
In Defense of Baby Killers: Lesson from English Law

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Abstract

Across the world, infanticide is the intentional killing of infants, who are brutally killed by stabbing, exposure, drowning or even in the worst-case scenario, by poisoning. For instance, in the United States infants were drowning in the bathroom and in Australia, a newborn baby was found dead in a stormwater drain. Similarly, in the ASEAN region, Malaysia, the offspring were abandoned and filicide. Most of the literature has argued that the common factors were linked to the mothers' physiological changes after giving birth, lactation, and suffering from mental disturbance. It is commonly known that a lot of literature deals with either crime or the law itself, leaving a gap in the literature about Malaysia. This article examines the crime from the perspective of the laws that now govern it in Malaysia and England. The Penal Code, the Child Act of 2001, and the Infanticide Act of 1938 serve as the major sources for the doctrinal analysis and primary material used in this essay. The secondary sources, which include government reports, textbooks, journal articles, case law, online databases, and other literary sources. This study is significant as it contributes to the body of knowledge and further provides further understanding and appreciation of the Infanticide Act 1938 in the U.K. The findings would promote enhanced administration of justice and specifically facilitate the policy-making process by the policymakers in achieving greater consistency in sentencing female infanticide offenders. The authors argue that the law available in England is specific, much more straightforward than Malaysia's, and thus provides several defenses. Furthermore, it is contended that the Sentencing Council Guidelines established by the Coroners and Justice Act 2009, an independent body for England and Wales promotes greater consistency in sentencing. Therefore, this research is exceptionally significant and timely about the areas that Malaysia could learn from English law.

Keywords: Infanticide, insanity defense, postpartum psychosis, mitigating factor, women killers

Introduction

Infanticide is a crime in Malaysia under Section 309A of the Penal Code, which means that what might otherwise be considered murder will be considered infanticide if the woman's mental equilibrium was disturbed at the time of the act or omission because she had not yet fully recovered from the effects of giving birth. The legislation under Section 309B of the same Act provides punishment for a term which may extend to twenty years, and shall also be liable to fine.

However, on the surface, it can be argued that the provision seems to be blurred and distorted. First and foremost, the offence only applies to the mother. Second, the age limit is infinity, implying that there is no cut-off age for such a victim. Third, the provision is inapplicable if the baby in question is murdered by someone else. Finally, if her mind was clear at the time of the crime, Section 309A does not apply, and She'll be accused of murder (Shariff, 2012).

The case of baby dumping in Malaysia is very shocking and has caught serious attention from various parties. It was argued that an average of three babies was dumped in a day whether found alive or dead (Harian Metro, 2019). The statistics from 2013-2017 showed that there were 187 babies were found alive, while 354 babies were dead, bringing a total of 539. In addition, from 2010 – 2017, a total of 817 babies were dumped in Malaysia (Malaya, 2016). For instance, it is worth highlighting that in June 2020, a factory production operator gave birth to a premature baby and then secretly disposing the dead fetus into a sewage hole in Melaka (The Star, 2020), while in Seremban brothers were jailed for concealing the birth of the newborn baby by burying (New Straits Times, 2016).

Within the local context, poor parenting, insufficient religious observance, the stigma associated with unmarried motherhood, immaturity, and a lack of sexual knowledge are the causes of infanticide and filicide. (Razali, et al., 2020). In addition, previous literature in Malaysia has discovered that infanticide is also influenced by living in a patriarchal society, poverty, isolation, and a lack of a support system, as well as parental behaviour. (Razali, et al., 2019). In terms of the protection afforded to infanticidal mothers in Malaysia, Malaysian law recognizes the offence's gendered nature because it only applies to women (Hamin, et al., 2016). Contrary to English law, however, the Malaysian equivalent did not expressly say that murder is considered and punished as murder (Hamin, et al., 2016). Moreover, the provision in Section 309A suggests that while such an offence may appear to be murder at first glance, it is now considered infanticide (Hamin, et al., 2017).

As mentioned earlier, previous literature is mainly focused on the crime (Razali, et al., 2014) or the law (Hamin, et al., 2017), hence the defences for infanticide offenders in Malaysia is under-researched. Not only that, prior research has investigated more on the causes of infanticide (Razali, et al., 2019) and the protection available for children (Bin Engku Alwi, 2012). As such, given the serious gap underlying in knowledge regarding defences within infanticidal mothers in Malaysia, the main objective of this paper is to examine and investigate the defences from the English law that Malaysia could appreciate and learn.

The five sections are that make up the framework of this essay. The first section aims to discuss the idea of infanticide, while the second section looks at the many forms of mental illness and foeticide. The fourth part then explains the defences for infanticide offenders in England and Wales, before explaining the fifth part which highlights the issues and the defences in Malaysia. The final part concludes this paper.

Conceptualizing Infanticide

In the worldwide context, parental killing of children, including neonaticide (within 24 hours after delivery) and infanticide (up to 1-year-old), is usually described as filicide (children whose ages vary from 1 to 18) (George, 2013). Human newborns, on the other hand, have unquestionably been subjected to intentional killing in a variety of ways, including being decapitated, suffocated, incinerated, sundered, stabbed, stoned, drowned, stomped, rape, poisoned and exposed to elements by their biological parents or family members (Maya, et al., 2007). Previous works of literature have indicated that these women are typically young mothers who are involved in an unstable relationship, face financial constraints, lack social support, and suffer from mental health issues such as chronic mental illness or postpartum mental disorders (Christian, et al., 2015).

Within the religious context, infanticide is viewed as a religious duty and also an established custom in many past societies (Tengku Fatimah Muliana, et al., 2012). According to the Islamic faith, infanticide is a serious sin that is explicitly forbidden in the Qur'an (6:151). Do not kill your children out of poverty; we provide for them and for you as well; killing them is unquestionably wrong. The Bible states in verses 81:7–10, "And when the baby girl who was buried alive is asked: "For what crime was she killed?" (The Star, 2010). Another verse that commands the prohibition of killing the children on the factor of financial restrain is as follows: "Kill not your children for fear of want: We shall provide sustenance for them as well as for you. Verily the killing of them is a great sin" (Nor Adila Mohd Nor, et al., 2010)

Margaret's definition of infanticide or the murder of a child is a subject that is both compelling and repulsive, and thus the killing of an innocent child in its first year of life by its mother elicits sorrow, anger, and horror (Margaret, 2016). Another literature by Milroy stated that the term infanticide is the death of a child or infant soon after birth (after it is born and after it has breathed) (Milroy, 2017) The literature also suggests that infanticide is linked to the right to life and necessitated a complete birth as determined by an independent circulation, which could not be proven or disproven solely by evidence of breathing or not breathing (Kohm, 2013). Contrasting infanticide with neonaticide, the former refers to the killing of an infant within the first year of life, while the latter describes the killing of an infant within the first 24 hours of life. 2016 (Furedi).

The literature indicates that the term infanticide usually referred to the killing of a baby by an unmarried mother during, immediately after, or within a few days of birth, also known as women or female crime (Liena, 2010). Besides, infanticide has long been regarded as a crime committed solely by mothers, both socially and legally.

(Kilday, et al, 2008; Ficke, 2013; Caron, 2010). Meanwhile, such a phenomenon is a subcategory of child abuse. (Kilday, et al, 2013). They further explained that the discovery falls under the category of “battered child syndrome,” and thus assumed the inclusion of children ranging from newborns to eight years old, or even older, as long as it falls within the scope of the term infanticide.

The literature also indicates that the firstborn children of unmarried parents are the most vulnerable to violent deaths, which has been identified as the dark sin of infanticide and is viewed as one of the strategies used by unmarried mothers to relieve themselves of the burden of unwanted babies while concealing their crime (Brohus, 2020). Given the difficulties that an unmarried mother faces, infanticide appeared unavoidable, leaving the unfortunate mother with only two options: kill her child or support it through sin (Kilday, 2013). Not only infanticide is a crime against both person and lineage, but deliberate infanticide was also a solution adopted by only the most desperate of pregnant mothers, thus becoming the deliberate butcher of her bowels (Gowland, 2014). In addition, Milne (2019) suggests that birth concealment is a crime that is closely related to infanticide and assumes the crimes are synonymous. Furthermore, Bacewicz (2020) views on the point of its similar pattern of isolation and denial, whereby the child had been born in secret, died and the body had been hidden.

Within the medical context, the medico-legal pathologist has been drawn to the definition of infanticide to distinguish between infanticide and homicide (van, 2020). They argue that infanticide is the death of a newly born child, and the killing must occur within a certain time frame, whereas homicide is the crime in question if the killing occurs later than immediately after birth, as the punishment differs between the two (Howard, 2018; Kumar, 2018). On a broader interpretation, if the fetus dies before birth, whether during a specific type of delivery or even before the delivery begins, the case is not classified as infanticide (Hendricks, 2019). Unlike other forms of homicide, infanticide is considered a crime not only because it challenges a society's ability to assign moral, if not legal blame, but also because it is a random crime committed by a deranged woman who is embedded in and responsive to cultural norms (Sutton, et al., 2020). In her literature, agreed that the child had to be a newborn to be classified as infanticide, and the crime had to be committed by the mother to conceal her public dishonour as a mitigating factor in prompting a woman to kill her offspring (Batzell, et al., 2020).

Previous literature argued that one of the most horrifying events is the murder of children by their parents, which should be viewed not only as an act motivated by emotions but also as an activity taking place within a cultural-historical context (Grey, 2018). The frequency of infanticide varies as a result of human-ethical kinds and moral progress as culture evolves. (Frederick, et al., 2019). Thus, Frederick, et al (2019) stated that it is difficult to define the characteristics of infanticide perpetrators. They differ in their psychological dynamics, and drawing a common profile of these murderous parents is impossible in practice (van, 2020) As a result of the variety of factors at play from time to time, infanticide should be classified as a murderous syndrome (Friedman, 2012).

Meanwhile, in the nineteenth century, medical experts defined ‘baby farming as another form of infanticide carried out on unwanted children in Britain by hired nurses (Sterling, 2019). It is argued that the term “baby-farmer” refers to both midwives and child providers and that there is a widespread conspiracy among all working-class women to destroy infant lives, flaunt feminine conventions and encroach on the masculine sphere of trade (Grey, 2018).

Types of Mental Illness and Infanticide

The first category of mental illness that is connected to the present research is postpartum blues (PB). Extant literature has found out that PB has occurred within the first 10 days of giving birth, with the fifth day being the most common (Moura, 2016). Crying, sadness, anxiety, grief, confusion, headache, and exuberance are all symptoms of PB (Dowlati, et al., 2020). Previous literature has indicated that these symptoms typically last a week, and if they persist for more than two weeks, the situation may become more serious (Bass, 2018). These symptoms, also known as baby blues or maternal blues, are self-limiting and require no active intervention other than social support and family reassurance (Rai, et al, 2015) In Malaysia, the prevalence of PB has demonstrated that such incident was common and if tackled the wrong way, it may lead to postpartum depression (The Star, 2020). According to studies, risk factors for PB in the UK include a history of mental illness, child abuse and neglect, domestic violence, interpersonal conflict, insufficient social support, alcohol or drug abuse, unplanned and unwanted

pregnancy and migration status (Milne, et al,2019). Meanwhile, in the US, approximately 70% to 80% of women will develop PB. According to extensive research, some of the risk factors for PB include a sudden change in hormones after delivery, stress, isolation, sleep deprivation, and fatigue.

The second category of mental illness that is closely related to infanticide is postpartum depression. Postpartum depression (PPD), in contrast to PB, usually develops within 4 to 6 weeks of giving birth, and a study found that 10% of new fathers also experience PPD. PPD has been linked to an increased risk of suicide, decreased maternal sensitivity, infanticide, and poor child development. History of depression, personal or family history of mood disorders, including bipolar disorder, previous prenatal loss, experiencing stressful life events, lack of social support, unplanned pregnancy, obstetric factors, and maternal personality characteristics are the main causes of PPD (Silverman, et al, 2017). In relation to the present research, in Malaysia, the most common factors for PPD are marital problems, late pregnancy, low income and traditional PPD practice (Yusuff, 2015). Although the prevalence of PPD in Malaysia is 3.5 percent, it is considered the lowest in Asian countries (Shorey, 2018) and it must be differentiated from depressive symptoms that occur in bipolar disorder or schizophrenia (Razali, et al, 2015). Meanwhile, in the UK, it was claimed that 1 in every 10 women experienced PD symptoms within a year of giving birth and that women under the age of 30 are at the highest risk of depression. In this context, approximately 33% of mothers in the UK experienced depression symptoms during pregnancy, and approximately 25% of mothers continued to suffer from PD up to a year after their child was born. The current study also discovered that 1 in every 7 women in the US experienced mood disorder or PD after giving birth.

The third category of mental illness which is also related to infanticide is postpartum psychosis (PP). PP is a type of mental illness that develops after having a baby and can affect women who have never had a mental illness before. According to the literature, PP affected 74% of mothers with bipolar disorder and a first-degree relative with PP, compared to only 30% of bipolar women who did not have a family history of PP (Spinelli, 2015). Mothers suffering from PP are typically paranoid, in a dream world, unable to sleep, confused, disoriented, anxious, depressed, unenergetic, and disconnected from their babies (Holford, et al., 2018). It is argued that all these symptoms can change very quickly from hour to hour and from one day to the next. In Malaysia, following PD, PP can appear in the 4th to 6th week after delivery and patients with PP are at high risk to commit suicide and kill their babies as compared to other PB and PD. Despite being a rare mental health illness, the most severe symptoms of PP usually last between two and 12 weeks and recovery can take several months.

Defenses for Infanticide Offenders in England And Wales

The Infanticide Act 1938 (I.A) is commonly regarded as a defence against postnatal depression and psychosis and is intended to provide merciful care for helpless mothers who have killed their newborn children in severe mental distress following concealed pregnant or unassisted labour. When a woman gives birth, the experience of concealing a pregnancy out of fear and shame can contribute to a serious mental disorder. Despite the fact that the defence is only a partial defence, offenders convicted of infanticide will not be convicted of the initial charge of either murder or manslaughter but they will still face some form of criminal prosecution.

The I.A 1938 established a partial defence to murder for a woman who killed her newborn child while her mental balance was disrupted as a result of childbirth (Howard, 2018). Prior to the introduction of the I.A 1938, psychiatric defences were relatively uncommon in cases where the victim was a newborn (Howard, 2018). After much debate since 1922, the I. A was amended in 1938 to allow for the killing of infants up to the age of 12 months, and it was expanded to include cases where the mother was likely to be diagnosed with puerperal or lactation insanity (Brennan, 2013). Marks (2009) argues that childbirth can have such a destabilizing effect on mothers' minds that infant homicides may occur under unstable psychological conditions, and there may be a case for diminished responsibility for the crime.

In addition, the doctrine of diminished responsibility is originated in Scotland, based on the concept of weakness of mind and concomitant impairment of mental responsibility, and enshrined in England in Section 2 of the Homicide Act 1957 (H.A) (Baciewicz, 2020) which states that:

“Where a person kills or is a party to the killing of another, he shall not be convicted of murder if he was suffering from such abnormality of mind (whether arising from a condition of arrested or retarded development of mind or any inherent causes or induced by disease or injury) as substantially impaired his mental responsibility for his acts or omissions in doing or being a party to the killing”.

The introduction of H.A allowed for a manslaughter verdict based on diminished responsibility (Marks, 2009). In the UK, if a parent is charged under the H.A, he/she can be charged with murder and then subsequently convicted of murder, manslaughter, or infanticide, therefore, the defendant must prove diminished responsibility (De Bortoli, 2013). The doctrine proposes that in cases where a mental abnormality border on insanity but does not quite reach it, murder be reduced to manslaughter (Lambie, 2001). In the case of *R v Cannings*, the court also argued that without medical evidence about the appellant's mental state, the jury could not reach a verdict of infanticide. It was also argued that if the defendant successfully argued diminished responsibility, the court could impose any sentence, including life in prison or psychiatric treatment (Grey, 2018).

Within the context of infanticidal mothers, an accused person cannot use diminished responsibility as a defence for a crime she committed, but another person accused of the same crime may escape punishment if that person admits guilt to a minor offence. (Radosavljevic, 2011). Using this defence, in states that have capital punishment, the defendant tries to reduce the severity of the offence or avoid a death sentence. (Porter, et al., 2010). Diminished responsibility operates as a partial justification for reducing murder to manslaughter (Loughnan, 2012). The defendant's actions are still illegal and while his or her responsibility for them has been reduced, it has not been eliminated (Loughnan, 2012). If the plea is accepted, the court has discretion in determining the appropriate sentence, and as some of our case studies show, low sentences, including conditional discharges, may be imposed (Keating, et al, 2012). It was also argued that the infanticide statutes in the U.K place a lower standard of proof on the mother to prove she was mentally defective than what is permitted under a diminished capacity defence, and that there is a presumption of diminished capacity for an alleged offender who caused the death of her newborn while suffering from post-birth trauma (Keating, et al, 2012).

Under English law, murder will be reduced to manslaughter if the partial defence of loss of control applies, as a result of reforms brought by the Coroners and Justice Act 2009 under Sections 54 and 55. (Horder, et al, 2015). At this juncture, it should be noted that the new defence is divided into two parts, in which the accused's loss of self-control is attributed to his or her fear of serious violence from the deceased to the accused and secondly, as a result of conduct, words, or both that caused the accused to have a reasonable belief that he or she had been severely wronged (Yeo, 2010). While the concept of loss of self-control remains the central pillar of the provocation defence, the defence will continue to justify unacceptable behaviour, which may influence how others behave. (Kim, 2013). The loss of control defence demonstrates legislators' clear recognition of the need for English homicide law to address the recognized inability of the provocation defence to cater to the contexts in which battered women kill. (Fitz-Gibbon, 2017).

Another defence that could be raised by the female infanticide offender is based on the insanity defence. The insanity defence was designed to demonstrate that some individuals were not culpable or criminally responsible for their actions because they did not understand the moral value of their actions. (Grey, 2014). Generally, the insanity defence is premised on the idea that people with limited ability to reason and exercise free choice should not be held criminally responsible for their actions, and society is willing to forgive someone who is not culpable and did not make a meaningful choice.

The literature parenthetically contends that insanity defences are the most controversial applications of the *men's rea* doctrine (Nesca, et al, 2011). Within the study of criminal justice, MR provides a mechanism for determining the degree of punishment that legitimately applies in a specific case, for instance, infanticide (Nesca, et al, 2011). Insanity defence seems very liberal by the modern standard to be reviewed because most of the victims were over 12 months and not within the ambit of infanticide (Cunliffe, 2009) Since the adoption of the *M'Naghten* Rule, critics have suggested that an insanity defence relies upon only one aspect of the human brain that is impractical (Loughnan, 2012).

Moreover, in England and Wales, according to the benefit of linen, the defendant demonstrated that she had made bedclothes and other needs in preparation for the birth of her baby (Slate, 2019). As (Brennan, 2019) suggests such a defence demonstrates that the mother did not conceal her pregnancy or birth because she was gathering items needed to care for the baby, specifically linen as proof that she intended for the child to live. In other words, this defence established that the mother expected to accept and care for the child, allowing her to prove either the infant's accidental death or her insanity while killing it. (Friedman, 2012).

Another defence that could be highlighted by the defendant is on the want of help basis. The literature has argued elsewhere that the defendant could argue that the infant died despite her efforts to get help (Howard, 2018). The mother had no intention of killing the baby or concealing her birth because there would have been witnesses if she had been able to obtain them. (Howard 2018). (Bacewicz, et al, 2020) suggests that in some cases, the defence was used to avoid culpability and, in others, to secure an acquittal. They also defended themselves by claiming that they were unable to obtain the assistance of a midwife or others due to unforeseen adversity (Bacewicz, et al, 2020).

The English legal system recognizes gender as a factor and uses it as a defence when sentencing infanticide offenders. For instance, if an offender, whether male or female, has a good reason to be considered less culpable for their actions, such situations can be offered as mitigating factors, and if the accepted defence of not criminally responsible should be offered (Zaretsky, 2012). Two main reasons seem to explain justice chivalry, or benevolent sexism, whereby women are more frequently judged as mentally ill, and they are more frequently considered the primary caregivers of the family (Saavedra, et al, 2017). This is due to women's hormonal changes and increased susceptibility to all types of mental pathologies which are frequently used to explain female defendants' unstable behaviour (Saavedra, et al, 2017).

Even though infanticide is considered homicide in English law, there seems to be no requirement that all elements of murder be proven before a defendant can be found guilty of infanticide. Consequently, the *mens rea* for infanticide does not necessitate a desire to kill or cause serious bodily harm. (Slate, 2019). The amended section 1 of the I.A 1938 has the effect of making infanticide (whether as an offence or as an alternative verdict) applicable only in cases where the mother could otherwise have been found guilty of murder or manslaughter. (R v Gore ,2007).

Issues and Defenses for Infanticide Offenders in Malaysia

Although referring to insanity, the provision of unsound mind contends that it is not an offence if a person is having unsoundness of mind and is incapable of knowing the nature of the act, or that he is doing what is wrong or contrary to law. Literally from the wordings, therefore, it can be argued that, firstly, it makes no difference whether she was suffering from the alleged condition before or after the act when she committed such act, secondly, the perception of mental infirmity demonstrates that mental deficiency is not caused by a mental disease, it is a case of legal insanity, and it concerns the accused's knowledge and cognition when he or she pleads for the defence, thirdly, the accused is unaware of the consequences of his actions, and lastly, does the act either wrong or contrary to law. As such no *mens rea* exists when he commits the crime and the accused is entitled to the defence of insanity (Samah, et al, 2012).

In *PP v Norazwani bt Mohd Noh* (2017), the accused has been charged under Section 302 of the Penal Code for killing her newborn baby daughter by throwing the baby out from the 18th floor. The accused relied heavily on unsoundness of mind at the time of the offence as a defence and the psychiatrist's testimony confirmed that the accused was insane and unsound. Further, the court reiterated that the accused was not able to weigh the cause and effect of her act by nature, thus incapable of knowing the nature of the act alleged or contrary to the law. In this regard, the Court has given thoughtful consideration to Section 84 of the Penal Code as a total defence.

The court pointed out that in a case where section 84 is in debate during the trial, three rules require in-depth consideration. Foremost, unless and until the contrary is proven, everyone is assumed to be sane, secondly, the prosecution's burden of proof is not only to establish that the accused committed the offence, but also that he possessed the necessary mental capacity, and the onus of proving insanity is on the accused under Section 105 of the Evidence Act 1990 (Public Prosecutor v Ismail Ibrahim, 1998).

Another issue in section 84 is the right party to prove the issue of unsoundness of mind. The court hinted once more that it is a well-established doctrine that the accused has the right to address the defence of insanity and, if possible, establish that he was of unsound mind at the time of the act. Furthermore, it is not a medical test, but rather an insanity test (*Public Prosecutor v Misbah Bin Saat*, 1997). Moreover, section 84 cannot be viewed in isolation but is inextricably linked with impairment because it refers to a mental abnormality that varies in nature and intensity to render the accused entirely incapable of knowing the nature of her act. (*PP v Rozman Bin Jusoh*, 1995). A further criticism of section 84 is that it does not emerge to deal with a volitional defect by the provision's requirement that the accused had done and implies that the accused's action was voluntary in controlling his actions. Section 84, on the other hand, does not establish that the accused was unaware of the nature of his conduct; rather it denies that the accused's bodily movement was an act. The failure of Section 84 to incorporate its role because the provision is portraying in terms of inferring voluntariness and not having the capacity to infer a cognitive defect.

As noted earlier, in the criminal law, unsoundness of mind is used as a defence for cases such as automatism (the state of having a defective capacity to control one's behaviour and perform unwilled acts) caused by concussion, somnambulism, acute stress, some forms of epilepsy, other neurological or physical ailments, or pure accident. (Yeo, 2012). In the evolution of automatism in criminal law, two types of automatism have been identified, namely insane automatism and rational automatism. While the former describes the specific form of unsoundness of mind stipulated in section 84, the latter, on the other hand, the accused contends that his actions were involuntarily negated the physical element of the offence (Yeo, 2012).

The central argument on Section 84 expounds and argues that the accused must prove insanity and the accused must demonstrate that he had no idea what he was doing. Additionally, the accused knew what he was doing but did not know that it was either wrong or contrary to law. Therefore, the hospital's medical report would undoubtedly be relevant and critical evidence on which the accused could rely to establish insanity at the time of the crime's commission (*Public Prosecutor v Nageswari*, 1994).

Conclusion

Although the I.A 1938 is intended to protect mothers, the limitation of the defence of infanticide to biological mothers is based on the psychiatric assumptions underlying the I.A 1938. As far as the I.A is concerned, it precludes fathers and other primary caregivers such as adoptive, foster and step-parents (whether male or female) all of whom may be affected by the stress and environmental factors from being able to rely on the defence. Within the context of infanticide, inherent gender bias has always debated since the infanticide law has taken place in the criminal justice system. Where infanticide has occurred, it is likely to have been gender-biased, usually against females. Moreover, although the infanticide law in the U.K provides protection and defences for mothers who kill their babies while the balance of her mind was disturbed as a result of giving birth, the law on another dimension and spectrum fails to accommodate desperate mothers. However, it is worth highlighting that the English law thus clearly specify the defences for infanticidal mothers as compared to Malaysia.

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