September 1873.

¹¹ The Daily News 11th June 1874.

present in Frances at the time of the child's death, that factor did not deter the harsh application of Victorian Justice.

The fourth and least reported upon case is that of Selina Wadge. Of all the case studies under examination Selina came from the most deprived level within the social classes and it was also documented that she was homeless.¹² In June 1878 Selina was accused of murdering her disabled son by dropping him down a well shaft. It was argued in court that Selina's motive was to rid herself of her dependant son in order to marry a service man by the name of James Westwood. The fact that both of Selina's children were illegitimate became the theme, which ran throughout her case. Her sexual promiscuity due to the fact her children were illegitimate and that she was in a relationship, but not married to Westwood, also worked against her within both the media and the law. Again, Selina failed to perform to her gender expectations and did not adhere to the acquired Victorian standard of womanhood.

January 1879 saw the last of the women; Irish born Catherine (Kate) Webster evoked both national and international media interest. Kate was a household servant in the service of a well-to-do widow in Richmond, London, named Julia Martha Thomas. It was reported that their relationship became strained and Kate was subsequently asked to leave. It was then that 'The Barnes Mystery'¹³ involving a box harbouring a dismembered body ensued. The box was discovered washed up in the River Thames near Barnes Bridge and after a short time, Kate became the prime suspect in the murder of her employer.¹⁴ Throughout the case, Kate professed her innocence and passed the blame to others. With the brutal and physical method of murder came the media and law's ability to systematically deconstruct Kate's femininity; a

¹² Hadger, T., (2008), 'Compassion and Indifference: The attitude of the English Legal System toward Ellen Harper and Selina Wadge, who killed their offspring in the 1870's, *Journal of Family History*, **33**, pg. 173. (Originally published online 14th February 2008, pg. 183.)

¹³ Lloyds Illustrated 30th March 1879.

¹⁴ Lloyds Illustrated 30th March 1879.

physically strong, cunning mother of an illegitimate child teamed with her previous criminal career. Kate was also Irish which came with its own racist stereotypes: stupid; untrustworthy and dirty and made the deformation of her character complete.

Within all of the above case studies analysed, it has become apparent that in order for a female defendant to conform to the acceptable standards put forth onto her by patriarchal society, she must soften her appearance, her tone and her overall demeanour.¹⁵ She must present an image of docility in order for her to be judged in a favourable light. Failure to do this allows for both the media and the legal system to paint a discursive picture of her as a deviation of what it is to be a 'woman'. The mere fact that she is a woman and has broken the law in such a violent manner (murder), is regarded as someone who has failed to fulfil her gender expectations.¹⁶

Within this thesis, I argue that in each of the five case studies examined none conformed to their gender role expectations. Therefore, all five women were subjected to the powerful and patriarchal discourses of both the media and the law and were constructed as 'other' before, during and after the criminal justice process.

It is essential to discuss how the perceptions of murderesses are produced through dominant discourses and in turn regarded as 'truth' at the expense of other knowledge's. If we are to attempt to understand why the five women in the following case studies met with the extreme penalty of the law, it is those knowledges which remain subjugated due to their inability to be heard through legal and/or media discourse that need to be unearthed. Legal discourse allows the women to remain silenced, as, in order to be allowed to communicate within the court of

¹⁵ Ballinger, A., (2000), *Dead Women Walking*, pg. 3.

¹⁶ Ibid.

law, one must communicate through the dominant mode of expression.¹⁷ For these women, all of whom came from an underprivileged background, this communicative action was not available. The media of the time also communicated through this mode of expression. The vast majority of media reports surrounding the trials of the five women concerned were exact replicas of the official court transcripts with speculation and opinion mixed in. Therefore with both of these discourses proving to work against the women, their accounts remain muted; ‘Members of muted groups, if they wish to communicate, must do so in terms of the dominant modes of expression’.¹⁸ However, it must be articulated that this thesis does not attempt to proclaim each woman’s individual truth. It is an aim to upturn the subjugated knowledge’s silenced at the time of the trials in an attempt to allow an alternative ‘truth’ surrounding the five women to be heard.

This thesis employs a feminist standpoint, anticipating that this will allow me to adhere to alternative knowledge’s, rather than those, that are rooted deeply within masculinist hegemony. A feminist analysis of the petitions for example, helps to uncover alternative ‘truths’. This standpoint also uncovers the discursive practices that are rife within the powerful discourses of the law and the media. When analysing the cases it became apparent that the media and the law only served to further emphasise the ‘otherness’ of criminal women. Throughout the cases, the personal circumstances of the women somehow worked against them, further criminalising and marginalising them and allowing the ‘othering’ further credence.

This thesis argues that due to the disqualification of personal accounts and previous life experience, the women were repressed not only throughout their trials by legal discourse, but

¹⁷ Ballinger, A., (2000), *Dead Women Walking*, pg. 6.

¹⁸ Worrall, A., (1990), *Offending Women: Female Law Breakers and the Criminal Justice System*, pg. 11.

both before and after by the media. Although it is too late to spare the lives of the five women, I aim to highlight those knowledge's that were previously disqualified. By analysing the discourses of the media and the law, I aim to bring about a fresh account of the discursive tactics undertaken by the media and the legal system; this is essential in order to apply some form of rationality to the actions of the female defendants.¹⁹

Throughout history women criminals have been categorised as either 'mad' or 'bad', doubly deviant devils who transgress all gender expectations assigned to them, as well as going against that powerful discourse that is the law. This categorisation strips the women of any autonomous agency,²⁰ allowing them no rationalisation for their acts and disregards any challenges in the shape of critique to be formulated. It is this patriarchal discourse, which denies women the full range of emotions assigned to men that I aim to critique.²¹

In order for me to undertake a critical review of the above issues, my thesis is set out in the following sequence. First, I outline my theoretical perspective, which I argue can be applied to all five women involved in my thesis. I utilise a standpoint feminist perspective in relation to gender studies in order to analyse how ideas around gender have helped to form the construction of the women in the five case studies as 'evil'. I then examine how the women were judged differently, according to their reputation, respectability, sexuality and overall conduct²² in order to set out the implications of these factors within the discourses of the media and the law. Using gender, as a fluid and changeable analytical concept, along with my feminist standpoint, I examine the relations and discrepancies between the case studies and the various factors surrounding the women's construction as 'other'. My theoretical

¹⁹ Ballinger, A., (2000), *Dead women Walking*, pg. 6.

²⁰ Morrissey, B., (2003), *When Women Kill: Questions of Agency and Subjectivity*, pg. 7.

²¹ Ballinger, A., (2000), *Dead Women Walking*, pg. 7.

²² *Ibid.* pg. 3.

perspective allows me to examine the use of language in discourse and how, through language, one can be 'othered'. In fact, if the subject shows no understanding of the language used she can be completely ignored and/or undermined.

Second, I outline my tool of analysis. I utilise the method of historical critical discourse analysis (CDA) with a feminist standpoint approach in order to highlight; 'The ways in which power and dominance are produced and reproduced in social practice through the discourse structures of everyday interactions'.²³ In order for me to analyse the powerful discourses of media reports and official court transcripts, using CDA enables links between power and domination to be upturned and in turn resisted. Using this method, I aim to highlight the hegemonic backbone underpinning all legal and media resources, allowing subjugated knowledges²⁴ to come to the fore. I reach out to theorists such as Foucault in order to legitimise my focus upon lower ranking knowledges and how these knowledges prevent unsteady universal 'truths' in relation to criminal women.

The following chapter consists of my five chosen case studies, set out case by case in chronological order. The lives of the women involved are examined using both media and legal historical documentation.

I must highlight that there may be discrepancies within the volume of information on each woman; the more controversial cases, such as Kate Webster and Mary Ann Cotton held many volumes within the National Media Library. However, others, due to various circumstances, did not hold as much information serving to further emphasise their muted state; those muting scripts serve to render criminal women invisible, guilty, treatable and manageable, rather than

²³ Lazar, M., (2005), *Feminist Critical Discourse Analysis: Gender, Power and ideology in Discourse*, pg. 31.

²⁴ Foucault., M. (1980), *Power/Knowledge: Selected Interviews and Other Writings 1972-1977*, Panthenon Books.

rational agents in charge of their own destiny.²⁵ It must also be noted that in the year of 1879 the petitions and pardons held in The National Archives were lost, possibly due to fire or flood. Therefore, for the case of Kate Webster, original documents regarding petitions for a reprieve on her behalf can unfortunately not be found.

My final chapter is a conclusion to my thesis providing a summary of the central arguments raised throughout the main body of my research.

²⁵ Worrall, A., (1990), *Offending Women: Female Law Breakers and the Criminal Justice System*, pg. 165.

CHAPTER ONE

FEMINIST EPISTEMOLOGIES AND THE ANALYSIS OF GENDER

Introduction

First, this chapter introduces standpoint feminism as the theoretical perspective shaping this research project. This allows me to prioritise experience and critically analyse the use of language within discourse and also highlight both the similarities and the differences between the five women in the case studies; Mary Ann Cotton, Mary Ann Barry, Frances Stewart, Selina Wadge and Kate Webster. Using this theoretical perspective, I highlight the ‘malestream’, which flows through the subject of criminology.

It is important to revisit some of the influential feminist debates and epistemologies, which have shaped the ideas around the construction of sex and gender and in turn the construction of ‘women’. Whilst one of the main objectives of this thesis is to highlight the discursive construction of criminal women within media and legal discourses, it is essential that the relationship between gender and the sexed body be subsequently analysed.

The culture of patriarchy and hegemonic masculinity is then analysed. Within many cultures’ today and more obviously within latter nineteenth century England, patriarchy shapes opinions of women offenders and strong examples of this can be found in the five case studies to follow.

I move on to discuss the ‘double deviance’ and ‘mad’ or ‘bad’ labelling and how this manages to ‘other’ criminal and especially violent woman, legitimising the ‘malestream’, removing agency and keeping patriarchy alive.

Within this chapter, I also discuss what insights feminism can bring to bear on the media and legal construction of offending women processed by the criminal justice system and reported upon within media texts. I provide analysis of the law, discussing how this predominantly male discourse uses its own language, power and claim to truth in order to categorise criminal women as something other than ‘normal’, legitimising their treatment through legal sanctions and sentencing. I critique the malestream adopted by the media and their ability to discursively construct criminal women. I also emphasise the importance of the inclusion of media discourse within this thesis as the newspaper reports formed the starting point for all of the research undertaken, leading me then to the legal documentation (of which all was not available due to fire or flood).

Feminist Epistemologies

Upon undertaking feminist research, we all start from a particular vantage point; that is to make a difference to women’s lives through social and individual change.²⁶ ‘Feminism is a politics of discovery, critique and transformation’.²⁷ It is within the questions asked by feminists along with the location of the researcher within her work and in turn the intended outcome of the research, that can distinguish feminist perspectives from other forms of research.²⁸ A feminist epistemology can be defined as a theory of knowledge whose main concern is what is regarded as legitimate knowledge. ‘Epistemology is defined not only as theories of knowledge, but also as theories of knowledge production’.²⁹ Feminist epistemologies should help to bring to consciousness less mystified understandings of women’s and men’s situations so that these understandings can energise and direct women and men to struggle in the fight against the subordination of women in all race, class and

²⁶ Letherby, G., (2003), *Feminist Research in Theory and Practice*, pg. 4.

²⁷ Kelly, L., (1990), ‘Journeying in Reverse: Possibilities and Problems in Feminist Research on Sexual Violence’, in Gelsthorpe, L. & Morris, A., *Feminist Perspectives in Criminology*, pg. 114.

²⁸ Letherby, G., (2003), *Feminist Research in Theory and Practice*, pg. 5.

²⁹ Ibid.

cultural forms.³⁰ Feminist epistemology seeks to confront the power inequality between state institutions such as the Criminal Justice System (CJS), which is able to disqualify ‘minor’ knowledge.³¹ Throughout history women and their lives have not been given much attention and feminist epistemologies have characterised different times and places.³² However, when women are included the emphasis tends to be upon women as ‘other’, as not male, not the ‘norm’ and ultimately as deviant.³³ Deploying a feminist epistemology as a feminist way of knowing, this thesis targets the deviation of women who kill from the ‘norm’ using five case studies from 1870-1880 and aims to highlight the injustices served upon them.

The history of women’s resistance is long within the realm of feminist epistemologies, of which there are variations regarding the approach to research. The Feminist empiricist approach does not solely critique the norms of science, but the way in which the scientific method is practiced with its origins firmly rooted within the malestream.³⁴ Feminist empiricists argue that both sexism and andocentrism in scientific inquiry are entirely the consequence of science done badly.³⁵ Broadly speaking feminist empiricism is any epistemology that combines both empiricist methodologies along with feminist political goals.³⁶ Empiricists are concerned to investigate and present ‘real’ science, rather than science resulting from masculinist assumptions.³⁷ Adopting feminist empiricism allows for a challenge to what is known in the sciences and calls for a ‘successor science’, which will also envelop the social world from a woman’s perspective.³⁸ The aim of the feminist empiricist is

³⁰ Harding, S., (1996), ‘Feminism, Science and the Anti-enlightenment Critiques’, in: Garry, A. & Pearsall, M., *Women, Knowledge and Reality*, pg. 305.

³¹ Ballinger, A., (2009), ‘Feminist Research, State Power and Executed Women: The Case of Louie Calvert’, in Farrall, S., Sparks, R., Maruna, S & Hough, M. (eds), *Escape Routes: Contemporary Perspectives on Life After Punishment*, pg. 7.

³² Letherby, G., (2003), *Feminist Research in Theory and Practice*, pg. 19

³³ Ibid. pg. 6.

³⁴ Ibid.. pg. 43

³⁵ Harding, S., (1996), ‘Feminism, Science and the Anti-enlightenment Critiques’, in: Garry, A. & Pearsall, M., *Women, Knowledge and Reality*, pg. 305.

³⁶ Campbell, R., (1994), ‘The Virtues of Feminist Empiricism’, *Hypatia*, 9(1), (Winter, 1994), pp. 90-115.

³⁷ Letherby, G., (2003), *Feminist Research in Theory and Practice*, pg. 44.

³⁸ Ibid.

to advocate a single universal social world where; ‘the truth exists independently of the knower’.³⁹ In relation to my thesis the feminist empiricist approach to research would be valuable in relation to the scientific evidence presented at the trials of the women. Used as a tool for critique feminist empiricism is a powerful theory and, if applied correctly, can be used in order to bring about change in relation to the monopoly man made science has upon the social world.

The approach of feminist postmodernism is built upon the ideas of Michel Foucault and Simone De Beauvoir. Postmodern Feminists accept the male/female binary as a main categorizing force in our society, following De Beauvoir, they see women as being ‘other’.⁴⁰ They criticise the structure of society and the dominant order, especially in its patriarchal aspects. Postmodern feminism is the ultimate acceptor of diversity.⁴¹ There is not one ‘truth’ for postmodernists, there are multiple truths, multiple roles and multiple realities; all of which need to be given equal status.⁴² Postmodernism is in contrast to feminist empiricism, as empiricists seek to advocate the view that there is one social world where a truth exists independently of the knower;⁴³ postmodernists argue that there are no universal truths, only individual ones. Postmodernism also takes issue with the whole notion of a standpoint and argues that⁴⁴ there are no overarching truths, no answers, only partial knowledges which are constructed in the specifics of time and place.⁴⁵ However, standpoint aims to not only challenge already existing masculinist definitions of truth and method but also to highlight that truth does exist; it is independent of the knower and is not universal.⁴⁶ In relation to my thesis, feminist postmodernism is relevant in that every woman involved holds her own

³⁹ Letherby, G., (2003), *Feminist Research in Theory and Practice*, pg. 44.

⁴⁰ Pasque, P. & Errington Nicholson, S., (2011), *Empowering Women in Higher Education and Student Affairs. Theory, Research, Narratives and Practice from Feminist Perspectives*, pg. 11.

⁴¹ Ibid.

⁴² Ibid.

⁴³ Letherby, G., (2003), *Feminist Research in Theory and Practice*, pg. 44.

⁴⁴ Ibid. pg. 51.

⁴⁵ Ibid.

⁴⁶ Ibid. pg. 45.

individual truth and throughout the case studies each woman is categorised as ‘other’; as a deviation from their prescribed gender role.

Feminist Standpoint Epistemology

The theoretical roots of this thesis stem from the feminist standpoint epistemology. The objective of a standpoint is to produce knowledge from a site (standpoint) that one has identified theoretically and agreed or chosen to occupy for those people whose standpoint one shares.⁴⁷ Therefore, accountability is to those whose site you share; the knowledge is for them.⁴⁸ Knowledge itself is site specific; therefore changing what it is possible to know involves changing your site. This is why agreement, the decision to change or not, is fundamental to the concept of standpoint epistemology.⁴⁹ We must place ourselves in an appropriate site from which to generate knowledge with the experience of women, and both men and women are capable of this.⁵⁰ Being a woman does not mean that one can speak for all women, being a woman is individual, open to interpretation and including all relationships, it is not a biological determination.⁵¹ ‘The production of subversive knowledges is an activity constitute of a feminist standpoint’.⁵² It is in this sense that standpoint-specific knowledges are in fact knowledges *for* women.⁵³ Thinking about oneself in terms of a theory and understanding theoretically the site one finds oneself in is utilising theoretical reflexivity.⁵⁴ This means understanding theoretically how undertaking research into criminal women articulates both with personal and particular relationships of more

⁴⁷ Cain, M., (1990), ‘Realist Philosophy and Standpoint Epistemologies or Feminist Criminology as a Successor Science’, in Gelsthorpe, L. & Morris, A., *Feminist Perspectives in Criminology*, pg. 136.

⁴⁸ Ibid.

⁴⁹ Ibid. pg. 132.

⁵⁰ Ibid.

⁵¹ Ibid.

⁵² Ibid.

⁵³ Ibid.

⁵⁴ Cain, M., (1990), ‘Realist Philosophy and Standpoint Epistemologies or Feminist Criminology as a Successor Science’, in Gelsthorpe, L. & Morris, A., *Feminist Perspectives in Criminology*, pg. 133.

general scope such as gender, race, class and age.⁵⁵ Theoretical reflexivity has allowed for continuous work on my standpoint in order to improve the fit between its constitutive relationships and the ideological claim to speak for the five women researched.⁵⁶ Therefore, a standpoint is constituted by politics, theory, theoretical reflexivity and choice of site, not biology.⁵⁷

Aside from the fact that the study of women involves the study of shifting objects; as researchers there is no non-historical or non-social place from which to originate knowledge production.⁵⁸ Maureen Cain suggests there are two reasons for this. The first being that we can only ‘know’ with discourses that are historically and culturally available to us. The second being, that we are all located within a changing web or configuration of relationships; this being the thesis of the feminist standpoint epistemology.⁵⁹ In dealing with the women as ever-changing entities and their experiences as entirely individual it became apparent that there were as many knowledges as there were people; it is whilst dealing with these facts that the feminist standpoint epistemologies were developed.⁶⁰

The Struggle of Women

Adopting a feminist standpoint epistemology within this thesis allows for my research to be grounded in the struggle of the women in the five case studies to follow and highlight how their experiences were sidelined for malestream knowledge (media and law).⁶¹ Standpoint feminist academics can use their position in order to engage in the political act of making the

⁵⁵ Cain, M., (1990), in Gelsthorpe, L. & Morris, A., *Feminist Perspectives in Criminology*, pg. 133.

⁵⁶ Ibid.

⁵⁷ Cain, M., (1990), in Gelsthorpe, L. & Morris, A., *Feminist Perspectives in Criminology*, pg. 133-134.

⁵⁸ Ibid. pg.129.

⁵⁹ Ibid.

⁶⁰ Ibid.

⁶¹ Letherby, G., (2003), *Feminist Research in Theory and Practice*, pg. 45.

knowledge of the powerless visible⁶² and historically all knowledge is based on experience. By using a standpoint feminist perspective the research produced is much less distorted and one sided than the kind of experience provided by the malestream.⁶³ Feminist standpoint epistemology provides a way of naming the oppression of women from women, from their truth and in turn, provides a challenge to the masculine definition of truth and method.⁶⁴ This masculine definition of truth and method has served to 'other' criminal women and women in general, as they experience life and knowledge in differing ways to men and have in turn been labelled as, 'irrational' as 'not the norm'. Standpoint feminism allowed for the prioritising of individual experience in order to gain female perspective and equality and was invaluable within this thesis.

The 'malestream' itself is not only apparent within theories of crime and justice but also within the discourses of the media and the law, which directly inform notions of crime. The 'malestream' undercurrent, which passes through law and media allows for patriarchal attitudes to remain unchallenged. For example, the majority of both judges and journalists are male and tend to remain within the patriarchal fold, subjugating these abnormal and rare criminal women.

Feminist standpoint theory, along with feminist empiricism does argue that masculine science is a bad science and that it is important to develop a successor science, one which may allow for women's perspective to be included.⁶⁵ However it is argued within standpoint theory and within this thesis that the main starting point for knowledge production should be experience,

⁶² Ballinger, A., (2009), 'Feminist Research, State Power and Executed Women: The Case of Louie Calvert', in Farrall, S., Sparks, R., Maruna, S and Hough, M. (eds), *Escape Routes: Contemporary Perspective on Life After Punishment*, pg. 5.

⁶³ Letherby, G., (2003), *Feminist Research in Theory and Practice*, pg. 45.

⁶⁴ Ibid. pg.48.

⁶⁵ Ibid. pg.44.

not only one experience, but every individual experience.⁶⁶ Like feminist empiricism, standpoint theory also argues that truth exists independently to those who know it,⁶⁷ however, that truth is gained through access to experience. Historically, female experience has been invalid as a basis for knowledge production, however, it is in fact a more valid basis as it gives access to a wider conception of truth via the insight into both the oppressor and the oppressed.⁶⁸ Masculinist knowledge has dominated and defined women's experience and feminist epistemology cannot afford to allow this monopoly as it has little or no meaning for women.⁶⁹

In relation to masculinist knowledge, there has within the last few decades been a move away from using the definition of patriarchy and its sole focus upon female subordination and male rule and privilege, towards using the term hegemonic masculinity, which also includes issues of gender and socially endorsed gender roles. 'Hegemonic masculinity is a lived experience and an economic and cultural force dependent on social arrangements'.⁷⁰ The very term masculinity is used to emphasise that there are many ways of doing masculinities and that these are subject to change in different societies and social orders,⁷¹ therefore is not to be understood only in terms of an opposition to femininity.⁷² 'Hegemonic masculinity represents the culturally dominant idea of 'manhood', which serves to provide individual men with a sense of self while degrading other types of masculinity and femininity'.⁷³

⁶⁶ Ibid.

⁶⁷ Ibid. pg. 45.

⁶⁸ Ibid.

⁶⁹ Ibid.

⁷⁰ Donaldson, M., (1993), *What is Hegemonic Masculinity?* pg. 3.

⁷¹ Carrabine, E., Lee, M., (2008), *Criminology: A Sociological Introduction*, pg. 111.

⁷² Walklate, S., (2004), *Gender, Crime and Criminal Justice*, 2nd Edn., pg. 62.

⁷³ Hale, C., Hayward, K., Wahidin, A. & Wincup, E., (2005), *Criminology*, pg. 356.

‘There is no femininity that is hegemonic in the sense that the dominant form of masculinity is hegemonic among men’.⁷⁴ There is however a link or almost a consensual relationship between hegemonic masculinity and emphasised femininity. Emphasised femininity, a term coined by Connell, is an exaggerated form of femininity and is the idea that a woman must conform to the needs and desires of men. Emphasised femininity is the compliance, acceptance and lived reality of women to gender inequality.⁷⁵ This compliance to subordination emphasises gender differences and allows for women to be seen to accept patriarchy. This kind of femininity is performed, but performed solely by women to men.

In regards to feminist history, emphasised femininity allows women’s experience to be lost and prevents any other forms of feminism from gaining any cultural momentum.⁷⁶ What emphasised femininity allows to be subjugated are the experiences of those deemed ‘unfeminine’ or ‘unnatural women’: lesbians, prostitutes, criminals, rebels, witches, spinsters or wretches.⁷⁷ For the five women examined within the following chapters, emphasised femininity allowed for them as a collective to be hidden from history.

Victorian science tended to view women as a ‘developmental anomaly’⁷⁸ already claiming that women suffered from some kind of arrested development and allowed for criminal women to be seen as a particularly problematic species.⁷⁹ With nineteenth century criminology lacking an overwhelming amount of feminist input and also not favouring to view female criminality as a particularly pressing social problem, the five women to follow received the harshest penalty of the law on the back of a legal system which had no idea how to deal with these ‘creatures’.

⁷⁴ Connell, R.W., (1987), *Gender and Power*, pg. 183.

⁷⁵ <http://www.sexandgender.net/2009/09/23/emphasized-femininity/>

⁷⁶ Connell, R.W., (1987), *Gender and Power*, pg. 188.

⁷⁷ Ibid.

⁷⁸ Walklate, S., (2004), *Gender, Crime and Criminal Justice*, 2nd Edn., pg. 27.

⁷⁹ Ibid.

Double Deviance and the Importance of Agency

The malestream that underpins criminology and encompasses emphasised femininity and hegemonic masculinity legitimises the ‘doubly deviant’ staple attached to criminal women.

Woman criminals are now and have always been constructed as ‘doubly deviant’; Seen to have breached two sets of laws, the laws of the land which forbids violence and the ‘natural’ laws, which hold that women must be passive carers, mothers and wives; moral beings not active aggressors, a role of which is delegated to men.⁸⁰ Therefore, to have a woman criminal is to immediately label an ‘other’, a woman outside of the ‘natural’ feminine. To do this is to add legitimacy to hegemonic masculinity.

If a woman can fulfil her gender expectations then she is much more likely to receive judicial sympathy. It is those ‘inappropriate’ women who do not come across as passive and conformist who feel the harshest penalties of the law. A feminist or female perspective is missing from the discourse of the law and its claim to ‘objectivity’ is clearly one rooted in patriarchy. It is when in the dock that the ‘doubly deviant’ stamp is most visible, a woman is going to be judged not only in the light of the crime she is accused of, but also what kind of woman (mother, sister, wife, daughter) she is deemed to be or whether she is ‘mad or ‘bad’.⁸¹ The primary purpose of labelling female criminals as either ‘mad ‘ or ‘bad’ is to deny female agency.⁸²

⁸⁰ Lloyd, A., (1995), *Doubly Deviant Doubly Damned*, pg. 36.

⁸¹ Lloyd, A., (1995), *Doubly Deviant Doubly Damned*, pg. 18.

⁸² Morrissey, B., (2003), *When Women Kill: Questions of Agency and Subjectivity*, pg. 33.

In order to fully understand women criminals they must be seen as potentially autonomous agents⁸³. Within this thesis it is important to understand the methods by which the mainstream law and media aimed to recuperate the five female criminals through ‘returning them to their proper feminine place’.⁸⁴ By understanding this, the denial of female agency may be understood. ‘Mainstream law and media rely on a limited range of subject positions in their attempts to encompass the varying figures of the murderess’.⁸⁵ Both of the above discourses deny the agency of women in crimes of violence and reinforce the notion that female violence is not a reality.

The killing by a murderess is not presented as an act she has done, but as a ‘retaliation that takes place’.⁸⁶ The very activity of the murderess is allowed to vanish, what she has actually done is replaced with ‘what happens’.⁸⁷ The women who kills is presented as being divorced from any agency at all, she may have her behaviour and inner experience documented but this never amounts to justification or the admittance of a full range of human emotions and reactions.

Morrissey argues that agency is denied through three techniques: Vilification/Monsterization; Mythification; and Victimism.⁸⁸ Vilification or Monsterization denies agency by highlighting the evil nature of the murderess, thus causing her to lose humanity. She is a monster from outside society, threatening the mainstream, rather than one of its members. This technique specifically denies human agency; the murderess is considered to have acted, but not as a human woman.⁸⁹ Mythification works in a very similar fashion, relating the murderess to

⁸³ Morrissey, B., (2003), *When Women Kill: Questions of Agency and Subjectivity*, pg. 7.

⁸⁴ Ibid. pg. 165.

⁸⁵ Ibid. pg. 3.

⁸⁶ Allen, H., (1987), *Justice Unbalanced*, pg. 41.

⁸⁷ Ibid.

⁸⁸ Morrissey, B., (2003), *When Women Kill: Questions of Agency and Subjectivity*.

⁸⁹ Ibid. pg. 25.

various frightening mythic characters, such as the evil witch or Medusa.⁹⁰ Relating women who kill to these mythic characters has the consequence of increasing fear and eliciting harsh responses from society and the legal system. Using ‘evil witch’ to describe a woman who kills serves to distance her from her society and her agency becomes that of a character from a storybook, rather than a modern woman.⁹¹ Victimism denies agency through emphasising victimhood and insisting upon the powerlessness of the oppressed.⁹² Representations of the murderess as victim function to deny her responsibility, culpability, agency and rationality with an aim to explain her behaviour and ensure she receives sympathetic legal treatment. Victimism is not advantageous; adopting this technique does nothing to improve general societal attitudes to women who kill or help to challenge myths and negative stereotypes of women in general.⁹³

All five women within the case studies to follow were found guilty of murder and possess the potential for sadism, (just as all women do) and must be given their agency and afforded the full freedom to be human. However, the legal system makes this almost impossible. The ‘Reasonable Man’ test is the current test used to decipher whether the defendant is in their right mind when the crime is committed. ‘The legal subject is, thus, infused with gendered understandings of subjectivity’.⁹⁴ At all levels the gender of the defendant will influence the interpretation of behaviours and the assessment of appropriate responses.⁹⁵ The Reasonable Man is the quintessential subject before the law, applied to both sexes, there is no separate test in the eyes of the law for the reasonable woman. Looking at the very terms in which

⁹⁰ Morrissey, B., (2003), *When Women Kill: Questions of Agency and Subjectivity*, pg. 25.

⁹¹ Ibid.

⁹² Ibid.

⁹³ Ibid.

⁹⁴ Ibid. pg. 33.

⁹⁵ Allen, H., (1987), *Justice Unbalanced*, pg. 113.

different women are presented to the courts, it is hard to be sure what kind of reasonableness this might be.⁹⁶

‘We must allow for a view of women who kill as creative producers of their own narratives of identity as well as performers of the gender role of female as it is understood in western society’.⁹⁷ Within this thesis I have not tried to relate or condone the actions of the women, only to recognise and acknowledge that women along with men are autonomous beings in charge of their own destiny. The struggle for women’s equality will never be furthered by the attempt to retain either the privileges or the disabilities of femininity.⁹⁸ We must argue for like treatment of women and men under the legal system in order for all women to assert their agency and justify their crimes.⁹⁹ The aim of my research is to, using standpoint feminism, create knowledge which is both located in and proceeding from the grounded analysis of women’s experience.¹⁰⁰

‘Woman’ cannot be clumped together as a single unifying category and every woman must be given her own separate knowledge space. Experience allows both the similarities and differences in women’s lives to be addressed and to develop theories as to how these might be understood collectively.¹⁰¹ Using individual experience, this separate knowledge may be allowed its own space within feminist knowledge production. The aim of standpoint theory is to allow an understanding of women’s lives that illuminates their experience and is also respectful of them.¹⁰² Using experience, feminist theory is able to challenge the malestream

⁹⁶ Allen, H., (1987), *Justice Unbalanced*, pg. 49.

⁹⁷ Morrissey, B., (2003), *When Women Kill: Questions of Agency and Subjectivity*, pg. 66.

⁹⁸ Allen, H., (1987), *Justice Unbalanced*, pg. 120.

⁹⁹ Morrissey, B., (2003), *When Women Kill: Questions of Agency and Subjectivity*, pg. 170.

¹⁰⁰ Ballinger, A., (1996), ‘The Guilt of the Innocent and the Innocence of the Guilty: The Cases of Marie Fahmy & Ruth Ellis’, in Myers, A. & Wight, S., *No Angels: Women Who Commit Violence*, pg. 3.

¹⁰¹ Letherby, G., (2003), *Feminist Research in Theory and Practice*, pg. 57.

¹⁰² Ibid.

knowledge, that knowledge which has remained dominant and subjugated the experiences of women and their lives.¹⁰³

Taking a feminist standpoint to research and utilising CDA allowed for me to adopt a position which did not add women in, but began from their perspective.¹⁰⁴ Standpoint epistemologists take a more actively critical stance towards the homogeneity of women, which is assumed by much feminist inquiry.¹⁰⁵ Researchers constituting standpoint must be aware of their own historicity, not trapped by it, and temporality of the knowledge they generate allowing the space for new challenges to develop.¹⁰⁶ The aim of any research is to provide extensions and critiques of existing theory and ultimately bring about new knowledge.¹⁰⁷ All research, whether relying on the collection of primary data, or as my thesis undertakes, a study of secondary sources, involves a relationship between the researcher and the researched. Researchers have opinions and views, likes and dislikes, responses, values, beliefs and prejudices.¹⁰⁸ A standpoint is a site where its creator and occupier have agreed to occupy in order to produce a special kind of knowledge and practice and of which he or she is aware in a special, theoretical way.¹⁰⁹ Therefore, all knowledge produced will be a socially constructed product.¹¹⁰ Throughout this thesis I feel I have connected with the case studies and am very respectful and passionate about the research I have undertaken. The aim of my research is to make women's lives visible with a result being not only a clearer picture of

¹⁰³ Letherby, G., (2003), *Feminist Research in Theory and Practice*, pg. 63.

¹⁰⁴ Ibid.

¹⁰⁵ Harding, S., (1996), 'Feminism, Science and the Anti-enlightenment Critiques', in Garry, A. & Pearsall, M., *Women, Knowledge and Reality*, pg. 311.

¹⁰⁶ Cain, M., (1990), 'Realist Philosophy and Standpoint Epistemologies or Feminist Criminology as a Successor Science', in Gelsthorpe, L. & Morris, A., *Feminist Perspectives in Criminology*, pg. 134.

¹⁰⁷ Letherby, G., (2003), *Feminist Research in Theory and Practice*, pg. 46.

¹⁰⁸ Ibid. pg.76

¹⁰⁹ Cain, M., (1990), 'Realist Philosophy and Standpoint Epistemologies or Feminist Criminology as a Successor Science', in Gelsthorpe, L. & Morris, A., *Feminist Perspectives in Criminology*, pg. 132.

¹¹⁰ Ballinger, A., (2009), 'Feminist Research, State Power and Executed Women: The Case of Louie Calvert' in Farrall, S., Sparks, R., Maruna, S. & Hough, M., (eds), *Escape Routes: Contemporary Perspectives on Life After Punishment*, pg. 6.

women's experience, but also a better understanding of the whole cultural and historical experience of women.¹¹¹

Standpoint feminism, as with all theoretical positions, has been open to healthy critique. Within my research I was careful to avoid an 'us against them' theme; as standpoint feminism can imply that some perspectives (feminist) are better than others. I have also been tentative as not to emphasise binary oppositions and not to replace masculinist hegemony and patriarchy with female supremacy.¹¹² Standpoint feminism can also tend to ignore the crucial aspect of masculinity. Within this thesis I have endeavoured to discuss both men and masculinity as intrinsic factors in the lives of women. Women have fathers, sons, brothers, uncles, grandfathers, nephews and friends and these men play a big part in women's life experience in their own separate ways. Therefore, men deserve their place within knowledge production around women and vice versa. Standpoint feminism, if to be an all encompassing theory must place masculinity as a focus of investigation.¹¹³ I aimed to use the discourses of the media and the law to highlight the 'othering' and unfair representation of criminal women. To emphasise the constant sidelining of women's experience, and the benefits that could be reaped if experience was at the forefront of new knowledge production in relation to criminal women.

The Critical uses of Language

Feminist epistemologies, like CDA, also focus upon language. The way in which 'man made' language is constructed and how, through language, men have been able to dominate

¹¹¹ Letherby, G., (2003), *Feminist Research in Theory and Practice*, pg. 73-74.

¹¹² Ibid. pg.46.

¹¹³ Smart, C., (1990), 'Feminist Approaches to Criminology or Postmodern Woman meets Atavistic Man', in Gelsthorpe, L. & Morris, A., *Feminist Perspectives in Criminology*, pg. 81.

knowledge production in any given historical period.¹¹⁴ Men's monopoly of authorised language (such as legal and media discourse) has meant the silencing of women with their inability to communicate through the dominant modes (the courtroom for example). Language, far from being an already given social reality, constitutes social reality for us.¹¹⁵ Language itself is discursive and an inflection and requires a critical perspective. Dominant ideas in any society are mediated through language, both written and verbal and because women and their experiences have, historically, been excluded from knowledge and from culture, their experiences remain unrepresented.¹¹⁶ Ways of knowing have been made for women, not by women and by using a feminist epistemology women's ways of knowing become the focus.¹¹⁷ This thesis will highlight women's experiences and aim to bring their before subjugated knowledges into the mainstream - not the 'malestream'.

The ultimate aim of a feminist standpoint is to analyse the conditions which shape the lives of women, to dispute the idea that inequalities between women and men are 'natural' and insist upon the questioning of these inequalities¹¹⁸ or differences. It is not only a politics, but it is a range of differing theories. Feminist theory seeks to explain the differing factors involved in women's lives. It is not merely an intellectual practice, which can be separated from the average everyday life of a woman.¹¹⁹

It should always remain an important aspect of feminist inquiry to highlight agency and resistance, where possible, in order to allow new knowledges space to develop. I draw upon critical discourse analysis and the idea of the discursive construction of the subject¹²⁰ in direct

¹¹⁴ Letherby, G., (2003), *Feminist Research in Theory and Practice*, pg. 30.

¹¹⁵ Weedon, C., (1997), *Feminist Practice and Poststructuralist Theory*, 2nd Edn., pg. 22.

¹¹⁶ Letherby, G., (2003), *Feminist Research in Theory and Practice*, pg. 30.

¹¹⁷ Ibid.

¹¹⁸ Butler, J., (1999), *Gender Trouble*, pg. 1.

¹¹⁹ Ibid.

¹²⁰ Smart, C., (1995), *Law, Crime and Sexuality*, pg. 8.

relation to the case studies to follow, aiming to highlight discursive structures within the courtroom and discursive manoeuvres in the media. Language itself is of a high priority when discussing the discourse of gender and when understood in terms of competing discourses, becomes an important site of political struggle.¹²¹ Consequently:

*Language which marks gender diligently within their grammars, treating the masculine as the unmarked gender, will lead their speakers to perceive the world in gender polarized and andocentric ways.*¹²²

It is the language used by media and legal discourses, which represents the women in the following case studies and it is those representations, which will be subject to the critical tool of discourse analysis. It is within language that difference acquires meaning, for instance the difference between pink and blue and the gendered connotations that go along with those colours.¹²³ Language is the key tool used to label and to reinforce gender norms and required forms of behaviour all the way from birth to death.

Utilising standpoint feminism paired with critical discourse analysis allows for me to emphasise the instability of language and highlight the inability of both the media and the legal system to justly process nineteenth century criminal women. Standpoint feminism allows this thesis to highlight the importance of women's lived reality, not only the reality broadcasted by the media or passed out by the law, but the subjugated reality of criminal women's lives. It is within the experiences of the five women subjects to follow that the knowledge around their discursive construction within the discourses of the media and the law is found. It is within experience that new knowledge may reign.

¹²¹ Weedon, C., (1997), *Feminist Practice and Poststructuralist Theory*, 2nd Edn., pg. 23.

¹²² Butler, J., (1999), *Gender Trouble*, pg. 150.

¹²³ Weedon, C., (1997), *Feminist Practice and Poststructuralist Theory*, 2nd Edn., pg. 73.

Defining the Key Concepts: ‘Woman’, ‘Body’, ‘Sex’ and ‘Gender’

The feminist application of Foucault’s studies of discourse, subjectification, micro-politics and the regulation of bodies has proven useful within this thesis,¹²⁴ as Foucauldian theory looks to historically specific discursive relations and social practices.¹²⁵ According to Foucault each society creates a ‘regime of truth’ according to its beliefs, values and morals. It is within this regime that gender and the multiple meanings behind ‘woman’ are produced. ‘Truth’ is linked in a circular motion with systems of power that produce and sustain it and to effects of power which it induces and which extend it: - A ‘regime’ of truth’.¹²⁶ ‘Truth’ is, according to Foucault a direct effect of discourse.¹²⁷

For Foucault, the body is forever under attack and cultural values that emerge are circulated as a result of an ‘inscription’ on the body. ‘The body is ... directly involved in a political field, power-relations have an immediate hold on it, they invest it, mark it, train it, torture it, force it to carry out tasks, to perform ceremonies, to emit signs’.¹²⁸ The body is a site where regimes of power and the discourses which surround it are inscribed, the fact that power’s immediate expression is through its hold over the body, is very relevant to my cause. These women were subjected to these regimes and were constructed both within the media and the courtroom directly on the back of them.

The very term ‘woman’ is a term in process, a fluid concept, a ‘becoming’, as Simone de Beauvoir quite elegantly puts it, ‘one is not born a woman but becomes a woman’.¹²⁹ This constructing cannot be seen to originate or to end. As an ongoing discursive practice, it is

¹²⁴ Connell, R.W., (2009), *Short introductions GENDER*, 2nd Edn., pg. 41.

¹²⁵ Butler, J., (1999), *Gender Trouble*, pg. 22.

¹²⁶ Foucault, M in Gordon, C *Power/Knowledge: Selected Interviews and Other Writings 1972-1977*, pg. 133.

¹²⁷ Jackson, S. (1998), *Contemporary Feminist Theories*, pg. 22.

¹²⁸ Butler, J., (1989), Foucault and the Paradox of Bodily Inscriptions, *The Journal of Philosophy*, **86**(11), pp. 601-607; pg. 604/605.

¹²⁹ De Beauvoir, S., (1973), *The Second Sex*, pg. 301.

open to intervention and resignification'.¹³⁰ What 'woman' actually means at any given moment in time fully depends upon 'the discursive relations within which it is located, 'woman' is open to a constant rereading and reinterpretation'.¹³¹

When discussing the body, it is relevant to note that it is always known as his body or her body and is never known outside of its gendered appearance.¹³² Gender, according to both de Beauvoir and Butler, is a way of 'existing ones body.' The body is a 'situation, a field of cultural possibilities'¹³³ that are both received and allowed to be interpreted and reinterpreted in society. Therefore, gender seems to de Beauvoir to be a 'thoroughly cultural affair'.¹³⁴ De Beauvoir's account of the body as a 'situation' is relevant in my analyses as, within the cases discussed the body is used as a script, a piece of evidence to be used either for or against the women involved.

Sex and gender have always had differing explanations and ideology organises categories through binary oppositions. Sex is seen as biology, the differences in the two sexes and gender as culture, sex as the body and gender as identity. The relationship between sex and gender is made quite clear by Connell; without the biological definition of sex and the inherent differences set out between the two sexes, gender would have no basis. Differences and dichotomies have been the focus of discussions on sex and gender; however, it is within the social relations themselves in which individuals and various groups act and help to construct gender. Therefore, a move to focus upon both relations and difference will assist the historical discourse analysis of the five criminal women under examination. 'An

¹³⁰ Jackson, S., (1998), *Contemporary Feminist Theories*, pg. 43.

¹³¹ Butler, J., (1993), 'Critically Queer', *GLQ*, **1**, pp. 17-32. Pg. 25.

¹³² Butler, J., (Dec 1988), 'Performative Acts and Gender Constitution: An Essay in Phenomenology and Feminist Theory', *Theatre Journal*, 40(4), pp. 519-531. Pg. 523.

¹³³ Ibid.

¹³⁴ Ibid.

understanding of how gender is produced in social situations will afford clarification of the interactional scaffolding of social structure and the social control processes that sustain it'.¹³⁵

Gender Performativity

In the decade I have chosen to focus upon (1870-1880), 'gender performativity' is very prevalent and the women of the day were to be seen and not heard (childbearing and rearing was essential, drinking was frowned upon and the dress code was neck to toe material).¹³⁶ However, it must be articulated that not all women accepted their gendered roles and therefore, did object to this. John Stuart Mill's *The Subjection of Women* (1869)¹³⁷ helped to generate publicity around the plight of women and 'First Wave Feminism' and the suffrage movement was also taking shape.

A woman's physical capital is a factor within the deviation from the 'norm', from what clothes she wears, to how much make-up she wears can determine whether she is a 'good' mother/wife/woman. Whether her behaviour mirrors those appropriate standards set out within the rules of gender, will determine her performance or failure to perform as a woman. What is deemed as 'gender-appropriate' is part of an 'enormous social effort to channel people's behaviour'¹³⁸ and is constantly circulated.

Gender, rather than being part of our inner essence is performative. To be feminine is to perform femininity, just as to be masculine is to perform masculinity¹³⁹ and one can acquire both feminine and masculine traits simultaneously through performance. 'Performativity is a

¹³⁵ Jackson, S., (1998). *Contemporary Feminist Theories*, pg. 147.

¹³⁶ <http://www.hastingspress.co.uk/history/19/overview.htm>

¹³⁷ Mill, J.S., (1869), *The Subjection of Women*.

¹³⁸ Connell, R.W., (2009). *Short Introductions, GENDER*, 2nd Edn., pg. 5.

¹³⁹ Butler, J., (1999), *Gender Trouble*, pg. 137.

matter of reiterating or repeating the norms by which one is constituted, it is not a radical fabrication of a gendered self'.¹⁴⁰

Feminism, Law and Media

The criminal law and its enforcement are about male patterns of behaviour and about standards of appropriate conduct judged by men.¹⁴¹ Law is a particularly powerful discourse because of its claim to truth, which enables it to silence those women who encounter it and also those feminists who directly challenge it.¹⁴² 'Law has its own language, its own method, its claim to truth and sets itself apart and above other discourses in the same way science does'.¹⁴³ Law then, avoids challenges, remains powerful and somewhat untouchable apart from within critical analyses.

Law has the potential to allow for individual judicial attitudes to be taken as truth. Judges may make decisions where there may be no objective evidence to support them and these attitudes acquire legitimacy in a way which only strengthens ideas around morals and politics, which would on the surface, seem outside the boundaries of the law.¹⁴⁴ Thus, the power to set out boundaries of inquiry ensures legal method may be impervious to challenges from 'outside' agencies and defines what may or may not be relevant.¹⁴⁵ In allowing individual opinion into judicial decision making legal discourse preserves the patriarchal status quo.¹⁴⁶

¹⁴⁰ Butler, J., (1993), *Critically Queer*, *GLQ*, **1**, pp. 17-32, Pg. 22.

¹⁴¹ Hale, C., Hayward, K., Wahidin, A. & Wincup, E., (2005), *Criminology*, pg. 350.

¹⁴² Smart, C., (1995). *Law, Crime and Sexuality*, pg. 71.

¹⁴³ *Ibid.* pg.73.

¹⁴⁴ Fineman, M. & Thomadsen, N., (1991), *At the Boundaries of Law: Feminism and Legal Theory*, pg. 296.

¹⁴⁵ *Ibid.*

¹⁴⁶ *Ibid.* pg. 297.

It has been argued that law is sexist and mostly male, however, I argue that, as an institution, law is expressly gendered. ‘Woman is a gendered subject position which legal discourse brings into being’,¹⁴⁷ it is here where a distinction must be made between the discursive production of a *type* of Woman, and the discursive construction *of* Woman as a whole.¹⁴⁸ To use the discursive construction of a *type* of woman within law and legal discourse one would be referring to the female criminal, the prostitute, the bad and unmarried mother, the woman who commits infanticide. To refer to the discursive construction of Women as a group is almost always strictly in comparison to Men.¹⁴⁹ Thus, using the law in relation to the female criminal allows her to be differentiated from ‘normal’ (law abiding) women, however she is always already constructed in opposition to men. This double standard allows for the legitimisation of the doubly deviant woman, she is always kind *and* untrustworthy, passive *and* aggressive, virtuous *and* ‘evil’, never either or.

Criminal women have always been presented as ‘other’: other than real women, other than real criminals and other than real prisoners.¹⁵⁰ Pat Carlen coined the term ‘Judicial Misogyny’ in relation to the treatment of criminal women by the judicial system.¹⁵¹ ‘For at least the last century explanations of female crime has oscillated between on the one hand, positivist assumptions which tie women forever to their biology and on the other, biblically-inspired superstitions which represent ‘woman’ as the source of all evil’.¹⁵² These explanations have, over the centuries shown their presence more obviously within the courtroom. It is at the root of ‘Judicial Misogyny’ which has resulted in single women, divorced women, women with illegitimate children or children in care and poor women being more likely to receive

¹⁴⁷ Smart, C., (1995), *Law, Crime and Sexuality*, pg. 192.

¹⁴⁸ Ibid. pg.193

¹⁴⁹ Ibid.

¹⁵⁰ Carlen, P., Hicks, J., O’Dwyer, J., Christina, D. & Tchaikovsky, C. (1995), *Criminal Women: Some Autobiographical Accounts* pg.1

¹⁵¹ Carlen, P., Hicks, J., O’Dwyer, J., Christina, D. & Tchaikovsky, C. (1995), *Criminal Women: Some Autobiographical Accounts* pg.1

¹⁵² Carlen.P *Criminal Women* 1985 pg1

custodial sentences than married women.¹⁵³ Misogyny itself is both a cause and a result of patriarchal structures and within this thesis and the case studies to follow ‘Judicial Misogyny’ is a recurring theme.

These double definitions remain as they allow for the law to assert its authority and pick and choose those deemed worthy of victim status (those ‘natural’ women) and those deemed as inherently bad. The law in the latter part of the nineteenth century brought with it a more rehearsed and defined range of gendered subject positions.¹⁵⁴ This came in the shape of law’s exclusion of women from civil society and the detailed legislation disabling women from taking part in legal discourse.¹⁵⁵ All of the five case studies to follow are examples of this cultural exclusion.

The roots of this thesis came from the dissection of various media articles in the National Media Archives, which then led me to the legal documents within the National Archives. Not all legal documents could be found (due to fire or flood) therefore the media research became invaluable as insight into Nineteenth Century society and its treatment of the five criminal women.

I argue that criminal women will always be in a position of subordination, their experience will always be irrelevant and unless change occurs they will never hold accredited status in the eyes of the media. Official discourse shapes media discourse and in relation to my thesis the law is a primary definer and the media is merely a secondary definer – a pawn used to broadcast these legal discourses and opinion to the masses. Hall suggests that there are three positions adopted by the readers of media texts; the first being the dominant reading where

¹⁵³ Ibid. pg.11.

¹⁵⁴ Smart, C., (1995), *Law, Crime and Sexuality*, pg. 195.

¹⁵⁵ Ibid.

the reader fully shares the text's codes and in turn reproduces the 'preferred reading'.¹⁵⁶ The second being the negotiated reading; where the reader of the text partly shares the code but may resist or modify the text in line with her/his own experiences or beliefs.¹⁵⁷ The last being the oppositional reading; where the reader is in a social situation which places her/him in direct opposition to the dominant code, bringing to light new terms of reference in opposition to the media text.¹⁵⁸ Therefore, it must be articulated that media texts have meanings, practices, uses, power and interests written into them.¹⁵⁹ However, these texts are interpreted differently by individuals and must never claim 'truth'. In relation to the five women, (their friends, family and petitioners involved in the forthcoming chapters) the newspaper articles would be interpreted from an oppositional standpoint. All of the media articles exclude the women's experiences and this would provide the basis for acquaintances of the women to be in direct conflict with the preferred readings.

Conclusion

The discursive construction of criminal women within the media and the legal system cannot exist outside of the discursive construction of gender. Gender theory is a discourse, which has had a massive impact upon feminism. I hope to have explained some of the reasons and consequences of how the impact and theory will help to build my analysis.

Within this chapter I have aimed to: set out gender constructions and their ability to systemise and justify themselves within discourse. Further, to explain how these constructions have a direct relationship with the body and how the body is a script and is also a site of both resistance and struggle. I have also discussed how language and power hold an overarching

¹⁵⁶ <http://www.newinfluencer.com/mediapedia/encoding-decoding/>

¹⁵⁷ Ibid.

¹⁵⁸ Hall, S., (and other authors) (1978) *Policing The Crisis*.

¹⁵⁹ <http://people.ucalgary.ca/~rseiler/hall.htm> pg. 4

importance within gender constructions and how using standpoint feminist theory I can examine this fundamental connection.

I also aim to challenge the malestream theme which underlies the discourses of the media and the law and allows for the ‘doubly deviant’ stamp to be placed upon criminal women. To allow for this to continue unchallenged would assume that women, whether feminist or not, are a notch below men within arguably the two most powerful discourses; The Law and Media. Within this thesis I highlight these patriarchal themes with a hope of uncovering the discursive practices which allow for this portrayal of criminal women to remain deep seated within the legal and media systems of nineteenth century England. In order to understand the five case studies to follow I would suggest an alternative to the dominant patriarchal theory of knowledge and instead a feminist epistemology. I utilise standpoint feminism and critical discourse analysis in order to bring forth a feminist epistemology towards my case studies, with an aim for the five women to be regarded in their own right, for their agency¹⁶⁰ to be intact and for their experience to be heard.

¹⁶⁰ Morrissey, B., (2003), *When Women Kill: Questions of Agency and Subjectivity*, pg. 7.

CHAPTER TWO

METHODOLOGICAL APPROACH: THE APPLICATION AND USES OF FEMINISM AND CDA

Introduction

The aim of my research is to uncover discursive practices within the media relating to the reporting of women and crime and in particular the construction within the media of so called 'evil' women. Using the method of critical discourse analysis (CDA) from a historical perspective, I aim to provide a critical investigation of these discursive practices. I provide an analysis of how these reports cause women to be portrayed in a certain way and why these practices and portrayals are detrimental to women in general. To do this I utilise documents from the media in the form of newspaper reports, both tabloid and broadsheet together with legal documents such as official court transcripts, petitions and letters, in order to bring about much needed knowledge within this cause.

My research is literature and document based and I undertake my investigation around these media documents also using current relevant literature. I utilise these documents using an historical application of CDA in a theoretical framework and form arguments with these media and educative writings to highlight my points. My aim is to critically analyse the wider societal issues surrounding my research choice and using theorists such as Foucault, I discuss the relevance of CDA to my cause and how this method, adapted to take a historical stance, becomes an invaluable tool kit within this thesis.

Feminist History

Women's history takes women as its subject and is written by both men and women alike,¹⁶¹ therefore it is not a feminist history, although the two remain linked. Research on women in history then can be undertaken by any sex and be used to highlight any themes conjoining women and the past. A feminist history is a history of which is solely informed by the principles, ideas and theories of feminism. What makes a feminist history so unique is that feminism not only demands a comprehensive history of the family but also seeks to explain the reasons why women have been subjugated, belittled or only represented in sex-specific ways throughout history and will serve to be essentially relevant within this thesis.

Adding gender into the historical analysis of women helps to strengthen the feminist cause. 'The emphasis on putting gender at the centre of the historical agenda holds important implications for the way feminist history is written and also for feminist politics'.¹⁶² This reliance upon gender allows for a new look at feminist history avoiding positivistic theories and for those discursive structures previously allowed a free reign, to be uncovered and in turn critiqued. 'By applying a gender lens to a whole range of issues ... new historical perspectives have emerged'.¹⁶³ There has therefore been a move from the study of women alone to the study of gender as a discourse and this move has allowed for women's experience to be interpreted. 'Experience' is a word we cannot do without, there is no experience outside the ways that language constructs it'.¹⁶⁴

Both women and men construct knowledge in accordance with the beliefs and values with which they begin.¹⁶⁵ These values are not universal, however, historically the majority of

¹⁶¹ Purvis, J., (1995), *Women's History Britain, 1850-1945 An Introduction*, pg. 6.

¹⁶² Ibid.

¹⁶³ Rowbotham, S., (1997), *A Century of Women*, pg. 3.

¹⁶⁴ Purvis, J., (1995), *Women's History Britain, 1850-1945 An Introduction*, pg. 12.

¹⁶⁵ Spender, D., (1982), *Invisible Women: The Schooling Scandal*, pg. 2.

what we know has been constructed by men.¹⁶⁶ The subordination of women is very much in the interests of the producers of knowledge (men), this is reinforced by the fact that the majority of knowledge has been used to legitimise and reinforce this subordination.¹⁶⁷

Men constructed the role of housework and childcare as a non-rewarding activity and therefore claimed that due to its demeaning nature it is more suited to women. Because of this, men legitimise the patriarchal claim that women's place is in the home and that women are made for the private world, handicapped in the public world.¹⁶⁸ For girls in the latter nineteenth century the renouncement of free will, the acceptance of their cultural position and selflessness were all desired educational goals. In comparison to boys, the experience of growing up for nineteenth century girls would be more like a loss, a decrease of freedom. The boys on the other hand, were encouraged to allow their will its way; 'Boys may feel like they were born, but girls have the distinct feeling they were made'.¹⁶⁹

'What is important is for feminist historians to research and explore women's differences while also acknowledging the common ground of these female genders against male genders'.¹⁷⁰ Although I believe that the construction of experience is essential when undertaking research in regards to the case studies involved, I am not naive enough to proclaim to hold knowledge of all women or of all periods in history. I would argue that the ultimate form of knowledge subjugation is the ignorance or refusal to accept the construction of experience.¹⁷¹

¹⁶⁶ Spender, D., (1982), *Invisible Women: The Schooling Scandal*, pg. 3.

¹⁶⁷ Ibid.

¹⁶⁸ Ibid. pg. 91.

¹⁶⁹ Ibid. pg. 93.

¹⁷⁰ Purvis, J., (1995), *Women's History Britain, 1850-1945 An Introduction*, pg. 14.

¹⁷¹ Barton, A., (2005), *Fragile Moralities and Dangerous Sexualities*, pg. 65.

Sheila Rowbotham, in her 1973 book *Hidden from History*¹⁷², highlighted the general invisibility of woman in history. Integrating Capitalism with the social reality faced by women finally allowed for emphasis on experience and patriarchy within women's historical struggle.

Looking into the lives of women from all class backgrounds allowed Rowbotham to surmise that patriarchal authority continued throughout society as a whole.¹⁷³ Middle-class women were cut-off from modes of production and were economically dependent upon their husbands and working-class women were forced into the factory or domestic trade, becoming wage-labourers.¹⁷⁴

It must be articulated that when writing a feminist history every researcher moves through the past from a particular vantage point.¹⁷⁵ I aimed, by applying a gender lens to my case studies, to uncover new historical perspectives¹⁷⁶ and to surface those discursive practices involved within the discourses of the media and the law, which have remained submerged in history.

Discursive Structures, Dominant Discourses and Foucault

Discourse in itself can be of either verbal or written communication, such as beliefs, views and personal values. Criminologists, sociologists and philosophers will use the term discourse to describe conversations and the meaning behind them by a group of people who hold certain ideas in common.

¹⁷² Rowbotham, S., (1973), *Hidden from History*.

¹⁷³ Rowbotham, S., (1997), *A Century of Women*, pg. 56.

¹⁷⁴ Ibid. pg. 55.

¹⁷⁵ Ibid. pg.1.

¹⁷⁶ Rowbotham, S., (1973), *Hidden from History*, pg. 3.

‘Discourse is the power to be seized’¹⁷⁷ and although Foucauldian discourse analysis and CDA are different, their synthesis is valuable when undertaking any form of critical research and provides us with a tool of examination.

*CDA aims to describe the ways in which power and dominance are produced and reproduced in social practice through the discourse structures of every day interactions.*¹⁷⁸

Discursive practices or manoeuvres become a technique of neutralising certain forms of behaviour and language; they tend to deflect blame onto other actors within a given scenario. Using CDA to uncover these practices allows us to see the ways in which language is used to distort and distract attention away from the actual issue at hand and expose underlying hidden agendas. Investigating discursive practices allows us to produce alternative knowledges in order to resist dominant knowledge and as a tool is invaluable to critical research.

Dominant discourses are defined as ‘popular’ knowledge, those knowledges that are readily available to the masses, such as the media, law and politics. These discourses tend to constitute a common sense notion of how we view the social world due to their audience quota being well into the millions. It is essential for an investigation such as this to critique these dominant discourses and unveil subjugated knowledges in order to avoid a complete monopoly around any given discourse. Foucault explains subjugated knowledges as:

*A whole set of knowledges that are either hidden behind more dominant knowledges but can be revealed by critique or have been explicitly disqualified as inadequate to their task or insufficiently elaborated: naive knowledges, located low down on the hierarchy, beneath the required level of cognition or scientificity.*¹⁷⁹

¹⁷⁷ Foucault, M., (1980), *Power/Knowledge: Selected Interviews and Other Writings 1972-1977*, pg. 52.

¹⁷⁸ Lazar, M., (2005), *Feminist Critical Discourse Analysis*, pg. 31.

¹⁷⁹ Foucault, M., (1980), Two Lectures, in Gordon, C., (ed) *Power/Knowledge: Selected Interviews and Other Writings 1972-1977*, pg. 82.

When Foucault talks about subjugated knowledges, as well as the above he is articulating two separate forms of knowledge. Firstly, to historical knowledge, knowledge that is obviously historical in nature and has been overlooked and buried amongst the more dominant knowledges available at any given time in history. This knowledge is of a priority within my studies when pertaining to historical information regarding my chosen cases of five examples of ‘evil’ women within the media and allows me to delve into the wider understandings around these cases.

Secondly, Foucault is referring to ‘localised’ knowledges, those knowledges which do not come with an honours degree or any kind of educational background or certification and remain low within the ‘hierarchy of knowledge’. Knowledges which may only be gained from life experience such as, knowledge of the land or of a set community and may only come through direct exposure over a lifetime. These knowledges are often merely disqualified as unqualified and naive because they have not acquired any professional backing. Professions such as psychiatrists, doctors and psychologists are always favoured higher within society and more importantly within the judicial system. It is these preferred, dominant knowledges we must critique using CDA to bring to light those knowledges which remain subjugated.

Using a historical application of CDA and adopting Foucault’s methods of critical research, these knowledges will no longer remain subjugated as an ethnographic approach enables me to look at interpretations of texts and of how those texts will, in turn, figure within wider societal life.

The readership of tabloid newspapers within the latter nineteenth century was beginning to become vast. In contrast to the tabloid press the broadsheets tend to write a less sensationalist account of events but the majority of publications, whether tabloid or broadsheet are also led by their political persuasion. It must be highlighted that the state has a large vested interest in controlling media output, therefore media accounts cannot only be speculative, but also politically biased. It is essential to mention that all discourses create ideologies and are an extension of power and therefore, a critical analysis of these discourses allows for me to not only investigate various ideologies, but also reveal those power relations both on the surface and underneath it.

Power relations to Foucault are ubiquitous and not necessarily always imposed from above but do come into parallels with knowledge. For Foucault knowledge creates power and power creates knowledge it is an equal relationship and by tacit consent we, as members of society, tend to put our individual power to one side and remain placid and conformist. 'From Foucault we can learn for one thing that we are all implicated in power and that in many ways power is gender blind'.¹⁸⁰

Using CDA and applying this method from a historical stance, this discourse may be brought to the fore and examined, as relations of power link directly to dominant discourses and the aim within this thesis to use language in order to uncover discursive practices within the media.

*CDA can only make a significant and specific contribution to critical social or political analysis if it is able to provide an account of the role of language, language use, discourse or communicative events in the (re)production of dominance and inequality.*¹⁸¹

¹⁸⁰ Holub, R., (1992), *Antonio Gramsci: Beyond Marxism and Postmodernism*, pg. 29.

¹⁸¹ Van Dijk, T., (1993), 'Principles of Critical Discourse Analysis', *Discourse and Society*, 4(2), pp. 249-293, pg. 279.

The aim of using CDA within my chosen topic provides me with tools for examining how historically, the media influences the lived realities of women and more specifically the subjugation of power relations in discourse. The method of CDA is relevant within the realm of criminology as a tool for critical research as it allows researchers to look beyond the normative discourses, which tend to shape public perceptions. Utilising CDA from a historical perspective allows for the documents to be critically analysed in a way in which had not previously been undertaken, especially within the latter nineteenth century. Therefore, I aim to provide an analysis, which will allow fresh knowledge in relation to the five following case studies by utilising CDA in this historical manner.

Many academics use data such as interviews, questionnaires and social experiments to conduct their research, whereas within this document based investigation the only data used is that of language within both existing media and legal discourse. It must be elaborated here that ethics is always a concern to researchers; however within this document based investigation I have not contacted any living relatives of the five women involved and that the information gained during my research is widely available to not only academics, but to the general public. Therefore, CDA allows me to analyse completed texts in document form available at both the National Archives and the Media Library without encountering questionable ethical issues.

Foucault holds discourse to be the acceptable statements made by a certain type of discourse community. Discourses contribute to knowledge and belief in everyday life and therefore, become intrinsic within language and analysis.

CDA holds that both discourses of language and of power are entirely linked and therefore, allows inequalities within society and politics and issues such as power abuse and domination to be uncovered and in turn resisted. Fairclough holds that discourse analysis can be both historical and contemporary and also that it is influenced by social structure and in turn produced in social interactions.¹⁸² These social interactions are paramount when discussing discursive moves within texts and shall be invaluable as a tool in this historical literature review.

CDA provides its users a way in which to resist hegemonic beliefs and traditions. By using CDA one would aim to challenge ideas around control and conformity (hegemony) and resist the dominant discourses that strive to become common sense.

The goal of CDA is that of a social transformation, based upon the ideas around social justice that will ultimately help to see both men and women as, instead of only their biological sex or gender; human beings.

The Application of Method: Archival Research

In order to answer my thesis question it was necessary for me to visit both the British Media Library in Colindale, London and the National Archives in Kew, London. This meant that I needed to utilise my above explained method of CDA, Foucault and feminist history in relation to archival research thus the documents were deconstructed and assessed within the context of the feminist theory I utilised.¹⁸³

¹⁸² Fairclough, N., (2003), *Analysing Discourse (Textual Analysis for Social Research)*.

¹⁸³ Barton, A., (2005), *Fragile Moralities and Dangerous Sexualities*, pg. 162.

After the initial research and the decision as to which decade and specific cases I would be focussing upon was in place, I attended the Media Library equipped with dates, locations and circumstance of the five women; Mary Ann Cotton, Mary Anne Barry, Frances Stewart, Selina Wadge and Catherine (Kate) Webster.

All of the original historical data gathered, bar the petitions and personal letters for this research, were in the form of documents written by journalists who claimed to hold the ‘truth’ about the women involved.¹⁸⁴ Therefore, only letters and, where available, statements of the condemned women recorded the experiences or motives from the women themselves. Without this their behaviour or the motives behind their acts can only be assumed.¹⁸⁵

It must be emphasised here that ‘truth’ in this sense is objective; official discourse provides a ‘truth’ on the matters they are reflecting or adjudicating on¹⁸⁶ and come from a specific standpoint. ‘Official discourses are expressions of power which construct and legitimate self serving versions of truth’.¹⁸⁷ Representations of ‘truth’ are inextricably intertwined with prevailing sets of power relations, and as such power continually interrogates, inquires, registers, institutionalises and professionalises regimes of truth¹⁸⁸ and it is these regimes of truth, which constitute official discourse.¹⁸⁹ Therefore there can be many competing, complementary or contradictory ‘truths’ about the same set of social facts, as individual perspectives are always based upon individual inherent assumptions or presumptions.¹⁹⁰ ‘There is a gap between those who claim to know the ‘truth’ and those about whom they

¹⁸⁴ Barton, A., (2005), *Fragile Moralities and Dangerous Sexualities*, pg. 65.

¹⁸⁵ Ibid.

¹⁸⁶ Gilligan, G. & Pratt, J., (2004), *Crime, Truth & Justice: Official Inquiry, Discourse, Knowledge*, pg. 2.

¹⁸⁷ Ibid. pg. 66.

¹⁸⁸ Foucault, M., (1980), *Power/Knowledge: Selected Interviews and other writings 1972-1977*, pg. 93.

¹⁸⁹ Gilligan, G. & Pratt, J., (2004), *Crime, Truth & Justice: Official Inquiry, Discourse, Knowledge*, pg. 20.

¹⁹⁰ Ibid. pg. 21.

claim to know it'.¹⁹¹ Law claims legitimacy or 'truth' and is in turn endorsed by official discourse¹⁹² such as bills, acts of parliament and royal commissions. Individual 'truths' gained through experience are sidelined for this expert knowledge, however through the petitions an alternative 'truth' is brought to light. However, the aim of this thesis is not to claim knowledge of THE all encompassing 'truth', or to become a prisoner to speak the 'truth' it is to highlight the different experiences of women who kill and aims to bring to light the discursive construction of these women.

My archival research was carried out on a chronological case-by-case basis, firstly locating the newspapers, both local and national, from the date of arrest where the construction of the women begins, through the trial period, the punishment and months beyond.

I found that almost all of the newspaper articles published during the trial period were completely identical to the original court transcripts, with some speculation and journalistic opinion mixed in. This allowed for discursive manoeuvres to become apparent and meant subsequently that it would no longer be the discourse of the media alone that would be the focus of my thesis; both the media and law had to be analysed.

Following the visit to the Media Library I analysed my findings and found various references to documents held in the National Archives in regards of my cases. I then decided to visit the National Archives in order to find the original documentation and strengthen my thesis adding to the lived experiences of these women. The documents I found (petitions, judge's notes, depositions) gave me an overwhelming insight into the lives of these nineteenth century women and have been crucial within this thesis. These competing discourses and

¹⁹¹ Ballinger, A., (1996), 'The Guilt of the Innocent and the Innocence of the Guilty: The Cases of Marie Fahmy & Ruth Ellis', in Myers, A. & Wight, S., *No Angels: Women Who Commit Violence*, pg. 22

¹⁹² Gilligan, G. & Pratt, J., (2004), *Crime, Truth & Justice: Official Inquiry, Discourse, Knowledge* pg. 66.

alternative ‘truths’ allowed me to acknowledge not only the patriarchal views of legal brains, but also an undercurrent of society not willing to have their voices silenced.

Some difficulties did arise in regards to the search for material. Firstly, it became apparent that some cases were deemed to be more ‘newsworthy’ than others. Usually this was due to the method of murder or sheer volume of victims, therefore some cases held double page spreads week after week (Mary Ann Cotton, Kate Webster) and some merely a brief overview (Selina Wadge, Mary Anne Barry and Frances Stewart).

Secondly within the National Archives and I found that all HO45 documentation from 1989 was lost in either fire or flood, meaning that petitions, letters, judges notes and other relevant information pertaining to Catherine (Kate) Webster was not available.

Writing women into the history of discourse allows for a disruption of myths relating to passivity and the ‘natural’ woman. It allows us to address subjugated knowledges, challenge positivistic and patriarchal discourses and assert women’s contribution to not only private life, but public too.¹⁹³

The Application of Method: Media and the law.

The media have immense potential power and influence in all aspects of life.¹⁹⁴ This power is used and distributed through various different channels and is an immediate cause for concern and point for critique. Power relations in correlation to CDA are very relevant and become a point for research and action; ‘There can be no possible exercise of power without

¹⁹³ Glenn, C., (2000), *Truth, Lies and Method: Revisiting Feminist Historiography*, pg. 389.

¹⁹⁴ Fairclough, N., (2010), *Media Discourse*, pg. 45.

a certain economy of discourses of truth which operates through and on the basis of this association’.¹⁹⁵

There are different approaches to the use of CDA and although the principles remain the same, the method may be adapted to fit chosen positions. I have in part utilised Foucauldian discourse analysis with his ideas on subjugated knowledges and power relations and also CDA from a historical perspective in relation to the five case studies of nineteenth century ‘evil’ women.

Conversationalism and what is deemed to be newsworthy in the media allows publications to become more ‘marketised’ and in turn the ‘truth’ is sidelined in order to please the target audience. This mediation by the media between the public (political events) and private (home and family) spheres of everyday life is crucial when adopting any form of critical research. It must be mentioned that this relationship outlines the power held by the media and its ability to drift between the two and in some cases relate to its readers and become the only source of information available to them.

When discussing what is ‘true’ within a media text it is worth mentioning that access to truth can only be by representations of it and every representation will involve various different points of view, different goals and values.¹⁹⁶ Universal truths do not exist, every truth will be personalised and articulated to suit the experiences of the chosen subject. Truths can be based upon class, society and religion (amongst others) but for Foucault and this thesis, it is upon this search for individual truth, by upturning subjugated knowledge and resisting dominant power structures that is the basis for research.

¹⁹⁵ Foucault, M., (1980), *Power/Knowledge: Selected Interviews and Other Writings 1972-1977*, pg. 93.

¹⁹⁶ Fairclough, N., (2010), *Media Discourse*, pg. 46-47.

The discourses of which I have chosen to critically analyse are first that of the written media both tabloid and broadsheet which were obtained from The National Media Archives. Secondly official court transcripts, petitions and letters obtained from The National Archives. These sources hold various examples of discursive practices and will with the help of CDA and Foucault, highlight the way in which the media and legal system construct criminal women.

I use both primary and secondary sources within my research on the media's construction of the five criminal women. The primary sources used include original newspaper documents, original court transcripts, petitions, letters and other legal documentation. I then draw upon secondary sources such as relevant literature to emphasise my findings.

It must be articulated as to which factors are recorded and what factors are omitted. Of the main two types of written media discourse (tabloid and broadsheet), the tabloid press may tend to sensationalise reports in order to gain the required response from their target audience. In turn they may omit and report various issues in order to gain the 'shock value' of which makes their product widely marketable. The outcome of this reporting allows sensationalism to become almost accepted and has been known to cause widespread moral panics, which when utilising CDA in research, will cease to remain hidden.

The other documents I used are those of relevant critical literature both current and historical. These documents are aimed at a certain audience and the vast majority are aimed at academics. These documents set out on their mission with a certain conclusion in mind and therefore it is important we are aware that ulterior motives may also be present within them.

Throughout the decades the media have been a formidable genre for critical researchers and the aim of my research is no different:

*The synthesis of these two contexts – ideological climate and journalistic assumptions – are instrumental in creating public consensus and in shaping the processes by which some individuals are designated ‘others’, monsters in our midst.*¹⁹⁷

It is precisely this creation of moral panic and of ‘othering’ applied by the media which using CDA will enable me to critically analyse and investigate.

CDA and the success of the method within social sciences depends upon how much it contributes to change, with its goals of uncovering power abuse and domination, as well as helping to uncover discursive practices within these texts it is an invaluable tool for research.

Uncovering discursive practices within the media can be a tricky business. By using the method of CDA these practices become more obvious. Practising the art of analysing discourses from a critical perspective allows us to pick out techniques of neutralising behaviour and deflection of blame and allows this practice to become normal. When you are aware of the hidden agendas both in terms of the media and in academic literature, finding discursive practices becomes the norm.

When researching ‘evil’ women I aim to provide an analysis of how these women are portrayed within my chosen media articles and by adopting a critical stance I also aim to highlight what is missing within this arena. Although it is intrinsic to allow women the right to their experience, it is also important for researchers to acknowledge the fact that women are capable of committing violent crime. ‘Female actions, violent and non-violent may be

¹⁹⁷ Jewkes, Y., (2004), *Media and Crime: A Critical Introduction (Key approaches to Criminology)*, pg. 109.

read as intentional and legitimate responses to personal and structural forces'.¹⁹⁸ To take away the fact that women are indeed capable of violence and by replacing their violent tendencies with victim status, or psychiatric diagnosis takes away their agency as human beings and individual social actors and turns them again into victims. So although various feminists do look at the relationship between women and crime, it is becoming obvious that the relationship between cause, media, violence and public perceptions had been found wanting. I will aim to combat this in a hope that it may allow women their own individual place within society, violent or not.

Although we do see literature on case studies of 'evil' women (e.g. Seal;¹⁹⁹ Ballinger²⁰⁰) there seems to be a lack of research within the genre of media, crime, law and women and in particular in relation to those women deemed as 'evil'. With this in mind and my methodology proving to be invaluable, I investigate this lack of attention to 'evil' women and the media from 1870-1880 and in turn aim to bring about new evidence, discourses and knowledges within this arena.

Conclusion

Upon evaluating my findings I aim to attend to the gaps within the research and upon the wider societal issues involving the construction of 'evil' women within the media. With the media's somewhat monopoly upon societal beliefs I argue that society as a whole should be offended by these constructions. Women accused of violent crimes are judged to have transgressed two sets of laws: criminal laws and the laws of nature, therefore labelling them doubly deviant these women are doubly damned. These interpretations of women's violence only serve to hinder the ultimate and original feminist goal, that of equal right for both sexes.

¹⁹⁸ Morrissey, B., (2003), *When Women Kill: Questions of Agency and Subjectivity*, pg. 7.

¹⁹⁹ Seal, L., (December 2011), 'Ruth Ellis and Public Contestation of the Death Penalty', *The Howard Journal*, **50**, pg. 492.

²⁰⁰ Ballinger, A., (2000), *Dead Women Walking*.

I argue that this very construction of the doubly deviant woman serves to belittle women as it is nowhere proved what set role women must play within the 'laws of nature'. There may be various different factors and reasons surrounding the involvement in violence by women and these factors are taken into account. However nothing negates from the fact that women can be violent, whatever the 'laws of nature', gender norms, or the patriarchal dominant discourses say. Using a historical account of CDA and theorists such as Foucault I will aim to uncover discursive practices and challenge the legitimacy of these media reports and dominant discourses around the construction of 'evil' women.

Language analysis and the role of language within every discourse and situation as pertained to above, will form the basis of my research using this critical method. Although language can always be interpreted it is with this critical methodology I aim to provide deeper understandings of these interpretations and their causal factors within wider society. Using CDA from a historical perspective I aim to analyse, understand and ultimately strive to dismiss ideas brought about by the media that centre on inequality, injustice and dominance, especially in relation to 'evil' women and also highlight the need for such research from this critical perspective.

CHAPTER THREE

THE CASE STUDIES

MARY ANN COTTON (1832-1873)

It was July 1872 in West Auckland, when the first woman under investigation within this thesis; Mary Ann Cotton attracted the beginning of what was to be colossal media attention. Mary Ann was born in 1832 in a small mining town of Low Moorsley.²⁰¹ Mary Ann's family were of a low income social standing, her father a miner who found his death in the pit when she was 14 years old. Upon his death Mary Ann began her working life as a household maid.

The case begins with speculation over the deaths of various members of Mary Ann's family from 'gastric fever' spanning the vast majority of her adult life. A comment made by Mary Ann to the overseer of the village, a Mr Thomas Riley, regarding her stepson being placed into the work-house, was the catalyst for which the suspicion began. Upon Riley's resistance to admit the boy to the work-house without his mother she is said to have stated 't' won't matter, I won't be troubled long',²⁰² within the week the boy was dead. This coincidence led Riley to inform the police and so the 'West Auckland Poisoning Cases' ensued.

Mary Ann was pregnant at the time of her arrest and due to this; 'The case was partly opened, but the prisoner's condition would not allow her removal from Durham Goal, and as she was bedridden in December last, her trial for the murder of her son was adjourned to the Spring Assizes'.²⁰³ The paternity of Mary's unborn child also became a topic for discussion within the media 'The paternity of her unfortunate offspring has been a matter of much interest and

²⁰¹ Webb, S. & Brown, M., (2012), *Mary Ann Cotton: Victorian Serial Killer*, pg. 10.

²⁰² Watford Observer, 20th September 2007.

²⁰³ Auckland Times and Herald 17th January 1873.

speculation in the district'.²⁰⁴ 'The unfortunate offspring' would definitely infer the supposed inadequacy of Mary as a mother, which will be further examined within the trial.

With the adjournment of the court case comes the time lapse between arrest and trial and within this the media's speculation as to Mary Ann's innocence and also the defamation of her character: 'They only wait the wretched woman's recovery to proceed with the case'.²⁰⁵ The language used above by the media to portray the image of Mary Ann to the public is of a negative theme. The adjective 'wretched' in itself evokes images of witches and those with inferior qualities, miserable in nature and is a recurrent theme used to describe criminal women in this era. Evoking images of witches also emphasises Morrissey's argument around Mythification, Mary Ann is compared to a frightening creature, the aim of this to elicit harsh responses from the community and to distance Mary Ann from the other females in her society, ensuring her agency is denied.

Various newspapers set the pre-trial scene with their detailed accounts of Mary Ann's life previous to her arrest. The Darlington and Stockton Times begin with the officer in charge of her case: 'Tracing her step by step from girlhood, and even childhood at Murton Colliery through a career of wickedness and vice'.²⁰⁶ Here we can see that the speculation even before the trial constructed Mary Ann as guilty and her life was put under the intense media microscope. A letter sent to the Home Secretary by a concerned member of the public highlights the concerns regarding a trial by media. Enclosing various newspapers as evidence the writer states that his: 'object in drawing your attention to them is on public grounds only, that a person charged should not be prejudiced before trial'.²⁰⁷ Included was his opinion that

²⁰⁴ Auckland Times and Herald 20th February 1873.

²⁰⁵ Auckland Times and Herald 17th January 1873.

²⁰⁶ Darlington and Stockton Times, 5th October 1872.

²⁰⁷ **HO45/9314/14514** Letter in regards to the newspaper reports surrounding the Cotton case, 14th October 1872

the jury will be prejudiced and influenced by the overwhelming amount of media attention inflicted upon Mary Ann but he prays the jury ‘divest themselves of any such influence and give their verdict upon the evidence only as proved’.²⁰⁸

Women who choose poison as their weapon have, throughout history, been regarded as particularly despicable because their crimes could never be constructed as being due to a sudden and temporary loss of self-control.²⁰⁹ It is with this sudden loss that a total defence of self-defence or a partial defence of manslaughter or diminished responsibility can be used. Instead poisoning implies pre-meditation which suggests a cool, calm and rational killer. This contrasts undoubtedly and completely with the ideal of womanhood and the behaviour and conduct expected from females in this era.²¹⁰ ‘The horror of the female poisoner was probably sharpened by the idea of domesticity and the preparation of food being central elements within the woman’s separate sphere of behaviour.’²¹¹

The Trial of Mary Ann Cotton was highly awaited and publicised by the media due to the eight month time lapse between her arrest and the birth of her daughter. This is emphasised by the media:

*There was a crowded court on both days, and the interest taken in the case by the general public was evinced by the number of persons who assembled at the railway station, and also along the main route to the police station, to catch a glimpse of the prisoner on her arrival and return to Durham.*²¹²

The media coverage of the trial opens with the Magistrates and the additional charges of murder against Mary Ann. That of Joseph Natrass (her lover), Frederick Cotton (her fourth husband) and Robert Robson Cotton (her stepson). All of which, including the original

²⁰⁸ **HO45/9314/14514** Letter in regards to the newspaper reports surrounding the Cotton case, 14th October 1872

²⁰⁹ Ballinger, A., (2000), *Dead Women Walking*, pg. 165.

²¹⁰ Emsley, C., (1996), *Crime and Society in England*, pg. 156.

²¹¹ Ibid.

²¹² Auckland Times and Herald 27th February 1873.

charge of the death of her stepson, Charles Edward Cotton, were to be preferred against her at the Assizes.²¹³ Her appearance and demeanour in court was remarked upon:

She was still very firm and collected, she seemed considerably more careworn than when last under examination, and followed the evidence against her with almost painful earnestness and attention. She carefully tended her little baby during the entire day and with one exception, declined to ask a single question of any of the witnesses²¹⁴

Her apparent calmness in this life threatening situation seems to be incomprehensible to the reporters. It is prevalent within this discourse that women whom adhere to their preconceived gender ideals do better within the court house than those who do not. ‘How a woman looks is seen as somehow much more crucial to who she is: She is being seen first and foremost as a woman and women are judged to a large extent by their appearance’.²¹⁵ Helena Kennedy, discusses methods of appropriate attire in court in the last century, explaining that if they turn up in a ‘Marks and Spencer suit’ they will be dealt with rather differently than if they don ‘bovver boots’ and sport a ‘spiky’ hair do. Although these references apply to current themes, the appearance of women in court is judged today just as it was in the 1870’s.²¹⁶

A reason why Mary Ann seemed ‘earnest’ and did not ask any but one question to the witnesses brought before the court could infer that the situation was completely alien to her. Legal discourse is one of which claims to provide justice to all, however when this discourse is relayed through legal jargon and upper class superiority, those of other class backgrounds tend to get lost. Remaining mute can become the only option due to a complete lack of understanding and the desire to not come across ‘stupider’ than desired by the prosecution.

²¹³ Auckland Times and Herald 27th February 1873.

²¹⁴ Ibid.

²¹⁵ Lloyd, A., (1995), *Doubly Deviant Doubly Damned*, pg. 61.

²¹⁶ Ibid.

‘Even if those who possess low ranking knowledges are not disqualified as speakers, their account will be mediated until it can be heard through legal discourse.’²¹⁷

The desired account of Mary Ann as a hideous mother, capable of the murder of children is a contrast to the idea put forward by reporters of her ‘carefully tentative’²¹⁸ attitude towards her new-born baby in court. These contesting ideas of ideal motherhood and femininity are important in order to gauge what exactly IS on trial, her gender or her crimes? There were claims that Mary Ann ‘had a double belt and she beat him with it as long as she could stand, the prisoner then dashed the boy’s head against a door-post’.²¹⁹ These accusations, along with other claims by witnesses in court regarding Mary Ann’s over-zealous punishments came to light in her trial at Durham Crown Court. This evidence was used in order to portray Mary Ann as a capable criminal, however no evidence of bruising or any surface wounds were found on the boy’s body.²²⁰

The evidence given by people she was ‘friendly’ with, such as her cleaner, was completely over-ruled and directed away by both the prosecution and the trial judge allowing Mary Ann no favourable attention.²²¹ Upon all of the ‘evidence’ being submitted the judge firmly directed the jury and sent them down to contemplate Mary Ann’s fate. A little over an hour later they returned with a resounding guilty verdict, with which the judge donned his black cap:

Mary Ann Cotton you have been convicted, after a patient and careful trial, of this murder. You have had the benefit and assistance of counsel for your defence. The only option the jury can come to is that you are guilty: you have been found guilty of poisoning your step-son whom you ought to have taken care of. You seem to have been possessed by that delusion which

²¹⁷ Ballinger, A., (2000), *Dead Women Walking*, pg. 218.

²¹⁸ Auckland Times & Herald 27th February 1873.

²¹⁹ Auckland Times and Herald 6th March 1873.

²²⁰ Ibid.

²²¹ Ibid.

*sometimes takes possession of weak-minded people, wanting in proper moral and religious sense that they can perpetrate these offences unknown to their fellows. The offence of poisoning is one of the most deadly and detestable crimes that can be perpetrated, but by the providence of God it leaves behind it traces of presence, and brings just punishment.*²²²

With her sentence passed, Mary Ann ‘appeared overcome’²²³ and it was reported that she responded with only the words ‘I am not guilty’.²²⁴ Then when descending from the dock she became faint and was unable to walk unaided.²²⁵

Her religious and moral inclinations, along with her weak-mindedness and detestable choice of weapon were here highlighted by Justice Archibald upon passing her sentence, this allowed her to be judged as an ‘unrespectable’ member of the Victorian Christian Society (by a culture which valued upper/middle class ideals of appropriate behaviour). Therefore Mary Ann was judged as a failure and a threat to all of womankind: ‘By her criminal actions, the female offender in the Victorian period particularly, was seen as challenging the social position designated for women’.²²⁶

With the sentence of death passed upon ‘The West Auckland Poisoner’ the country awaited the fulfilment of the sentence upon Mary Ann Cotton. The media continued with their self appointed task; the deconstruction of her character and relieving Mary of her femininity insisting her non-compliance and disinterest in her fate: ‘Since her condemnation the demeanour of the unhappy woman has undergone little change, the same cold reserved manner being now apparent as during the time she was awaiting trial at the magistrates’.²²⁷ A letter written by Mary Ann was published, the newspaper in question choosing not to correct

²²² The Durham Chronicle, 8th March 1873.

²²³ Auckland Times and Herald, 6th March 1873.

²²⁴ Ibid.

²²⁵ The Durham Chronicle, 8th March 1873.

²²⁶ Emsley, C., (1996), *Crime and Society in England 1750-1900*, pg. 163.

²²⁷ Auckland Times and Herald 13th March 1873.

the ‘poor woman’s literary acquirements’.²²⁸ Emphasising her class location and lack of education, the letter itself is a plea from Mary to a gentleman of good standing in the village in which she lived for him to help save her life, throughout proclaiming her innocence.

Aside from the general consensus upon Mary Ann’s guilt there was an undercurrent of the public who believed in Mary Ann’s innocence, albeit had issues with the severity of her punishment and the evidence brought against her in court, allowing competing discourses and alternative ‘truths’ to be upturned. ‘Contrary to general expectation, efforts are being made to obtain a commutation of the sentence passed upon the wretched woman, Mary Ann Cotton who awaits her execution in Durham Gaol’.²²⁹ Again we see ‘wretched’ used as an adjective to describe a criminal woman; using this term heightens the diminishment of character and aims to direct away any feelings of empathy, removing Mary Ann’s agency.

A petition for a reprieve was being prepared in the Darlington and Barnard Castle area on the grounds that the evidence against Mary Ann was purely circumstantial, the fact that her child would be stripped of its mother, along with the fact that ‘questionable scientific evidence was un-challenged solely by reason of the poverty of the accused’.²³⁰ Here we see the intersection of class and gender; Mary Ann’s class location seemed to be a recurring theme when discussing her crimes and her character.

A petition on behalf of ‘respectable inhabitants of Sunderland’²³¹ was put forward by a Mr Frank Caws. It claimed that Mary Ann Cotton’s poverty prevented her from obtaining proper council at the trial and that evidence could have been preferred to show that the prisoner had

²²⁸ Auckland Times and Herald 20th March 1873.

²²⁹ Ibid.

²³⁰ **HO45/9314/14514** *Petition of inhabitants of Barnard Castle and Darlington on behalf of Mary Ann Cotton.*

²³¹ **HO45/9314/14514** *Petition of inhabitants of Sunderland on behalf of Mary Ann Cotton, 20th March 1873.*

faith in the use of arsenic as a medicine.²³² Mr Caws draws upon the fact that many doctors had previously administered arsenic to treat many ailments and states that, although its fatal consequences are now ‘unquestioned by modern science’,²³³ even medical men made mistakes. Therefore, even if proof was available that Mary Ann had administered the poison, a proof of her intent to murder would ‘still be wanting’.²³⁴ The intrinsic points put forward within this petition is that had Mary Ann had the benefit of money to acquire a defence, the above point along with her motive of which ‘they look in vain to find any’²³⁵ would have been ‘substantiated by direct evidence’.²³⁶ Petitions were also put forward by the inhabitants of Albert Hill, Darlington and Barnard Castle, all of which argued that Mary Ann was convicted on ‘purely circumstantial evidence’.²³⁷ Also that as a direct result of the sentence passed upon such circumstantial evidence ‘has spread a feeling of insecurity and alarm in the public mind’.²³⁸

Not only were petitions put forward by those who strongly disagreed with the court procedure ending in the capital sentence being passed on Mary Ann, but also by those who had previously employed Mary Ann and knew her on a personal and professional level. Her past colleagues prayed for the merciful consideration of their memorial as she was ‘always known to be a kind hearted woman’.²³⁹

The above petitions highlight the fact that there are competing discourses in play around the case of Mary Ann (as with all of the five women). These competing discourses allow for an alternative ‘truth’ or a subjugated knowledge to the one put forward by the media and the

²³² **HO 45/9314/14514** *Petition of inhabitants of Sunderland on behalf of Mary Ann Cotton, 20th March 1873.*

²³³ *Ibid.*

²³⁴ *Ibid.*

²³⁵ *Ibid.*

²³⁶ *Ibid.*

²³⁷ *Ibid.*

²³⁸ **HO45/9314/14514** *Petition of inhabitants of the town of Barnard Castle and Darlington on behalf of Mary Ann Cotton.*

²³⁹ **HO45/9314/14514** *Petition of those who had formally known or employed Mary Ann Cotton.*

legal system. All of the above petitions on behalf of Mary Ann were rejected by the Home Secretary and her execution was scheduled to take place at least three clear Sundays after the verdict on Monday the 24th March 1873 in Durham Goal; witnessed by prison officials and members of the press.²⁴⁰ The media claiming that ‘The crime for which the wretched woman was condemned to suffer was, it is only too certain, one of a series of crimes extending over a period of twenty years’.²⁴¹ Opening their reports on Mary Ann’s execution with the justification of her punishment, implying their version of ‘truth’ with no confession and a mere goal of legitimising capital punishment, the media attempted to outright damn Mary Ann Cotton. Discussions followed relaying details of how she aimed to slowly kill her victims with small doses of arsenic to prolong their pain and suffering and the cunning required of the female poisoner.

A detailed historical account of Mary Ann’s ‘criminal career’ followed, delving into every aspect of her life. Included in this was an account of how she spent her last hours, accompanied by a report on the pre-execution visits, which came from her family members.

The dominant discourse of the media set the scene with an account of what they (and unfortunately what their readers may) perceive as ‘truth’ and allow the readers to negate their feelings of sorrow for Mary Ann and to justify her condemnation to death, stripping her of any legitimacy.

The execution itself went without ‘hitch’. It was reported that upon walking to the scaffold it was Mary Ann who came out of the gates first: ‘walking, her head erect, and a little thrown back, and with a firm step but with a deadly pallor upon her countenance and a fixed

²⁴⁰ Auckland Times and Herald 27th March 1873.

²⁴¹ Ibid.

determined expression, which showed that a depth of passion was working within her'.²⁴² Implying an air of importance upon a woman of such a low income group and, taking into account her accused crimes allowed the media to evoke disgust in their readers. Upon walking to the gallows with her head held high: 'The wretched woman had hardly been on the platform half a minute before she was launched into eternity',²⁴³ death apparently being instantaneous.

No confession came from Mary Ann, however the Reverent tasked to gain such a confession claimed she had made various comments but not 'directly confessed her guilt'.²⁴⁴ Throughout Mary Ann's and the other four cases it became apparent that it was commonplace to make references to supposed confessions because it added legitimacy to State executions,²⁴⁵ giving them not only a legal justification but also a religious one. In this period of Victorian England, religion was an extremely popular and even desired discourse seen to hold a moral basis within legal decision making.

From the very beginning of the allegations made against Mary Ann Cotton it becomes clear to see that speculation within both the media's account and within the courthouse regarding her unsuitable femininity casts doubts upon her innocence. Her supposed inadequacy as both a mother and wife, paired with the charges against her, go against all the Victorian ideals of femininity (good wife, good mother, caring, selfless, domesticated, passive and monogamous). A wretched and uneducated character, capable of the most detestable crime of poisoning is portrayed therefore separating Mary Ann from the rest of society and denying

²⁴² Auckland Times and Herald 27th March 1873.

²⁴³ Ibid.

²⁴⁴ Ibid.

²⁴⁵ Ballinger, A., (2000), *Dead Women Walking*, pg. 220.

her agency.²⁴⁶ This portrayal goes from the pre-trial stage all the way through to the gallows and questions what exactly was on trial; her crime or her gender ‘failures’?

The fact that Mary Ann failed to communicate through the dominant mode of expression; in this case legal discourse, only served to further criminalise her, in turn adding further speculation and rendering her silent. Mary Ann was unable to voice her concerns but through petitions found in The National Archives it became apparent that there was a group of people within Victorian society of the latter Nineteenth Century who campaigned for the commutation of her sentence on the back of circumstantial evidence. This group of people form examples of competing discourses and subjugated knowledges; not an expert, nor a scientific knowledge which gain credibility through their claim to ‘truth’, but a personal knowledge of the situation, or experience in which Mary Ann found herself or concerns as to how a fair trial could have been given. These subjugated knowledges, although lower ranking than the dominant discourses of the media and the legal system surrounding Mary Ann’s case employ an alternative ‘truth’ and important insight into the issues surrounding the trials and sentencing of these five criminal women.

²⁴⁶ Ballinger, A., (1996), ‘The Guilt of the Innocent and the Innocence of the Guilty: The Cases of Marie Fahmy & Ruth Ellis’, in Myers, A. & Wight, S., *No Angels: Women Who Commit Violence*, pg. 2.

MARY ANN BARRY (1843-1874)

Mary Ann Barry is another nineteenth century example of this female poisoner or the black widow, a comparative, which is still alive in discourse today; the female of the species is deadlier than the male.²⁴⁷ Arrested alongside her employer Mr Edwin Bailey in September 1873 for the wilful murder of Bailey's illegitimate child, he was committed as principle in the offence and she as an accessory before the fact.

It was claimed that Mary Ann had struck up a relationship with the mother (Susan) of Bailey's illegitimate child (Sarah), with intention to find out the paternity of the child (that of which the married Bailey denied outright). Mary Ann visited Susan and Sarah and was said to 'take a deep interest in the child and came to see it two or three times a week, sometimes bringing it cakes and socks, on one occasion she took a lock of the child's hair'.²⁴⁸ The deep interest in the child did not spark any suspicion as Mary Ann, upon having a conversation with the grandmother of the child had claimed, 'the reason she had such an affection for the child was that it bore such a resemblance to one she had buried at Brighton'.²⁴⁹

The media claimed that using her supposed grief and general helpfulness, Mary Ann managed to infiltrate the family and recommended the Dorcas Society (which is an association generally composed of ladies for supplying clothes to the poor) to help with the plight of this low income struggling family. Using her 'supposed grief' and femininity to infiltrate the family, Mary Ann is portrayed as a monster from outside society, threatening the mainstream and here her monsterization ensures her agency is denied.²⁵⁰ Sarah had previously been teething and been in some discomfort due to this ailment. Mary Ann

²⁴⁷ Jewkes, Y., (2004), *Media and Crime: A Critical Introduction (Key approaches to Criminology)*, pg. 113.

²⁴⁸ The Cheltenham Examiner 17th September 1873.

²⁴⁹ Ibid.

²⁵⁰ Morrissey, B., (2003), *When Women Kill: Questions of Agency and Subjectivity*, pg. 25.

recommended Steedman's Powders, which relieve the pain of teething in babies however, the family professed their inability to afford such items. Within weeks' the family received a letter in 'ladies handwriting'²⁵¹ proposing to be from a member of the Dorcas Society with 'a shillings worth of postage stamps and three powders marked 'Steedman's Powders'.²⁵² When the child became restless the powders were prepared and administered, 'The baby resisted at first and began screaming, and died within ten minutes afterwards'.²⁵³ Upon examining the remaining powders' the analyst for the county of Gloucester concluded that 'the powder which I have analysed bore no resemblance at all to Steedman's Powders. I should think the Steedman's Powders had been turned out from the paper and some vermin killer inserted in its place'.²⁵⁴ With this evidence both prisoners were then remanded for a week in order for further evidence against the couple to be formulated.

Here again is a demonstration of the media's ability to set the scene and pick out the relevant players, even before the trial has taken place. All of the above is purely circumstantial evidence against Mary Ann, the letter being written in so called 'ladies handwriting',²⁵⁵ the fact that she had taken a shine to the child and recommended help for the family does not profess her guilt. However, upon reading these select newspapers previous to a 'fair' trial, they evoke visions of an adulterous, scheming, vindictive tag team.

The trial of Mary Ann Barry was less publicised than the one of Mary Ann Cotton set out above due to the circumstances and the sheer amount of victims. However, the poisoning theme remains the same for both women. The media's observations of this case open with the inquest into the death of the baby where 'Edwin Bailey was brought up on remand, charged

²⁵¹ The Cheltenham Examiner 17th September 1873.

²⁵² Ibid.

²⁵³ Ibid.

²⁵⁴ The Weekly Times 28th September 1873.

²⁵⁵ The Cheltenham Examiner 17th September 1873.

with having feloniously and wilfully murdered Sarah Jenkins and Mary Ann was charged with being an accessory before the fact'.²⁵⁶ Again there was great interest in this 'mysterious' case and the court was full of people who watched the proceedings with great interest.²⁵⁷

This inquest surrounded the evidence given by John Horsley, the County Analyst, regarding the contents of the Steedman's Powders administered to the baby. Although he was sworn in his evidence was flawed. When cross examined by the defence and asked whether he was in a position to state what the child had died from his response was 'I cannot state strictly and positively: but judging from the symptoms, I should think it was strychnine.'²⁵⁸

When the case was heard in the County Court Mary Ann was charged with aiding and abetting murder but pleaded not guilty. The trial lasted just two days and upon conclusion Barry's defence approached the jury with his summing up: 'The evidence against her was of such weak and miserable description that he hoped, he might say he was sure, they would not dream of hanging her'.²⁵⁹ However, with all of the 'facts' being before them the jury still found both Bailey and Barry guilty of murder.²⁶⁰ The trial Judge in his summing up recommended Bailey to mercy and strongly recommended Mary Ann to mercy, his lordship passed sentence of death, in the normal form.²⁶¹

Nothing Mary Ann said incriminated Edwin Bailey, or in fact helped her position.²⁶² At this stage we are left wondering what, in fact, Mary Ann's motive was in helping Bailey and

²⁵⁶ The Cheltenham Examiner 1st October 1873.

²⁵⁷ Ibid.

²⁵⁸ Ibid.

²⁵⁹ Ibid.

²⁶⁰ The Weekly Times 28th December 1873.

²⁶¹ The Cheltenham Examiner 24th December 1873.

²⁶² Clark, R., (2007), *Women and the Noose*, pg. 149.

again, as in the previous case, whether this trial surrounded her alleged crime or her failure to perform to her gender expectations.

Mary Ann Barry's execution was not by any means as anticipated as the one of Mary Ann Cotton, at that it was not even an exclusive one. Mary Ann was hanged in Gloucester Goal beside her co-accused Edwin Bailey and also a Charles Butt, convicted of shooting his sweetheart. 'Subsequently to the trial the most strenuous efforts had been made to obtain a commutation of the capital sentences'.²⁶³ Mainly on behalf of the co-accused Edwin Bailey, his social standing and his position within the community was proving to be valuable.

Solely for Mary Ann, even with the fact that she was convicted as an accessory, the petitions were slim on the ground. However, a petition raised by inhabitants of Gloucester allowed for an alternative 'truth' for Mary Ann and claimed that the evidence against her was purely circumstantial and that due to the fact that she was an accessory rather than the main perpetrator, a commutation of the sentence was prayed for, 'her guilt is not so conclusive as to warrant the infliction of the irrevocable punishment of death'.²⁶⁴ Mary Ann's lack of education was also highlighted as a reason for a commutation of her sentence by the inhabitants of Gloucester and she was described as: 'A woman of imperfect education'²⁶⁵ and being so could have been unaware of the effects of strychnine, or even know what strychnine was. The petition prayed for the recommendation of mercy of the jury to be upheld, not only on the grounds of circumstantial evidence but also that Mary Ann was not the principle offender, she was always 'under the influence of Bailey',²⁶⁶ a man whom they claim was of

²⁶³ The Manchester Guardian 13th January 1874.

²⁶⁴ **HO45/9356/29884** *Petition of inhabitants of Gloucester on behalf of Mary Ann Barry, 28th December 1873.*

²⁶⁵ **HO45/9356/29884** *Petition of inhabitants of Gloucester on behalf of Mary Ann Barry 28th December 1873.*

²⁶⁶ *Ibid.*

‘a violent temper’.²⁶⁷ To be ‘under the influence’ of Bailey is again to deny Mary Ann’s individual agency. Victimism denies the responsibility, culpability, rationality and agency of the female killer, almost insisting that Mary Ann had never engaged in an intentional act in her life. This technique of denying agency hinders the progress of challenging stereotypical attitudes to criminal women.

However as in the case of Mary Ann Cotton, the Home Secretary had ‘declined to interfere’.²⁶⁸ Bailey having employed a lot of his time recruiting friends to try and get together this reprieve, it was said that ‘the woman Barry had no friends’.²⁶⁹ Again the media set the scene, reminding their readers of the case against Mary Ann, including themes such as the ‘revolting’ and complicated character of the crime. Finding it important to include the fact that ‘Barry’s husband is in gaol on a charge of felony’²⁷⁰ implying that this criminal personality must be present within both members of the couple.

Mary Ann and Bailey apparently confessed their crimes to the prison chaplain the Sunday before the execution, again adding legitimacy to the punishment ahead of them. At the gallows Mary Ann was to be hanged in between the two men and approached the scaffold calmly and collectively. Upon the noose being placed over her neck the chaplain later revealed that she said she had ‘dreamt she would die like this’.²⁷¹ It was reported that Mary Ann had struggled, her life being put to an end with the executioner pushing down hard upon her shoulders.

²⁶⁷ Ibid.

²⁶⁸ The Manchester Guardian 13th January 1874.

²⁶⁹ The Manchester Guardian 13th January 1874.

²⁷⁰ The Manchester Guardian 13th January 1874.

²⁷¹ <http://www.capitalpunishmentuk.org/barry.html>

Again the presence of a confession and it being in the presence of a religious cleric at that, sought to legitimise Mary Ann's punishment to all who read the media prints at the time.

It was witnesses such as the County Analyst that gave the damning evidence, although his evidence was not based on any certain fact and was in fact his opinion, Mary Ann's account was subjugated in favour of his dominant knowledge and therefore his account was taken as 'truth'. Again her 'failure' to perform her gender to the required standard in Victorian England, paired with the fact that Mary Ann was accused of using her supposed grief at the death of her own child to infiltrate the family, allowed the media to evoke disgust amongst readers at a cold and calculating monster. The legal system then legitimised the media's claims with the passing and fulfilment of the death sentence. The fact that Mary Ann was an accessory before the fact regarding the murder of Sarah, together with the jury's strong recommendation to mercy seems to be irrelevant to the Home Secretary and the sentencing reflects this. It is here where one can question the true application of Victorian 'justice' in relation to criminal women.

FRANCES STEWART (1831-1874)

Vindictive will certainly have been a phrase used by Joseph Scrivener to describe his 43 year old mother-in-law, Frances Stewart in June 1874. Frances was a widow who lived with her daughter, son-in-law and their child Henry. There is no account as to whether Frances was a working woman, but it is apparent that she was at a deprived level within the social classes. Following a quarrel with Joseph, (due to the chicken pen door being left open) Frances in a state of 'excitement' went on a three day excursion with her one year old grandson, Henry, in tow. This argument, according to the media reports at the time was a long time coming. Frances' drinking habits were seen to have caused many a confrontation within the household and she had been asked to leave previous to the said quarrel.

The deviation due to her aforementioned drinking habits from that of the ideal 1870's feminine will have done Frances no favours in the eyes of the public, the media and the law and she was, in turn, in this pre-trial period, cast as a failure in the crucial area of domesticity.²⁷² Frances' agency was also denied due to her worse than average drinking habits, turning her into a woman outside of society rather than a member of society. She loses her humanity and is seen as a threat to the mainstream, she had acted, but not as a Victorian woman.²⁷³

Various letters were written by Frances within this time the first of which suggesting that she may drown herself and the baby. This letter was received by Joseph who promptly took it to the police. A second letter was then received by Frances' other daughter Caroline, claiming that she had 'done a murder and I want you to give me into the hands of the police.'²⁷⁴ A search ensued for Frances and the boy, resulting in her handing herself in to the authorities,

²⁷² Ballinger, A., (2000), *Dead Women Walking*, pg. 203.

²⁷³ Morrissey, B., (2003), *When Women Kill: Questions of Agency and Subjectivity*, pg. 25.

²⁷⁴ The Daily News 11th June 1874.

minus Henry. Upon interview she stated ‘I had no intention to cause the death of the child.’²⁷⁵ However, the letter previous to the child’s death and the one received after the act would suggest otherwise. This confusion and fluctuation in the mind of Frances is apparent throughout her case.

The Central Criminal Court or The Old Bailey was the choice for the proceedings of the case against Frances Stewart or ‘The Murderous Grandmother’ as she was known within the media. ‘Frances Stewart, 43, a widow, was indicted for the wilful murder of her grandson, she pleaded not guilty.’²⁷⁶ Her drinking habits being a common theme within the media, negating her suitable femininity and stripping her of agency.²⁷⁷

The case ensued with the examinations of the letters sent by Frances. Her daughter, (Henry’s mother) confessing that Frances had ‘always been very fond of the baby’²⁷⁸ and that since her arrest Frances had admitted her offence. Claiming that there had been nowhere to sit down and having been walking all day and needing to rest, she had leant on one of the bridge supports, Henry then slipping from her arms and falling into the river below.²⁷⁹ However the judge disallowed this evidence, given that it was said whilst Frances had been in prison, silencing any possible counter constructions. Upon his summing up the Judge Justice Blackburn pointed out to the jury that they were to:

*Simply ascertain whether, according to the evidence, they were satisfied that the prisoner wilfully and intentionally caused the death of the child...and that there was no middle course in this case, and that the death of the child was either the result of an accident or a deliberate murder. The hypothesis of manslaughter must be entirely dismissed from their minds.*²⁸⁰

²⁷⁵ The Daily News 11th June 1874.

²⁷⁶ The Times 11th June 1874.

²⁷⁷ The News of The World 14th June 1874.

²⁷⁸ Ibid.

²⁷⁹ The Times 11th June 1874.

²⁸⁰ Ibid.

A statement made by Frances before the Magistrates highlights the fact that although she was very fond of the child and after her admission of the act, a perversity of mind may have been present: ‘She had taken away the child to make her sons’ heart ache as he had made hers.’²⁸¹ Does this statement admit that she meant to take him away or to take away his life? The jury believed the latter and after a mere twenty minutes the guilty verdict was passed with a STRONG recommendation to mercy on the grounds of her age, her recent widowhood, her known love for the baby boy²⁸² and of the ‘great mental excitement under which she suffered when she committed the deed.’²⁸³

Justice Blackburn donned the black cap and passed the death sentence, however his own belief was that: ‘She did not intend any ill will to the child at the time she removed it, but that some strange perversity of mind subsequently induced her to commit the crime.’²⁸⁴ If intention is needed in order to commit a murder, a perversity of mind would infer intention was never there, but Victorian ‘justice’ prevailed. Upon the Judge passing the sentence ‘she did not seem in the slightest degree affected by what had taken place.’²⁸⁵ Does this seem the rational reaction from a fully functioning person fully aware of her position and condemned to death? The fate of Frances Stewart was sealed upon the jury’s passing of the guilty verdict as the ‘Home Secretary, acting upon his view of the case, (even with the perceived perversity of mind) decided that the law must take its course.’²⁸⁶

Although there were no media reports regarding any effort for a reprieve on her behalf, a great deal of effort had been made by members of her neighbourhood, various agencies, as well as her immediate family to provide an alternative ‘truth’. Again, this alternative ‘truth’

²⁸¹ The Times 11th June 1874.

²⁸² Clark, R., (2007), *Women and the Noose*, pg. 152.

²⁸³ Old Bailey Proceedings Online Ref:t18740608-418

²⁸⁴ The Times 11th June 1874.

²⁸⁵ The Daily News 11th June 1874.

²⁸⁶ Ibid.

provides a challenge to the dominant discourses of the media and the law and allows for subjugated knowledges to be heard.

Henrietta, Frances' daughter, had written a lengthy letter to the Home Secretary begging for a commutation of her sentence claiming that: 'from the time of the deceased child's birth Frances had always been devotedly attached to it'.²⁸⁷ That she had been a model grandmother, 'nursing the child and exhibiting the strongest affection for it'.²⁸⁸ Henrietta also discusses Frances' excessive drinking habits nine years prior to the incident as having 'seriously disturbed her judgement'²⁸⁹ and that it was solely through the effects of this habit that Frances came to leave her home and take the child with her.²⁹⁰ Henrietta states that otherwise (the drinking aside) Frances would act in a 'manner so purposeless and maternal'²⁹¹ that she could not have deliberately intended to commit murder. The petition argued that a 'disturbance of judgement or morbid condition of mind increased and developed by irregular and insufficient food and sleep, and by remorse for her foolish act of taking the child away whom she could not protect as she would'²⁹² led Frances to conduct herself in a manner which to 'sane and sober persons seems, unaccountable'.²⁹³ Here, as with Mary Ann Barry, we see the Victimism technique to deny agency in play. Henrietta's petition seems to claim that Frances had never undertaken an intentional act in her adult life. Every aspect of her criminality is replaced with complete denial of any culpability or rationality in order to attempt to explain her behaviour. Unfortunately, (although this may work today in order to reduce sentences) this technique serves to hinder the challenges to negative stereotypes of women.

²⁸⁷ **HO45/9362/33987** *The humble petition of Henrietta Schivener on behalf of Frances Stewart 15th June 1874.*

²⁸⁸ Ibid.

²⁸⁹ Ibid.

²⁹⁰ Ibid.

²⁹¹ Ibid.

²⁹² Ibid.

²⁹³ Ibid.

Upon the death of the child, Henrietta argues that this event caused a sudden change in Frances' state of mind as she went straight to her other daughter's home to confess the accident, however, 'not noticing the legal meaning of the words'²⁹⁴ said, 'I have murdered the dear child'.²⁹⁵ Frances, not being aware of the deeper meanings within the law and seemingly admitting intent by using the word 'murder' subsequently explains that it was not a wilful act but an accidental one that caused the death of the child.²⁹⁶ Henrietta describes a great hope that her petition will be considered, together with the strong recommendation to mercy by the jury.

A Mr R.B Walker also writes to the Home Secretary in favour of a commutation of Frances' sentence, hoping that the national feelings of humanity will be received and that in future 'may no woman be executed'.²⁹⁷

The Howard Association also stepped in and one of its representatives, Mr William Tallack, sent a memorial to the Home Secretary listing reasons for a commutation of Frances' sentence. The first of which being that 'there is grave and solid reason to doubt whether she committed murder as a simple matter of fact'.²⁹⁸ The fact that there were no witnesses to the act paired with the very circumstantial evidence poses a problem for Mr Tallack regarding the Jury's verdict; he claims that the verdict was 'not a strong one'.²⁹⁹ To recommend Frances to mercy on account of her age was clearly irrelevant in relation to the charges against her and

²⁹⁴ **HO45/9362/33987** *The humble petition of Henrietta Schivener on behalf of Frances Stewart 15th June 1874.*

²⁹⁵ Ibid.

²⁹⁶ **HO45/9362/33987** *The humble petition of Henrietta Schivener on behalf of Frances Stewart 15th June 1874.*

²⁹⁷ **HO45/9362/33987** *Letter to the Home Secretary from R.B.Walker in favour of Frances Stewart and regarding the capital sentence and women.*

²⁹⁸ **HO45/9362/33987** *Letter to the Home Secretary from William Tallack in favour of a commutation of the sentence passed on Frances Stewart.*

²⁹⁹ Ibid.

he believes that ‘the jury hoped that it would result in something short of capital infliction’.³⁰⁰

The main theme within this memorial is that Frances should be afforded the ‘benefit of the very grave and justifiable doubt which it is to as to her having committed ‘murder’ at all’.³⁰¹

Rev J Blacks also wrote to the Home Secretary in favour of a commutation for Frances, after reading the authorised short hand minutes from the words of the jury, his conclusion was that ‘death should be reserved for crimes indefinitely wilful and deliberate’.³⁰²

Again the scene was set by the media, just in case the readers were unaware of the case and the legitimising processes were also in flight. Throughout her imprisonment it was reported that Frances had behaved in a very becoming manner, resigned to her fate and writing letters, one of which begging for her daughters forgiveness. Not needing any further confessions due to Frances’ demeanour in court and her partial confession therein, however the denial of any intent. Upon the ascent from her condemned cell to the scaffold it was reported that: ‘The wretched woman exploited extraordinary fortitude at the last moment’³⁰³ and throughout her ordeal. It was also believed that: ‘Her struggles after the drop fell were momentarily prolonged by some unfortunate twisting of the rope’.³⁰⁴

Frances suffered the extreme penalty of the law,³⁰⁵ even when her crime would imply it was not that of a person in complete control of their actions and even when the legal system itself deemed her as having some kind of perversity of mind. This does not, even in the Victorian era, seem like the application of ‘justice’.

³⁰⁰ Ibid.

³⁰¹ **HO45/9362/33987** *Letter to the Home Secretary from William Tallack in favour of a commutation of the sentence passed on Frances Stewart.*

³⁰² **HO45/9362/33987** *Letter from Reverend J Blacks in favour of a commutation of Frances Stewarts’ sentence, 26th June 1874.*

³⁰³ Lloyds Weekly London Newspaper 5th July 1874.

³⁰⁴ The Times 30th June 1874.

³⁰⁵ The News of The World 5th July 1874.

SELINA WADGE (1850-1878)

The death of a child also brought Selina Wadge into the public domain in June 1878. Selina was a 28 year-old unmarried woman at the very bottom of the Victorian social spectrum. She had two illegitimate children and ‘the depositions also reveal that she was homeless.’³⁰⁶ One of those children, Harry, was partially crippled and relied solely on Selina to survive. She had also been in and out of workhouses however, Harry’s disability was an obvious problem within the dank conditions of the workhouses and the only time she could work was if she could find someone to look after Him. Selina had a lover named James Westwood whom she had been liaising with for months prior to the death of Harry. It was during one of these liaisons that Harry went missing. Selina and her two boys had gone to a neighbouring town to meet with Westwood, but only Selina and her eldest son John returned. Upon returning to the workhouse and being questioned regarding Harry’s whereabouts Selina claimed he had ‘died from throat disease’.³⁰⁷ When further questions came her way Selina crumbled and panicked and decided to blame Westwood for Harry’s demise, claiming he threatened her life and that of John’s too.³⁰⁸

Harry’s body was discovered at the bottom of a thirteen-foot well shaft, the top of which had been covered, therefore accidental death was immediately ruled out.³⁰⁹ Selina also claimed upon her arrest, that Westwood had persuaded her to kill Harry on the promise he would marry her if she did.³¹⁰ With the homeless Selina’s unfortunate social and economic position, she may have seen marriage as the only way for her to make a decent life for herself and her children. Pre-trial media constructions of Selina centred not only on her crime, but the

³⁰⁶ Hadger, T., (2008), ‘Compassion and Indifference: The Attitude of the English Legal System Toward Ellen Harper and Selina Wadge, Who Killed Their Offspring in the 1870’s’, *Journal of Family History*, **33**(173), (Originally published online 14th February 2008) pg. 183.

³⁰⁷ The Daily News, 29/07/1878.

³⁰⁸ The Manchester Guardian, 29th July 1878.

³⁰⁹ www.capitalpunishment.org/wadge.html.

³¹⁰ The Manchester Guardian, 29th July 1878.

presence of a lover as well as the fact that she had illegitimate children, serving to portray yet another failure to attain appropriate standards of womanhood.

The trial of Selina Wadge at Cornwall Assizes, compared to the four others in this research, received the least amount of media attention. However, the portrayal of Selina, her femininity, her sexuality and her social position proves to be rife with judgements.

Selina's original claim that James Westwood had committed the crime worked against her within the courthouse. Westwood was present at the trial and questioned by both the prosecution and the defence, his account gained more credibility than Selina's as he had served thirteen years within the military,³¹¹ whereas Selina was a homeless mother of two illegitimate children undertaking in a sexual relationship outside of marriage. I argue that it was these factors that determined Selina's penalty not the actual murder of her son.³¹²

The media found the fact that Henry was Selina's illegitimate child essential information; 'Selina Wadge, 27, single woman, was charged with the wilful murder of her illegitimate child, Henry Wadge'³¹³ and again: 'She had two illegitimate children'³¹⁴ this being perceived as a threat to the Victorian patriarchal ideals of womanhood. Although both of Selina's children were illegitimate it was highlighted by witnesses for the defence that 'the prisoner had always been a kind and affectionate mother to both children, particularly the deceased, who was lame and unable to stand by himself'.³¹⁵

³¹¹ Hadger, T., (2008), 'Compassion and Indifference: The attitude of the English Legal System toward Ellen Harper and Selina Wadge, who killed their offspring in the 1870's', *Journal of Family history*, 33(173). (Originally published online 14th February 2008) pg. 183.

³¹² Ibid.

³¹³ The Daily News 29th July 1878.

³¹⁴ The Manchester Guardian 29th July 1878; Lloyds Weekly London newspaper 04/08/1878

³¹⁵ <http://www.robshistory.co.uk/Selina-Wadge.php>

The fact that the trial focused, to a large extent, upon the illegitimacy of Selina's children and the conduct of her relationship with Westwood, the jury was 'horrified by Selina's rebellious sexuality and her supposedly promiscuous behaviour ... (and she continued to do this) without repenting her sins or changing her ways'.³¹⁶ Therefore, the jury found Selina guilty of the murder of Harry, but added a recommendation to mercy on the grounds that the prisoner had always been very kind to her children and they believed she had not long pre-meditated destroying the deceased.³¹⁷

It was reported that 'The prisoner seemed perfectly unconcerned throughout the trial'.³¹⁸ This could (as was the result of many situations where a less educated member of society was placed in the dock) be an example of the language barriers presented before them and in turn served to disqualify Selina as a speaker due to her non-conformity to legal discourse.

The Trial Judge Mr Justice Denman then advised Selina that she should 'not entertain any hope of a remission of the death sentence'.³¹⁹ It was then reported that she was 'in agonies of distress'.³²⁰ It could be argued that the verdict itself threw Selina into this agony as the death penalty and the feared infamous adornment of the black cap could have been the only thing throughout the trial that she actually understood.

However it must be articulated that even though Selina was at the very bottom of the Victorian social spectrum we must not allow the technique of Victimism³²¹ to remove her agency. Victimism insists upon the powerlessness of the oppressed, however Selina was

³¹⁶ Hadger, T., (2008), 'Compassion and Indifference: The attitude of the English Legal System toward Ellen Harper and Selina Wadge, who killed their offspring in the 1870's', *Journal of Family history*, **33**(173). (Originally published online 14th February 2008) pg. 183.

³¹⁷ Lloyds Weekly London newspaper 4th August 1878.

³¹⁸ <http://www.robshistory.co.uk/Selina-Wadge.php>

³¹⁹ Lloyds Weekly London newspaper 4th August 1878.

³²⁰ Ibid.

³²¹ Morrissey, B., (2003), *When Women Kill: Questions of Agency and Subjectivity*, pg. 25.

capable of the murder of her son and this must be highlighted in order to avoid ongoing societal attitudes to women who kill and to afford them their agency.

Due to the fact that Selina had made a confession that it was her who dropped Harry into the well, a forced confession was not necessary in her case. Appeals for commutation of the sentence had been received from all over the country and sent to the Home Secretary³²² providing an alternative ‘truth’. Up until the actual morning of the execution it was hoped that a reprieve would arrive for Selina, but to no avail. As was the case with the last three women above the Home Secretary declined to interfere in the case.³²³ It was around this time that the press were no longer allowed into the sheds to witness the executions and had to do so from outside. ‘The proceedings were conducted with the utmost privacy even the representatives of the press being excluded’.³²⁴ Selina ‘sobbed greatly’³²⁵ as she was escorted from her cell to the scaffold and as she mounted the steps it was reported that she said ‘Lord deliver me from this miserable world’³²⁶ and holding firmly in her hand a pocket-handkerchief,³²⁷ Selina was dispatched from this world.

The trial and consequent execution of Selina Wadge clearly demonstrated the Victorian hypocrisy that made women’s respectability conditional on asexual behaviour while severely judging women who did not obey these social norms and rules, particularly if they were poor.³²⁸

³²² The New York Times 29th August 1878

³²³ The Manchester Guardian 16th August 1878

³²⁴ The Daily News 16th August 1878

³²⁵ Lloyds weekly London Newspaper 18th August 1878

³²⁶ Ibid.

³²⁷ Ibid.

³²⁸ Hadger, T., (2008), ‘Compassion and Indifference: The attitude of the English Legal System toward Ellen Harper and Selina Wadge, who killed their offspring in the 1870’s’, *Journal of Family history*, **33**(173). (Originally published online 14th February 2008) pg. 183

CATHERINE (KATE) WEBSTER (1849-1879)

Another example of the deviation from her scripted gender role and a woman coming from the bottom of the social spectrum is that of Catherine (Kate) Webster. The Irish born Kate was an ‘incompetent career criminal, who had served several prison terms for various thefts and offences of dishonesty.’³²⁹ Kate moved from Ireland to England when she was very young and undertook various posts as a cleaner, housekeeper and maid and, in between these jobs, served various prison sentences and had been in a female refuge.³³⁰ Kate had one illegitimate child, which she left in the care of a fellow servant when she was in and out of gaol.

In January of 1879 Kate entered the service of Mrs Julia Martha Thomas, a well to do widow who resided in a nice area of Richmond, London. Kate and Mrs Thomas were reported to have got on well at the beginning of their employee/employer relationship, however this did not last long when Mrs Thomas took offence to Kate’s ‘drinking habits’; preferring Kate to be sober.³³¹ This eventually concluded with Mrs Thomas giving Kate her notice of termination of their working arrangement, of which was reported, Kate did not take kindly. On her return home from the local church on March 2nd 1879 Mrs Thomas was never seen alive again. Speculation as to remains found in a box floating on the Thames River near Barnes set the media away on ‘The Barnes Mystery.’³³²

The defamation of Kate’s character is also a prevalent theme in all of the pre-trial media accounts: ‘A perfect virago and tyrant, who, from her mode of acting, would warrant the

³²⁹ <http://www.capitalpunishmentuk.org/webster.html>

³³⁰ Ibid.

³³¹ <http://www.capitalpunishmentuk.org/webster.html>

³³² Lloyds Illustrated 30th March 1879.

supposition that she would not brook opposition being offered to her.³³³ In sharp contrast to the defamation of Kate's character, Mrs Thomas was portrayed as almost a heroine: 'A genuine lady, ever endeavouring to please all about her, even in the midst of her depression of spirits, she was so naturally disposed to be charitable that I can conceive of no motive short of a desire for money which could have induced the design of taking her life'.³³⁴

Kate's physique was also mentioned in that her past occupation as a laundress was an occupation for which she was well fitted by her brute strength.³³⁵ Women who kill are also, in addition to their sexuality, subjected to intense scrutiny regarding their physical appearance.³³⁶ A pre-trial picture of Kate as a brutal Irish murderess with no remorse is painted by the media and remains throughout her trial. The Irishness being of importance in 1870's England; as being Irish went hand in hand with a stereotype of being stupid and also criminal. The technique of Mythification³³⁷ works here to deny Kate's agency. She is described as a 'wretched Irish woman' which serves to increase fear and elicit harsh responses from both the law and the community. This strategy to deny agency distances Kate from her society very effectively³³⁸.

The Old Bailey was again the choice for proceedings in the case against Catherine (Kate) Webster. Again having gathered great public and media interest in the case: 'large crowds assembled to see her depart'.³³⁹ It was reported that Kate was anxious to avoid the public and

³³³ Ibid.

³³⁴ Lloyds Illustrated 30th March 1879.

³³⁵ Ibid.

³³⁶ Jewkes, Y., (2004), *Media and Crime*, pg. 118.

³³⁷ Morrissey, B., (2003), *When Women Kill: Questions of Agency and Subjectivity*, pg. 25.

³³⁸ Ibid.

³³⁹ Lloyds Illustrated 06th July 1879.

media gaze, becoming very distressed when having to part from her ‘illegitimate’ son as he would most likely be placed into an industrial school.³⁴⁰

Initially Kate put in her official statement, which opens the trial, accusing a Mr Church, an ex-serviceman of the murder of Mrs Thomas. The media step in here and Kate’s appearance is compared to that of Church’s:

The woman, rather above the medium height, is strongly, though not stoutly built, dark complexioned, with sharp darkish eyes and a palish-sallow face remarkable for nothing at a glance, the features being tolerably regular, neither showing refinement nor absolute coarseness. Her dress was in itself a contrast. She wore a gay-looking light grey bonnet, trimmed with brown velvet and feather. Her jacket of black cloth, trimmed with sable, looked shabby as did her dress of a puce hue; while around her neck was an old-fashioned fur boa, and on her arm a dark waterproof cloak, she never so much moved throughout the examination....on the other hand Church, a fresh coloured sandy-whiskered man attired in a light suit, and looking a little less in height than the woman standing by his side seemed to take a great interest in the case.³⁴¹

It is interesting that the media feel so obliged to publicise every inch of Kate’s appearance, deconstructing her femininity, from her sharp dark eyes to her shabby jacket, allowing the mind to be constructed apart from the body. This compared to the brief reference to Church’s smart attire and the apparent disinterest of Kate regarding the proceedings and her unfortunate position and the ‘great interest’ held by Church. This portrays Kate as an underprivileged yet physically strong woman and Church as a masculine nicely dressed inquisitive man in comfortable circumstances.³⁴² Church was an acquaintance of Kate’s and an ex-serviceman³⁴³ and had been required by her to help sell Mrs Thomas’ household goods and furniture. Kate professed that Church had poisoned Mrs Thomas with an aim in mind to ‘Have her things and get off to America together and enjoy it, as I am getting tired of my old

³⁴⁰ Ibid.

³⁴¹ Lloyds Illustrated 6th July 1879.

³⁴² Ibid.

³⁴³ Ibid.

woman’.³⁴⁴ The prosecution from the outset argued that the statement made by Kate was false and continued throughout the first day of the trial with their pursuit to deconstruct it, questioning Church, a man named Mr Porter (whom Kate had previously boarded with and also accused of being in on the act), Kate and various other witnesses. ‘Upon this statement being made Church was discharged and examined as a witness against the prisoner’³⁴⁵ and the prosecution continued with their opinion that the facts of the case point to Kate having in fact done the deed herself.

Robert Porter, the boy who had helped Kate carry a box (which was said to contain the body of Mrs Thomas) to the Richmond Bridge, along with his mother Mrs Porter and her friend Sarah Crease, (who looked after Kate’s child when she was otherwise engaged) were examined. Robert stated that when living with the Porter family ‘Kate had been very kind to a sister of mine, who died’³⁴⁶, and his mother emphasised that: ‘She seemed to be always a kind, well disposed girl’.³⁴⁷ Sarah gave evidence stating that ‘ever since I have known her she has always been an affectionate and kind woman’³⁴⁸ and also professed the love Kate had for her child, allowing a differing and more personal perspective on this ‘evil’ woman.

Her motherhood also came into question: ‘Webster had an illegitimate child, a boy, whom she left when she went into service in Richmond’.³⁴⁹ Not only was her son illegitimate, but she also ‘left’ her child for unknown lengths of time whilst working as a housekeeper. It is not mentioned that she did not relish leaving the child and it was attested to by Sarah Crease

³⁴⁴ Lloyds Illustrated 6th July 1879.

³⁴⁵ Ibid.

³⁴⁶ Ibid.

³⁴⁷ Ibid.

³⁴⁸ Ibid.

³⁴⁹ Ibid.

that she had always paid her '3 shillings for minding the little boy'³⁵⁰ and again according to Sarah made visits whenever her work would allow.³⁵¹

When Kate was cross-examined she made no reply to the charge read out against her.³⁵² But it was brought to light in the second day of the trial that upon her initial arrest and questioning she was more vocal and did question as to whether anyone else had been arrested for the murder claiming that: 'There ought to be, the innocent should not suffer the guilty'.³⁵³

The last day of the trial saw, as is protocol, the defence and prosecution address the jury. Kate's defence, Mr Warner Sleigh, argued that the witnesses for the prosecution had been 'most unworthy of credit'³⁵⁴ and that the jury must be certain there was no way Mrs Thomas died from natural causes. Sleigh also highlighted the fact that Kate had been a good mother, who had good 'womanly instincts'³⁵⁵ her good character attested to by all who knew her and that those characteristics were hardly that of a murderess. Sleigh also addressed the jury with a great responsibility claiming that in their hands lay the power of sending a woman to the gallows or preventing a miscarriage of justice.³⁵⁶ After the prosecution had addressed the jury the judge Mr Justice Denman summed up emphasising the fact that Kate had in fact made three differing statements implicating two different people for the murder, therefore the jury must take this into account. Reviewing both the defence and prosecution's cases the judge sent the jury away to deliberate Kate's fate, a little over an hour later the jury returned a Guilty verdict. Kate was asked whether she had anything to say as to why the death sentence should not be passed against her:

³⁵⁰ Lloyds Illustrated 6th July 1879.

³⁵¹ Ibid.

³⁵² Lloyds Illustrated 13th July 1879.

³⁵³ Ibid.

³⁵⁴ Ibid.

³⁵⁵ Ibid.

³⁵⁶ Ibid.

*I am not guilty my Lord...When I was taken into custody I was in a hurry and I made a statement against Church and Porter. I am very sorry for doing so and I want to clear them of it ... I was led to this my lord, the man who is guilty of all this is not in the case at all, nor never was. There was a child put into my hands in 1874, I had to thieve for that child and go to prison for it ... therefore the father of that child id the ruin of me since 1873 up to this moment and he is the instigation of this but was never taken into custody.*³⁵⁷

The judge then donned the black cap and addressed Kate with the harsh reality that she had made so many false statements. He then exonerated Church and Porter, after the lengthy and distressing court case with a possibility of both men joining her on the scaffold, stating that justice had been proved to be served by the jury with their guilty verdict; Kate then ‘pleaded her belly’ claiming she was pregnant. Upon finding out that she was not,³⁵⁸ she was removed from the court in a condition, which barely allowed her to stand, her head being bathed by the female wardens about her.

Kate’s false accusations only furthered to deconstruct her femininity by taking ‘hard working men’ down with her and challenged the patriarchal system of gender roles and allowed her character to be further chipped away at by the media. All that seemed to be left of Kate was a pitiful, scorned, plain looking, stupid Irish woman with an illegitimate child and a criminal past. Kate’s crime precipitated a ‘crisis of sexual difference’³⁵⁹ because every one of her acts disrupted established assumptions about the Victorian woman.

In all of the above trials and cases of women who kill, we can conclude that once what is ‘known’ about the female defendants as women has been put forward by the Crown and in turn heard by the juries and broadcasted by the media, they manage to establish a dominant

³⁵⁷ Lloyds Illustrated 06th July 1879

³⁵⁸ Old Bailey Proceedings Online Ref t18790630-653

³⁵⁹ Ballinger, A., (1996), ‘The Guilt of the Innocent and the Innocence of the Guilty: The Cases of Marie Fahmy & Ruth Ellis’, in Myers, A. & Wight, S., *No Angels: Women Who Commit Violence*, pg. 22.

‘truth’, one which will pose difficult to disprove, but with the presence of petitions an alternative ‘truth’ is brought to light and we see competing discourses and subjugated knowledges coming to light. ‘Disreputable discourses are invariably unleashed which operate to reinforce the Crown’s case, while diminishing the case for the defence’.³⁶⁰ The vilification of all five of the above women operates to displace the offender from her society, to insist her ‘otherness’ thereby avoiding the knowledge that she is produced by that society and ultimately remove her agency.³⁶¹

Kate Webster’s final appearance in the public glare came in the form of a full page spread in many newspapers publishing her final statement. Within this she takes full responsibility for her crime and exonerates all she had previously accused. Reprieves were brought forward on her behalf attempting an alternative ‘truth’ but again the Home Secretary saw fit to let the law take its course. Here Kate discloses all doubts regarding her innocence:

*I am now informed by Mr O’Brien, my solicitor, that the memorial presented on my behalf has not been successful and that I will be executed at nine o’clock on Tuesday the 29th. I see therefore that there is no visible hope for a respite of my sentence, and I am advised by him, and I feel that I am bound in the sight of almighty God, to clear everyone of suspicion and especially those whose names I mentioned in my previous statements, before I die, which I am now happy in doing.*³⁶²

Presented in the media in its ‘original’ form, Kate’s last statement can be read as a hope to clear her conscience and her name in regards to taking anyone else down with her ending with ‘If I had a choice I would almost sooner die than return to a life full of misery, deception and wickedness’.³⁶³ It must be added here that Kate, being able to read but not being fully literate, will have had a scribe to write this statement for her, whether anything was added or

³⁶⁰ Ballinger, A., (2000), *Dead Women Walking*, pg. 244.

³⁶¹ Jewkes, Y., (2004), *Media and Crime*, pg. 136.

³⁶² The Manchester Guardian 31st July 1879.

³⁶³ Clark, R., (2007), *Women and the Noose*, pg. 190.

taken from it will never be known, but in regards to the state's insistence on legitimising capital punishment with 'confessions'³⁶⁴ it does add an air of suspicion.

After the final statement and on the eve of her execution, Kate now resigned to her fate, appeared calm within the gaol and prayed with the prison chaplain on a daily, sometimes hourly basis. On the morning of her execution various members of the gentry were allowed into the prison grounds, one of whom was Mr Henry Mayhew who claimed to be at the prison to: 'Witness the execution of that abomination of the female sex, the most notorious Kate Webster',³⁶⁵ emphasising the agency denial through Mythification.³⁶⁶ Here we see firsthand how Kate was viewed by the upper classes, as an abomination who failed to adhere to Victorian ideals of domesticity. However, a violent crime such as Kate's would have been a very rare novelty. He goes on to discuss Kate's heritage as a possibility in going some way to explain her actions:

*Webster was of course Irish, which may go some way to explain her bestial behaviour and yet, to be fair, I have myself met and talked to many an Irish and have, most often, found them to be decent Christians.... Though obviously one cannot trust a single word they say.*³⁶⁷

In Victorian England in the nineteenth Century the Irish person's reputation seems to proceed them, obviously there are deep historical issues relevant, which I will not go into here, but it is important to note that 'Irishness' came hand in hand with 'stupidness'. Upon meeting her end it was reported that Kate thanked the wardens of the prison, shook hands with both the priest and the executioner and her final words, as the noose was placed around her neck were: 'Lord have mercy upon me'.³⁶⁸

³⁶⁴ Ballinger, A., (2000), *Dead Women Walking*, pg. 220.

³⁶⁵ Attenborough, G., (December 2005), *Kate Webster; A Conversation at Her Hanging*.

³⁶⁶ Morrissey, B., (2003), *When Women Kill: Questions of Agency and Subjectivity*, pg. 25.

³⁶⁷ Attenborough, G., (December 2005), *Kate Webster; A Conversation at Her Hanging*.

³⁶⁸ <http://www.capitalpunishmentuk.org/webster.html>

CONCLUSION

Throughout this thesis I have argued that what is known about women criminals, not only as criminals but as women, plays an intrinsic role in determining how their crimes are constructed. In Victorian hetero-patriarchal society, it was essential to come up with some kind of explanation for criminal women, these women being a danger to the very foundations of Victorian culture. When criminal women commit violent crimes they are seen to have transgressed two sets of laws, those of nature which insist on the passivity of women and those of the law which forbids violence. This ‘doubly deviant’ and gender stereotypical label ensures that these women will be punished, whether it is in attacking their femininity or punishment employed by the state; in most cases it is both.³⁶⁹ Not only did the women researched kill when they were supposed to care, but due to the fact that they represent a tiny fraction of serious criminals, their novelty value would always guarantee media interest.³⁷⁰ Women who seriously offend are the most depraved examples of humanity, judged by the public after reading a media report, who are largely unaware of their actual deviations, these women become symbolically detached from their crimes; Women and criminals as two separate entities, not (as men are), merely criminals. Using CDA and standpoint feminism I have highlighted the differences and similarities between these women and how these factor to legitimise the evil construction.

The media machine of the latter nineteenth century allowed for massive coverage both locally and nationally. However it must be articulated that illiteracy, especially amongst those deemed as the lower classes was a prevalent social issue. Therefore, it would be through those who were literate, their interpretations and word of mouth that the stories were spread to the masses. The vast majority of media reports I uncovered from the archives were almost

³⁶⁹ Lloyd, A., (1995), *Doubly Deviant Doubly Damned*, pg. 36.

³⁷⁰ Jewkes, Y., (2004), *Media and Crime*, pg. 121.

entirely transcribed from the official court transcripts, with journalistic speculation and opinion mixed in. The reason the five women's accounts remained muted³⁷¹ within legal and media discourse was as otherwise they may challenge traditional positivistic views based upon appropriate womanhood and 'nature'. This would mean acknowledgement of the fact that both women and men are capable of experiencing all possible human emotions, including violence. Using standpoint feminism and the method of CDA in the dissection of language within media texts it becomes apparent that these five women are prime examples of a discursive construction.

The power of the media is colossal, if a decision is made not to undertake a report upon a specific case then this case will not be made public knowledge. Judgements upon the defendants by the public would not be made and they may remain to some extent invisible. Using CDA teamed with standpoint feminism allowed for me to highlight this power within the media. By dissecting language those knowledges otherwise deemed as 'lower ranking' could be prioritised. However this is a double edged sword as if the media did not grasp the cases of the five women examined, the discursive production of them within the courtroom would still exist and would not be open for this kind of critique. Although this thesis has aimed to go firmly against the discursive construction of criminal women if this construction had not been undertaken within the media and the information surrounding the women's plight had not been available to the masses, then the wider responses in the shape of petitions, letters and demonstrations would not have existed. I would argue that a step in the right direction would be to employ more feminist journalism in general, especially in relation to women who kill. This would serve all, as to have access to the issues surrounding the experiences, similarities and differences of women it can be highlighted that criminal women

³⁷¹ Worrall, A., (1990), *Offending Women: Female Law Breakers and the Criminal Justice System*, pg. 162.

are not 'evil', they are human beings who share the same emotions as 'normal' women. The truth is that each of us has the potential to be violent, just as to cry and be hurt, but this violent emotion is encouraged in men and discouraged in women and it is within this discourse that women remain almost second class, after the 'norm'; men.

All but one of the women's crimes (Kate's) involved the death of children and the gendered nature of their trials can be understood as a result of them being tried not only as murderers, but also as mothers, reiterating the 'doubly deviant' staple attached to them. In the case of Mary Anne Barry we find double deviance emphasised to the point where her male accomplice, Bailey, was the instigator and aggressor and she was merely an accessory before the fact, yet she still faced the death penalty.

In relation to Kate who killed another woman it transcends that the focus of the attention was upon her previous criminal career and this allowed for her transgression from the ideal of femininity to be reinforced and directed as the likely cause of her current criminality. Females are 'deadlier than the male', this is a belief which has been reinforced due to the fact that a woman criminal has 'departed more markedly from her ascribed gender role'³⁷² whereas a criminal man has historically been regarded as a normal phenomenon.

These case studies have demonstrated that the women were not only judged for their crimes, but also for their gendered performance as women;³⁷³ as wife, mother, grandmother, servant or employee, and it was also upon their reputation of which the trial and media focussed.

³⁷² Ballinger, A., (2000), *Dead Women Walking*, pg. 331.

³⁷³ Butler, J., (1990), *Gender Trouble: Feminism and the Subversion of Identity*, pg. 25.

At the end of the nineteenth century, when these women met their fate there was a shift in the way in which criminality was understood and inevitably explained with reference to biology and psychology.³⁷⁴ This reference added the ‘factual’ backing of science to an already unsteady and stereotypical understanding of criminal women. In 1876, around the time of the cases discussed above, Cesare Lombroso began publishing his positivistic accounts of the criminal. The backbone of Lombroso’s studies on women focussed on Darwinian evolutionary theory, claiming that criminal women were far more dangerous and cunning than criminal men. Applying Atavism to his work, but yet completely ignoring any social or cultural implications, Lombroso argued that criminals were physically different and could be physically distinguished from ‘normal’ members of society. ‘What Lombroso is demonstrating here is the strength of the unquestioned assumptions which had been made about criminal women for centuries’.³⁷⁵ This adds legitimacy to the previous claim that violent women are abnormal, ‘others’ or ‘abominations’.

A cast of the head of Mary Ann Cotton was made and taken to use as research for the Phrenological Society (a science which studies the relationships between a person’s character and the morphology of the skull). An account of their findings was published in *The Auckland Times and Herald*: ‘All the members present were of a unanimous opinion that cast no2 (Mary Ann’s) is of a thoroughly criminal type, so criminal that they would consider the capacity fit for such crimes attributed to the late Mrs Cotton’.³⁷⁶ The article goes on to discuss the ‘moral’ region of the skull being deficient while the ‘animal’ region being very powerful,³⁷⁷ this ‘scientific’ endeavour only legitimised the Crown’s decision to exterminate Mary Ann. Here it is apparent that the body is used as a script or piece of evidence to

³⁷⁴ Emsley, C., (1996), *Crime and Society in England 1750-1900*, pg. 163/164.

³⁷⁵ Lloyd, A.,(1995), *Doubly Deviant Doubly Damned*, pg. 39.

³⁷⁶ *Auckland Times and Herald* 26th June 1873.

³⁷⁷ *Ibid.*

reinforce the malestream discourse of the law. Women who kill are not victims of a biological function, ‘evil aberrations’ of womanhood who can be set apart from the rest of the female sex, of whom are deemed ‘normal’ (a portrayal which denies rationality and agency behind their crimes). Instead, the behaviour of criminal women is deeply rooted within society, their crimes reflecting the changing social conditions of women.³⁷⁸ It is this ‘natural’ woman, through applying feminist theory, which this thesis has aimed to deploy.

Despite all of the women within the case studies discussed being members of a muted group, and thus being disqualified as speakers,³⁷⁹ they did possess a power, albeit a negative one. That is, their mere existence stood as a challenge to dominant ideologies and ideal images of motherhood, domesticity, sexuality and femininity in Victorian England.³⁸⁰ All of the women discussed within this thesis somehow managed to transgress these ideals, whether it was, as in the cases of Kate and Selina the presence of illegitimate children highlighting their sexual promiscuity. In Frances’ case it was the habitual drinking, emphasising her inability to conform to the feminine and domesticated ideal. Mary Ann Cotton’s habit of taking in male lodgers teamed with her multiple marriages and aggressive nature again allowed for her to go against the dominant ideology of the gentle, motherly female. Speculation around whether Mary Ann Barry was monogamous to her imprisoned husband, or whether she and Bailey had an affair allowed her sexual reputation to be explored.

I have demonstrated that women who commit violent offences go against the patriarchal definitions of acceptable female behaviour within the areas above, and in turn become constructed as ‘other’. Furthermore, this resulted in them feeling the full negative force of the media and the irreversible and extreme penalty of the law.

³⁷⁸ Ballinger, A., (2000), *Dead Women Walking*, pg. 330.

³⁷⁹ Worrall, A., (1990). *Offending Women: Female Law Breakers and the Criminal Justice System*, pg. 11.

³⁸⁰ Ballinger, A., (2000), *Dead Women Walking*, pg. 127.

The fact that the cases researched remain almost totally unknown is a testimony to those in power; the law, state and media and their ability to mute those who ‘refuse to speak through dominant modes of expression’.³⁸¹ In their own way these women challenged the patriarchal systems at play by challenging the power systems which silence those who seem powerless and have therefore earned their place in history. It can also be argued that the experiences of the five women researched above are yet another example of the lack of authority held by women. Their accounts are disqualified when up against some of the most influential and highly ranked authorities within our culture, that being the patriarchal legal system and the media: ‘Both men and the legal system are constituted by rationality, reason, objectivity and abstract and principled activity’,³⁸² women do not hold a place within this relationship. There is a close association between masculinity and the law and the fact that knowledge produced within legal discourse is grounded in patriarchy; by using CDA I have aimed to challenge that.³⁸³

The discourses in play around the five cases I have examined were mobilised by the woman’s personal conduct and sexual behaviour; the initial consequence being judicial and media misogyny and ultimately death by hanging.³⁸⁴ In Foucauldian terms the women discussed within this investigation and their stories have demonstrated that those who fail to regulate their behaviour and impose appropriate disciplinary practices upon their bodies will come under increased discipline and control, which unfortunately for our five women extended to the point of the ultimate sacrifice, their lives.³⁸⁵ The women’s stories provide a challenge to the traditional ideals surrounding criminal women as doubly deviant and instead allow an alternative truth around them to be upturned. Within this alternative truth we can surmise that

³⁸¹ Ballinger, A., (2000), *Dead Women Walking*, pg. 342.

³⁸² *Ibid.* pg. 218.

³⁸³ *Ibid.*

³⁸⁴ *Ibid.* pg. 329.

³⁸⁵ Ballinger, A., (2000), *Dead Women Walking*, pg. 330.

women who kill are not the victims of hormones, or any other biological functions and are not 'evil' examples of women, who through this interpretation, have previously been divided from the rest of the female race. Through the retrieval of these women's experience and subjugated knowledges, a new knowledge of struggle can be brought to light and it can be hoped that violent women of the future may be allowed their own way to highlight their cases through a new language within discourse. However new knowledges never manage to completely eradicate old ideas and it is within this history that we can learn from our mistakes and aim to end the muted state,³⁸⁶ which women find themselves within legal and media discourse. The underdevelopment of the area of women and crime in criminological study seems to be largely, down to the belief that female criminality is insignificant due to its very small part in official statistics. It seems obvious that criminal women must be made visible and afforded their place in society in order for their cause to be heard.

³⁸⁶ Worrall, A., (1990), *Offending Women: Female Law Breakers and the Criminal Justice System*, pg. 10.

APPENDICES

Mary Ann Cotton (1832-1873)



‘Mary Ann Cotton
Dead and forgotten
She lies in her bed
With her eyes wide open
Sing; sing, oh, what can I sing?
Mary Ann Cotton is tied up with string
Where? Where? Up in the air
Sellin’ black puddens a penny a pair’³⁸⁷

³⁸⁷ Webb, S. & Brown, M., (2012), *Mary Ann Cotton: Victorian Serial Killer*, pg. 6.

Catherine (Kate) Webster 1849-1879



‘The terrible crime at Richmond at last,
On Catherine Webster now has been cast,
Tried and found guilty she is sentenced to die.
From the strong hand of justice she cannot fly.
She has tried all excuses but of no avail,
About this and murder she's told many tales,
She has tried to throw blame on others as well,
But with all her cunning at last she has fell’.³⁸⁸

³⁸⁸ Such, H., (July 1879), *The Trial and Sentence of Catherine Webster. THE BARNES MURDERESS.*

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