Infanticide and Mental Illness: Theories and Practices involving Psychiatry and Justice (Italy, 19th-20th century)

Silvia Chiletti
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Infanticide and the scientific discourse

One of the recent issues of Italy’s oldest journal of psychiatry, the Rivista sperimentale di freniatria, was devoted to the topic of infanticide, the crime of a mother killing her newborn child. As the editors pointed out, this phenomenon is often addressed as part of a debate which inevitably raises the issue of mental illness, although the issue is itself fully taken into account as well as "all'interno del dato sociale e culturale, della sofferenza del contesto relazionale ed esistenziale, delle situazioni di emarginazione, isolamento, carenza di mezzi economici e culturali, del difetto di comunicazione e comunità". One of the most interesting aspects of this publication entitled Murdering mothers (Madriomicide) is that the editors chose to provide the discussion with a framework beginning from a historical perspective and highlighting some of the aspects of this complex phenomenon that have been enduring over time. More specifically, the introductory article in this theme-based dossier is actually the re-publication of a psychiatric report that had first appeared in this very journal in 1892; the report concerns an infanticide case from the late nineteenth century and was written by Italian psychiatrist Giuseppe Guicciardi (1859-1946) under the title «Parto illegittimo e infanticidio in una donna degenerata semimbecille». The journal’s contemporary authors

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1 «Within the social and cultural context, relational and existential suffering, conditions of marginalization and isolation, a lack of economic and cultural resources and failures of communication and community», BOLOGNA Maria et BONNER Yvonne, «Editoriale», Rivista sperimentale di freniatria, CXXXVI, n. 3, 2012, p. 6. English translations of Italian quotes are mine.
2 «Illegitimate delivery and infanticide by a degenerate, semi-imbecile woman».
thus take their starting point from reflections that Guicciardi penned more than a century ago and pinpoint the contemporary relevance of this article to the nineteenth century psychiatrist’s state of mind, sensitivity and way of viewing the accused woman.

Nevertheless, at the end of the 19th century, infanticide was not at all perceived and treated as it is today. In this article I will focus on this topic, both from the point of view of the history of psychiatry and the history of justice, at that precise time. The issue of infanticide has been little dealt with from the point of view of the history of forensic psychiatry3, a very controversial discipline that deserves more historiographical attention in order to understand how psychiatric knowledge may develop through the down to earth practice in criminal courts.

Indeed, a psychiatric discourse on infanticide emerged exactly when psychiatry received growing attention in the Italian scientific and legal debates, just after the National unification in 1861. I have thus explored historical documents dealing with law, medicine, forensic science, criminal anthropology, as well as archive files from Florence State Archives from 1880 to 1922. I found about fifty infanticide trial records from the criminal court, and almost the same number of proceedings, which did not lead to any judgment in a criminal court because of a lack of evidence. Even if it is true that archive documents cannot provide an accurate estimation of the prevalence of this crime, given that they contain no trace of the cases that were never prosecuted and do not provide much information about the underlying motivations that led women to commit such a crime, historians have estimated that infanticide in the 19th century was a rather frequent crime and can thus be considered as one of the possible practices or strategies carried out by women, but men too, resorted to when faced unwanted pregnancy4. According to 19th century jurists, social factors – such as poverty or the stigmatization of illegitimate pregnancies – prevailed when accounting for the occurrence of the crime, that is why a psychiatric approach to infanticide was still quite atypical at that time. It is therefore unsurprising that Guicciardi laments over « l’opinione che più di frequente sia da interpellarsi anche la scienza per riconoscere in modo più profondo se nella madre, che pare aver così barbaramente trasseo, non possa scoprirsi la

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predisposizione morbosa alla violazione involontaria dei più sacri e radicati sentimenti morali»⁵. The presence of alienists in Italian courtrooms, especially for infanticide cases, was, according to him, too rare.

When he wrote this article, Guicciardi was a fairly young psychiatrist, working at the asylum of Reggio Emilia, one of the most important scientific centers for psychiatry on the Italian peninsula. He made this psychiatric report about the infanticide case of a young peasant girl together with his mentor, Augusto Tamburini, interpreting the crime through one of the period’s most common paradigms both within and beyond Italian psychiatry, namely degeneration and the inheritability of mental illnesses⁶. According to the two psychiatrists a degenerated congenital constitution of semi-imbecility could have triggered the arousal of morbid impulsivity favoured by the special condition of childbirth: this was the reason why Guicciardi and Tamburini stated that the accused woman, a young unmarried and illiterate peasant girl from the countryside of Abruzzo, in central Italy, was not responsible for her acts.

This peasant girl’s case described by Guicciardi hat a lot in common with most of the infanticides brought before Italian courts at the same period. The archive documents from Florence’s criminal court provide accounts of female defendants that are quite similar to those described by both the legal literature and medical-scientific studies: the accused are mainly young women aged 20 to 30 years, unmarried (except for a few instances of widows, who were slightly older), farmers or domestic workers or at any rate women who belonged to the lower classes. Almost all of them, like the girl in of Guicciardi’s report, concealed their pregnancy, sometimes asserting that they did not even know that they were pregnant. Such an attitude, which echoes the contemporary idea of «pregnancy denial», was indeed one of the most common strategies used by women who did not want that their condition to become public. Moreover, according to the results of the archive

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⁵ « The notion that science should be consulted more frequently in order to gain a deeper understanding of whether or not the mother, who appears to have so barbarously transgressed, might have a morbid predisposition to involuntarily violate the most sacred and deeply-rooted of moral feelings », GUICCIARDI Giuseppe, « Parto illegittimo e infanticidio in una donna degenerata semi-imbecille », Rivista sperimentale di freniatria e medicina legale, XVIII, n. 2, 1892, p. 339.

records, very few men were charged for infanticide, even if it is arguable that men too were likely to commit this «female crime».

Guicciardi was indeed right in stating that psychiatric experts were very rarely summoned on infanticide trials, and his report represented a rare example of medical-scientific investigation into the issue. Until the end of the 19th century, court proceedings never questioned whether women committing infanticide suffered from mental insanity. Matters appear to have somewhat changed at the beginning of the new century, but over the whole period here considered (1880-1922) expert witnesses were only rarely summoned to bear witness: out of a total of fifty trials that I examined, only three cases involved expert testimony about the mental capacity of the accused woman. Indeed infanticide was not one of the main interests for Italian psychiatry and none of the main Italian psychiatrists devoted their studies or interests to this topic. The fact that Guicciardi wrote an article on such a topic when he was still quite young and little known is quite meaningful and this is maybe the reason why his article— even though it was published in the most important Italian journal for psychiatry— did not meet with any success at that time, as it was not quoted either by psychiatrists, or by physicians or even by jurists who dealt with this topic.

In contrast, infanticide was an important topic for legal debate at the end of the XIXth century, and the theoretical literature on such an issue referred to a wide international discourse. During its most vivid phase, i.e. at the end of the 19th century, criminal anthropology also devoted some attention to this specific crime and tried to demonstrate a peculiar typology for the «female offender» especially predisposed to this kind of crime. But even if infanticide was then at the core of scientific concerns, psychiatric contribution to this debate was very scant. That is why it is worth investigating how such knowledge circulated at both the theoretical level in the legal and medical literature and at the level of practice in infanticide trials. It may also be interesting to examine how the pathology and mental illness discourse then interacted with the perception and the actual treatment of this crime and its perpetrators at the time.

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8 For instance the first important manual of forensic psychiatry of the positivist era did not bear any trace of this topic: LIVI Carlo, Frenologia forense ovvero delle frenopatie considerate relativamente alla medicina legale, Milano, Chiusi, 1963-1968.
Law, psychiatry and criminal responsibility

At the time when Guicciardi wrote, the first Italian penal code following the National Unification had just been promulgated. The so-called Zanardelli Code (named after the Minister of Justice) was published in 1889 and enforced as early as 1890. The new code reduced punishments for many crimes, for example homicide and infanticide, and abolished the death penalty. According to the new law, infanticide was defined by the article 369 as the murder of a newborn committed by the mother or one of her blood relatives «in order to save her honor». Because of this special definition, infanticide was thus considered an excusable murder, punished with 3 to 10 years imprisonment.

It is important to highlight that the drafting of the new Penal Code lasted more than twenty years, following a period of most direct conflict between jurists and alienists which occurred in the decades after National Unification. Unsurprisingly, the bone of contention centered on defining the elements of the law that would determine the relations between mental illness and criminal responsibility. The leading figures in criminal law and psychiatry took part in these discussions, including Carlo Livi, founder of the Società Italiana di Freniatria in 1873 and the Rivista sperimentale di freniatria in 1875, Arrigo Tamassia, legal doctor and co-founder of the journal, Augusto Tamburini, Livi’s successor at the important mental institution of Reggio Emilia and lastly, among others, the founding father of Italian criminal anthropology Cesare Lombroso.

Ultimately, the code articles governing this issue emerged as a compromise between the philosophical standpoint underlying the legal definition of responsibility and scientific perspectives on the idea of mental pathology. For instance, article 46 paragraph 1 states that « non è punibile colui che, nel momento in cui ha commesso il fatto, era in tale stato di infermità di mente da toglierli la coscienza o la libertà dei propri atti. » Alienist science – which had by that time already established a strong position in Italy – approved of this formulation, in that it distinguishes between pathological mental states and generic mood disorders such as impassioned emotional states or the controversial notion of « irresistible force »


11 « Those who were in a state of such mental infirmity at the moment of committing the act as to be deprived of conscience or of the freedom of action would not be punishable. »

modern Italian psychiatry was adamant that «impassioned emotional states » must not be seen as a cause of madness; moreover Italian psychiatry was, at that time, very solidly, albeit sometimes idealistically, tied to the organicist school: alienists chose to name themselves « phreniatrists », from the greek word phren, meaning « brain »\textsuperscript{13}. Yet, jurists chose to use the word « infirmity » rather than « illness » – which would have been more appropriate according to the psychiatric lexicon. The legislation effectively opened the door to all the various pathological disorders which were impossible to name and diagnose, and were thus excluded from the scientifically recognized, established psychiatric nosography of the time. This compelled psychiatrists to use a different approach while judging the mental responsibility of the culprit. As the Florence-based psychiatrist Eugenio Tanzi noted two decades later, when questioning the usefulness of psychiatric classification for forensic purposes:

\textit{Al perito alienista non si richiede il nome di una malattia mentale ufficialmente contemplata nella nosografia psichiatrica, ma l'accertamento d'una infermità magari anonima, che possegga certi requisiti patologici e psicologici, e di cui nei manicom manca spesso l'esemplare}\textsuperscript{14}.

Another example of the Zanardelli Code’s particularity in the use of the psychiatric lexicon can be seen in article 47, which opted for a reduction of penal responsibility (hence of penalty too) in cases of « semi-infermità mentale » (mental semi-infirmity), that is, cases in which « lo stato di mente indicato dall'articolo precedente era tale da scenare grandemente l'imputabilità senza escluderla »\textsuperscript{15}. Indeed the concept of « mental semi-infirmity » did not really exist in the psychiatric vocabulary of the time, but the organicist judgment of psychiatry and its practitioners adopted this neologism, as it allowed them to equate mental illness with other illnesses of the organism, in which different degrees of pathology, depending on the severity of cerebral damage, could be recognized and measured\textsuperscript{16}. As some scholars have pointed out, this article of the law was effectively conceived as a kind of expedient in order to modulate justice


\textsuperscript{14} « The alienist expert is not asked to provide the name of a mental illness officially recognized in our psychiatric nosography but rather to test for a potentially anonymous infirmity possessing certain pathological and psychological qualities that often cannot be found examplified in the insane asylums. » TANZI Eugenio, \textit{Psichiatria forense}, Milano, Vallardi, 1911, p. 19.

\textsuperscript{15} « The mental state indicated by the previous article is such as to significantly diminish prosecutability without negating it entirely ». 

\textsuperscript{16} On the notion of mental malady as a cerebral damage see BABINI Valeria, « Organicismo e ideologie nella psichiatria italiana dell'Ottocento », op. cit.
sentences, and to avoid a high rate of acquittals too, in cases where it was not possible to demonstrate the culprit’s mental insanity of the culprit. Such concepts in the new law on criminal responsibility could thus be seen as a kind of compromise between the law and the emerging science of psychiatry: after a first period of heightened conflict, the law finally considered psychiatric science and concepts as useful instruments for the diffusion of values and the exercise of justice, as means for an individualization of crimes, by relating the criminal subject’s features to his or her acts, and thus the adjustment of the penalty to the typology of the individual standing in the criminal court. As we will see later on, this represented a significant step leading to the emergence of the mental pathology in infanticide trials.

**Passions and pains**

Even though infanticide was not at the core of the debate between psychiatrists and jurists, mental pathology had a significant role in the theoretical discussions on this crime, especially amongst jurists who, from the mid century onwards, paid much attention to medical and psychiatric theories, which could account for this crime. The legal literature regarding infanticide in the second half of the nineteenth century contained frequent references to psychiatric and psychopathological concepts. Indeed, the discourses developed by Italian defense lawyers to justify the legislators’ option for a reduction of the women’s criminal responsibility for infanticide drew heavily on the discoveries, opinions and concepts of the great names in European medicine and psychiatric knowledge. They used two main etiological principles to explain the criminal act whereby a woman kills her own newborn. On the one hand, jurists referred to the paradigm of “passions” and their impact on mental capacity, an explanation that was derived from the work of alienists, particularly from the French school of the first decades of the century. For some, passions such as fear and shame regarding compromised honor act on a woman’s mental capacities to cloud her reason and drive her to act illegally: the woman is seized by fear and desperation for the “dileggio e disprezzo a cui sarebbe trovata perpetuamente esposta; per la paura di vessazioni e severe coercizioni da parte della famiglia; di tremenda vendetta minacciata da un consorte tradito”\(^{19}\). The crime occurs because “tutto questo apparato di paure agisce violentemente sull’animo della donna fecondata per illecito

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\(^{17}\) BABINI Valeria, “La responsabilità nelle malattie mentali”, op. cit.

\(^{18}\) On such a topic, regarding the Italian context, see GUARNIERI Patrizia, L’ammazzabambini, op. cit.

\(^{19}\) “Mockery and scorn to which she would be perpetually exposed; for fear of vexation and ruthless coercion on the part of her family; of terrible vengeance on the part of the betrayed spouse”. See CARRARA Francesco, Programma del corso di diritto criminale. Parte speciale, Lucca, Giusti, 1868 (II. ed.) vol. I, p. 280.
commercio, e nella occasione del parto la conduce ad una frenesia disperata»20. Jurists such as Francesco Carrara, Lino Ferriani or Carlo Corsi21 refer to authors ranging from ancient philosophers such as Theophrastus and Marcus Aurelius to French doctors such as Pierre Jean Georges Cabanis, who developed psychological theories at the beginning of the 1800s, as well as the important alienist Jean-Etienne Esquirol, well known for introducing passions as the main etiological and explanatory model of alienist medicine22. As scholars have noted and articles 46 and 47 of the penal code reaffirm it, Italian psychiatry did not recognize passions as a cause for mental illness. As a matter of fact, this argument is not defined in terms of pathology per se; nonetheless, it is positioned in a border zone between the normal and the pathological, thus giving rise to a variety of potential interpretations and explanations.

The second etiological framework used to explain infanticide was more directly connected to organic pathology, drawing on the model of innate female weakness and the idea that the event of childbirth triggered a particular physical and psychological condition. During the last two decades of the 19th century, Italian criminal jurists gave particular credit to this kind of explanation23. Once again this paradigm built on the work of French alienists, namely Pinel and Esquirol, the latter of whom having introduced the idea of *puerperal mania* into psychiatric nosography to define a delirium generated by the female organism during and after childbirth24. Louis Victor Marcé, Esquirol’s student, was the first to highlight this connection in 1858 in his *Traité de la folie des femmes enceintes, des nouvelles accouchées et des nourrices*, which quickly became a key reference for subsequent psychiatrists. Specifically, Marcé

20 « All this complex set of fears acts violently on the soul of the woman who has become pregnant as a result of illicit intercourse and, on the occasion of the birth, pushes her into desperate frenzy ». Ibidem, p. 278.


argued that infanticide could occur as the result of a delirious state produced by labor pains:

_Le travail de l'accouchement, surtout à sa dernière période, alors que les douleurs deviennent déchirantes et que les efforts d'expulsion ont une énergie désespérée, peut à lui seul troubler profondément l'intelligence. […] dans quelques cas le travail de l'accouchement détermine une telle secousse que l'intelligence en est encore bien plus vivement ébranlée, et qu'un véritable délire maniaque peut éclater._

Italian jurists and forensic treatise also often referred to the work of Richard von Krafft-Ebing, who used the phrase _puerperal insanity_ in his forensic psychiatric essay of 1875 to elucidate a form of temporary insanity associated with the particular circumstances of giving birth: according to him, this was the peculiar mark of most infanticidal women.

From certain points of view, puerperal mania was the mental illness best suited to explain infanticide in pathological terms: the concept spread widely throughout Europe (in England the notion was quickly taken up in the courts to explain a mother’s act of infanticide) and was immediately adopted in Italy as well, as the notion, which was given the new name of _puerperal phrenosis_, fitted well with the organicistic paradigm of Italian psychiatry. Moreover, the concept of a typical

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25 « Labor, especially in its latter phase when the pains become excruciating and efforts to expel the fetus take on desperate proportions, is enough on its own to deeply unsettle the intellect […] In some cases, it produces such a shock that the intellect is entirely clouded and a genuine condition of maniacal delirium can settle. » MARCE Louis Victor, _Traité de la folie des femmes enceintes, des nouvelles accouchées et des nourrices_, Paris, Bailliére, 1858, p. 134-135.


female illness, grounded in women's physiology, promoted the idea of a «female nature » which worked as a counterpoint for the construction of psychiatry as a « science of man », that is to say as a differentiation model when compared with an established norm29. Nevertheless the fortune of this medical category declined from the late 1800s onwards. Very few Italian psychiatric studies actually dealt with the topic, some of them casting doubt on the validity of puerperal insanity (or phrenosis) as a nosographic category30. The rise of the Kraepelinian classification of mental illnesses, based on a clinical method, did not include the concept of puerperal insanity and led to its disappearance from the manuals of the discipline as soon as in the early 20th century31. Most likely, the concept of puerperal insanity did not meet the concern of psychiatrists exactly because of its little usefulness in Italian criminal courtrooms, since other kinds of explanation, dealing with passions and emotions, allowed for an analysis of psychic components that best fitted the legal vocabulary about infanticide, which was focused on the very idea of the compromised honor as the main cause of the criminal act32.

However, the idea that childbirth could lead to insane acts and even crime gained some credit thanks to the theories of degeneration, which were very popular among Italian scientists and physicians at the end of the century. Within this framework, pregnancy and childbirth were considered as pathological events especially, as Guicciardi wrote, « nel mezzo della nostra complicata esistenza sociale »33. In contrast with the conditions of primitive people, for which pregnancy and childbirth are very normal physiological events, for the modern civilized woman « nessuna funzione fisiologica si compie con così marcati esponenti morbosi – polmonari, cardiaci, gastrici,

32 A similar phenomenon has been reported by Willemijn Ruberg regarding the Netherlands. Ruberg shows how the category of puerperal insanity was not used in the Netherlands to absolve women accused of infanticide, while on the contrary the laws on infanticide and their vocabulary, focusing on fear and emotions, already allowed for an analysis of psychic components. RUBERG Willemijn, « Travelling knowledge and forensic medicine: infanticide, body and mind in the Netherlands, 1811-1911 », Medical History, LVII, n. 3, 2013, p. 359-376.
33 « within our complicated social existence ». GUICCIARDI Giuseppe, « Parto illegittimo », op. cit., p. 344.
Still, the issue was quite controversial. Legal physicians were the first to mistrust a pathologically based explanation of infanticide, and in particular the idea of a temporary form of insanity associated with the circumstances of childbirth. This is clearly illustrated in the *Manuale di medicina legale* edited by the Florence-based legal physician Angiolo Filippi and which served as a reference for all practitioners in the field, from its first publication in 1889. Filippi defended the idea that coroners and medical experts had to question the common attitude of defense lawyers, who often resorted to the concepts of psychopathology in order to obtain a milder punishment for the culprit. On the contrary the medical expert’s duty was to establish the truth about the woman’s mental state, which meant rejecting the hypothesis of a pathological behavior caused by the special circumstances of childbirth:

> se una vera e propria follia puerperale non fosse dimostrabile, la tesi defensionale di un unico accesso di mania transitoria sarebbe falsa e inutile […] né follia transitoria, né tendenza irresistibile, sarebbero argomenti sostenibili, anzi a mio credere sarebbero dannosi alla sorte dell’imputata\(^35\).

Indeed, as Tanzi later said, «il dolore fisico, le possibili complicazioni patologiche e la sorpresa di un prima parto non bastano a suscitar l’infanticidio né a creargli intorno l’atmosfera dell’infermità mentale»\(^36\). According to Tanzi, as the degenerationist model in Italian psychiatry was declining, infanticide was a crime mainly induced by the harsh moral norms imposed on female sexual behavior, thus it had little to do with psychiatry and mental medicine, which on the contrary deals with biological causes of a mental malady. However, even if he recognized that mental illness had almost no role in infanticide etiology, the psychiatrist expressed his opinion about the features of such crime, by underlying that «Se i costumi fossero più giusti, il correttivo dell’art. 369, che accorda speciali indulgenze alle infanticide […] non sarebbe più necessario»\(^37\). By stressing the fact

\(^{34}\) «No other physiological function occurs with such pronounced morbid features – involving the lungs, heart, stomach, kidneys and nervous system – as pregnancy, and childbirth are characterized by serious and intense pain, which is the pathological fact par excellence». *Ibidem.*

\(^{35}\) «If it were not possible to demonstrate a true state of puerperal mania, the argument utilized by the defense referring to a single episode of temporary mania would be false and useless […] , neither temporary insanity nor irresistible urges hold as supportable arguments; on the contrary, it is my opinion that they would be detrimental to the fate of the accused». FILIPPI Angiolo, SEVERI Alberto and MONTALTI Annibale, *Manuale di Medicina Legale conforme al nuovo codice penale per medici e giuristi*, Milano, Vallardi, 1889, vol. 2, p. 635-636.

\(^{36}\) «The physical pain, potential pathological complications and shock of a first delivery are certainly not sufficient to excuse infanticide nor can they serve to create an atmosphere of mental infirmity surrounding the act». TANZI Eugenio, *Psichiatria forense*, op. cit., p. 260.

\(^{37}\) «If customs were more just, there would be no more need for the corrective measure of article 369, which grants special leniency to the woman who commits infanticide». *Ibidem.*
that infanticide is caused by the severity of customs – and that is why it deserves mercy, according to him – Tanzi reveals that the role of the psychiatrist is not simply confined within the domain of mental malady: speaking as an expert of natural and human laws, the psychiatrist can also express himself about the social and legal concerns.

**The criminal and the pathological**

Even if psychiatrists and medical jurors showed a certain resistance towards the acceptance of the excuse of mental infirmity for infanticide cases, the discourse on mental illness – which was totally absent in courtrooms before the turn of the century - gained ground from the beginning of the 20th century onwards. Juries began to grant the majority of convicted defendants the mitigating factor of mental semi-infirmity as provided by article 47 of the Penal Code. An examination of the thirty trials carried out in Florence’s criminal court between 1900 and 1922 shows that there were twelve acquittals, three of which were based on article 46 regarding mental infirmity, eighteen convictions including five for manslaughter – with penalties of about one or two years in jail – and thirteen for infanticide. Every one of these latter cases successfully claimed the mitigating factor of mental semi-infirmity as provided by article 47. Whereas the penalties for infanticide at the end of the 19th century consisted of a four or five years’ prison sentence on average, at that point they were reduced to an average of three years and four months, thanks to the application of the mitigating factor. It is important to note that in most cases there was no expert testimony regarding the defendant’s mental capacity: in the majority of these cases the judges themselves assessed the defendant’s responsibility without calling into question the opinion of a scientific expert. And it is also important to note that the judges’ use of the concepts of psychiatry did not necessarily lead to the medicalization of infanticide, that is to say a medical treatment of the criminal: as a matter of fact, the judges who granted the mitigating factor of mental semi-infirmity, whether it resulted in acquittal or conviction, showed no inclination to institutionalize the women in mental or medical establishments. Rather, the defendants who were found innocent were arguably released from any relationship with the justice system or medical institutions, and the defendants who were found guilty probably served out their prison sentences like any other criminal, even though they had been found to be affected with some kind of psychological anomaly.

As a matter of fact, it was quite easy for defense attorneys to convince the jurors of the accused woman’s mental infirmity. Since infanticidal women were almost lower-class women, unmarried and uneducated, the defense plea could often evoke the image of a mentally ill or degenerated woman, by calling on people, not necessarily medical experts, who could testify that the woman was «deficient», «feeble-minded», «degenerated» or that the family members were alcoholic,
epileptic or affected with tuberculosis\textsuperscript{38}. There was actually no need for a psychiatrist to state this, as the village physician, or the mayor, or even the parish priest, were as much entitled to have their own say as regards the accused woman’s condition. Furthermore, in order to defend themselves, sometimes women answered in the interrogatories by using the vocabulary of madness to describe their acts: «È stato certamente un atto malsano che non so spiegarmi»\textsuperscript{39}, «Io sono una sciagurata e una pazzia»\textsuperscript{40}, «Commisi il fatto [...] in un momento in cui non riflettevo a quello che facevo»\textsuperscript{41}, «Ero come fuori di me»\textsuperscript{42}. Indeed, the defendant herself could testify for her own «mental infirmity».

The idea of a special pathological condition due to the circumstances of childbirth also played a significant role in exonerating or excusing the culprit from her criminal responsibility. The accused women and the defense attorneys thus insisted on the fact that they had delivered on their own and without any medical help, in «condizioni disperate, di dolore intenso»\textsuperscript{43} and that such elements conditioned the carrying out of their criminal action. Discussions in courtrooms did center on issues of honor and shame, of the sufferance and the desperation of the accused woman, and these questions constituted the core of the defense’s argumentation in appealing to the jury’s compassion. The sources I have examined show that the legal system treated infanticide cases leniently, but that this was unquestionably conditioned in a large part by gendered norms: stress was placed on the defendant’s femininity, both socially and biologically understood, thanks to the support of ideas and concepts drawn from the scientific and medical knowledge of the time\textsuperscript{44}. In this respect, infanticidal women could benefit from being declared mentally ill, when their behavior expressed the internalization of certain dominant norms of femininity, and their defense tailored itself through the contrast with men who were judging them.

\textsuperscript{38} Alcoholism and tuberculosis were considered as major risk factors for degeneration and for the emergence of mental diseases in the descendants. See PICK Daniel, *Faces of degeneration*, op. cit.; COFFIN Jean-Christophe, *La transmission de la folie*, op. cit.
\textsuperscript{39} «It was an insane act that I cannot explain». Archivio di Stato di Firenze, Atti Penali, Processi d’Assise, 1920, 4.
\textsuperscript{40} «I am a wretched and mad woman». Ibidem.
\textsuperscript{41} «I did it while I was not thinking about what I was doing». Archivio di Stato di Firenze, Atti Penali, Processi d’Assise, 1900, 10.
\textsuperscript{42} «I was out of my mind». Ibidem.
\textsuperscript{43} «very miserable conditions and hard pain». Archivio di Stato di Firenze, Atti Penali, Processi d’Assise, 1907, 17.
Even though references to medical-psychiatric knowledge, especially from European authors, were already part and parcel of the Italian legal discourse about infanticide in particular, Italian psychiatrists and physicians took very little interest in this topic and psychiatrists’ opinions were granted little weight in infanticide trials at the turn of 20th century. As we have mentioned, the notion of puerperal insanity, which was widespread in other European countries, found little success in Italian psychiatry of the end of the century and one of the reasons for this phenomenon may be linked to the role of psychiatrists in infanticide cases: since the legal vocabulary focused on the concept of compromised honor, stressing the infanticide woman’s passions and emotions, the physiological explanation connected with the circumstances of childbirth only played a secondary role. Nevertheless, concepts and knowledge about mental illness circulated in criminal courtrooms, even though few medical or psychiatric opinions were actually formulated according to scientific and even legal standards. Moreover, categories that were already old-fashioned or rejected by Italian psychiatry, for example the concept of degeneration, still appear in trials in order to exonerate or excuse women accused of infanticide. This happened because the Italian law formulation concerning criminal irresponsibility, even if it was formulated with a particular acknowledgment of the role of psychiatry on this matter, actually allowed judges and attorneys, or other people on the trial scene, to reach a verdict on the accused woman’s mental condition. As we have mentioned above, this phenomenon could be interpreted as a kind of compromise between the law and psychiatry: on the one hand, psychiatric concepts irrupt massively into the domain of criminal courtrooms, thus enlarging the field of the discourse and of the influence of the new discipline which is now established as a science of human nature and behavior; on the other hand justice adopts psychiatric concepts and manipulates them in order to grant some leniency to this crime, by connoting it with gendered features and connecting it with scientific ideals about femininity. It is quite meaningful that the medical opinion about the infanticide woman’s mental state was often given by non-medical figures. The psychiatric discourse about the infanticidal woman’s psychological or psychopathological states was somehow

constructed outside the borders of the psychiatric discipline, and this is an important issue that contemporary psychiatrists should take into serious consideration.

As a matter of fact, as the article of Giuseppe Guicciardi stated, in Italy, at the turn of the 20th century, there was almost no dialogue between justice and psychiatry about the topic of infanticide and the article written by this psychiatrist in 1892 was one of the rare exceptions. Indeed, some psychiatrists and physicians were rather skeptical about the psychopathological etiology of infanticide, even if they showed the same sensitivity and compassion as the judges in criminal courtrooms facing women who were charged for this « typical female crime ».