Women who kill: A psycho-legal literature review

by

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ABSTRACT

According to the Department of Correctional Services 1368 women were imprisoned on charges of culpable homicide, murder and attempted murder in 2001. In 2002 this figure came to 1136, meaning that a total of 2 504 women are currently serving sentences for the above mentioned crimes in South African prisons. Yet the judicial and psychological issues surrounding female murderers go largely unexplored (Dept. of Correctional Services, 6 September 2002). Debbie Jones, founder of the Heartwork Foundation dealing specifically with women in prison, also believes that the growing awareness surrounding women who kill partners in an abusive relationship is due largely to the new focus on human rights. This creates a space for raising this issue through providing a platform for organizations such as People Opposed to Women Abuse (POWA) to highlight the plight of an, up to now, marginalized group. The Centre for the Study of Violence and Reconciliation has added to this focus through their study of sentencing practices in relation to women who commit murder (Personal interview, D. Jones, 23 May 2003). The perennial fascination with violent crime and particularly murder, ensures a steady outpouring of material on the subject—be it in the form of newspaper articles, magazine features, empirical studies or biographies of notorious killers. However, this coverage is always selective and piecemeal, certainly never a solid basis for generalization. What they reveal tends to be more the preoccupations of the era than the major social trends (Cameron & Frazer, 1988). This study attempts to draw together the diverse views and information on female murder to create a unified picture of this occurrence. As shown by the various studies it is dangerous to construct a picture of a typical female killer against whom all others are measured judicially (Vetten & Ngwane, 2002). The context surrounding these crimes is therefore of paramount importance. This study is therefore not only valuable in drawing together divergent reports on women who commit murder but also to provide a possible guideline for future restructuring and reframing of the judicial and societal processes surrounding women who kill. It attempts to portray a South African picture of a hitherto unstudied area namely women who kill in the unique South African surroundings.
OPSOMMING

Volgens die Departement van Korrektiewe Dienste is 1368 vroue in 2001 tot gevangenisstraaf gevonnis op aanklange van strafbare manslag, moord en poging tot moord. In 2002 het die syfer te staan gekom op 1136 wat beteken dat 2504 vroue tans vonisse uitdien vir die bogenoemde misdade in Suid-Afrikaanse gevangenisse. Tog bly die geregtelike en sielkundige kwessies rondom vroue aangekla van moord grootliks onaangeraak (Dept. van Korrektiewe Dienste, 6 Sept. 2002). Debbie Jones, stigter van die Heartwork Foundation wat spesifiek bemoei is met vrouens in die gevangenis, glo dat die verhoogde bewussyn rondom vrouens wat moord pleeg binne `n intieme heteroseksuele verhouding, te danke is aan die hernude fokus op mense regte. Dit skep `n konteks waarbinne kwessies soos die geopper kan word deur organisasies insluitend People Opposed to Women Abuse (POWA). Die Sentrum vir die Studie van Geweld en Versoening het bygedra tot die publieke bewussyn van die groep vroue deur hulle navorsingsbydra gemik op die vonnispraktyke rondom die groep vroue in Suid-Afrika (Persoonlike onderhoud, D. Jones, 23 Mei 2003). Die nimmereindigende fasinasie met geweldadige misdaad, en veral moord, lei tot `n voortdurende uitset van menings en berigte aangaande die onderwerp. Tog is hierdie uitsette diwels gefragmenteer en selektief, sekerlik nie `n gesonde basis vir verskynning nie (Cameron & Fraser, 1988). Hierdie studie poog om verskeie diverse perspektiewe oor vrouelike moordenaars by mekaar te bring. Soos getoon deur ander soortgelyke studies is dit juridies gevaarlik om die beeld van `n tipiese moordenaars voor te hou as basis vir vergelyking. Juis daarom is konteks van geweldige belang (Vetten & Ngwane, 2002). Die doelwit van hierdie studie is dus nie net om `n verenigde beeld van die verskynsel van vrouelike moord te skep nie maar om die beeld te situeer binne die unieke Suid-Afrikaanse konteks. Dit kan dan dien as moontlike toekomstige gids vir die herstrukturering van juridiese en gemeenskaplike prosesse rondom vrouens wat moord pleeg.
CHAPTER 1
INTRODUCTION

And the elders of the city said, Speak to us of Good and Evil.
And he answered: Of the good in you I can speak, but not of the evil.
For what is evil but good tortured by its own hunger and thirst?

- (Kahlil Gibran, 1983)

1.1 INTRODUCTION

Debates concerning the true nature of man have been raging since time immemorial. For instance, early Greek Dionysiac-Orphic religion believed in the transmigration of the soul. During its divine existence among the gods, the soul had committed a sin and was, as punishment, locked into the physical body until it could be redeemed through a cycle of births. For them, the soul was originally sinful and had yet to be redeemed (Hergenhahn, 1997).

Certainly one of the greatest philosopher ever, Plato, believed the soul to possess three components; the (immortal) rational component, the courageous (also referred to as the emotional and spirited) and finally the appetitive. Analogous to Freud, Plato believed that these components were in a constant state of conflict. Physical appetites such as hunger, thirst and sex was seen as a major motivation in everyday life but true knowledge could only be attained if these adulterations of the flesh were overcome (Hergenhahn, 1997). These lesser appetites were the probable source of all criminal perversions.

In contrast to this stand the contemporary humanistic movement who emphasise man’s basic goodness and non-violent nature. For them it is our way of being and an unconditional acceptance that paves the way to a self-actualized being (Hergenhahn, 1997). Tabula rasa, argue the behaviorists. It is not the nature of man to be good or bad but merely experiences that dictate what the person will be (Hergenhahn, 1997).

So mankind stands- undifferentiated and undecided. Yet very little mention is ever made of the dichotomy facing womankind. Think of the picture of the woman as seductress, the temptress, the embodiment of evil. Turn the mental page and find woman as mother; natural, caring and the precise antithesis of evil (Frigon, 1995).

1.2 MOTIVATION FOR THE STUDY

The perennial fascination with violent crime and particularly murder ensures a steady outpouring of material on the subject; be it in the form of newspaper articles, magazine features, empirical studies or biographies of notorious killers. However, this coverage is always selective and piecemeal, certainly never a solid basis for generalization. What they reveal tends to be more the preoccupations of the era than the major social trends (Cameron & Frazer, 1988). So this study attempts to draw
together the diverse views and information on female murder to create a unified picture of this occurrence.

According to the Department of Correctional Services 1368 women were imprisoned on charges of culpable homicide, murder and attempted murder in 2001. In 2002 this figure came to 1136, meaning that a total of 2 504 women are currently serving sentences for the above mentioned crimes in South African prisons. Only three women are imprisoned on charges of maternal filicide. Yet the judicial and psychological issues surrounding female murderers go largely unexplored (Dept. of Correctional Services, 6 September 2002). See Appendix A table 1 p. 88 for a summary of these statistics.

1.2.1 The African History Surrounding Homicide

Although accounts of homicides appear in ethnographic literature, it is a phenomenon that is not nearly as well documented as, for instance, suicide in the African culture. Bohannan (1960) argued that some of the literature on suicide can however provide valuable clues as to the causes and nature of homicide within an African society. He believes that homicide may largely be as a result of deinstitutionalization in the African culture. That is to say that within a Western paradigm there is a large portion of the population who do not belong to a preexisting family unit. This not the case in the traditional African culture. If an African person is then not associated with people in playing certain prescribed roles in a society, he/she is said to be ‘lawless’. This implies that he/she is no longer bound by the regulating pressures or laws of these social institutions and this provides the setting for many homicides in the African culture, according to Bohannan (1960). This deinstitutionalization may be as a result of urbanization or of the political history of our country. Many of the traditions are giving way to the new Western influences and way of living (Bohannan, 1960). This deinstitutionalization is characterized by an extreme lack of social cohesion, in which a population consists of drifting rootless people owing allegiance to no particular cultural standard, and is often associated with a high level of broken families and crime (West, 1965).

Any legal action comprises three sets of social acts. Firstly there is the breach of a certain norm, second a counteraction on the part of the society or a representative body and lastly a correction that brings about either retributive justice or punishment. The idea of a breach of norm however also comprises two distinct ideas: firstly the idea of some kind of social action and secondly a recognized norm of what is acceptable and what is not. This idea of a recognized norm comprising right and wrong is also potentially a point of great conflict. As will be shown the idea of right and wrong has undergone some major changes in the last few centuries and greatly varies with the cultural and societal discourses of the time. This is again influenced by factors such as the political climate, literature and prevailing traditions or religions. In the end this serves to shape the legal stance and punishment of certain crimes (Bohannan, 1960). The question then remains if one could impose a largely Western legal system on an African culture? Again ideas of right and wrong may differ significantly. Homicide stays a social relationship. Like all other social relationships the victim-perpetrator relationship takes place in terms of culture (Bohannan, 1960).
In most African societies in the past, some forms of homicide were positively sanctioned. It seemed to be a right, and perhaps a duty, to kill some one under certain circumstances. One such an area was the ritual of sacrifice. Among the nineteenth century Ashanti human sacrifice was generally used as a way of executing criminals (Bohannan, 1960).

Witches were also fair game in many African societies and killing a suspected witch was, indeed, sometimes regarded as not only non-culpable but also justifiable. In certain tribes killing an adulterer, or killing as a result of provocation following insults, made the killing non-culpable. Killing as a revenge for another killing was also not considered wrong. In many African societies the culpability of a homicide was evaluated not only in terms of the institutions with which it was associated but also by the relationship between the offender and the victim (Bohannan, 1960).

1.2.2 Studies done in France

A study conducted at the University of Lyon in France specifically concerning the murder of intimate partners, highlights some of the possible questions that need to be answered in this regard in our South African context. This study used newspaper articles spanning the period of 1993-1996 and comprised 558 identified articles concerning 337 crimes in France. Firstly articles concerning the trail were subjected to a discourse analysis in regards to the representation of the parties concerned as well as the families involved. A quantitative analysis was undertaken to determine how many men or women were involved, what the reasons for the intimate killing were, what methods were used as well as whether it was an occurrence of homicide-suicide. The specific trail transcripts were consulted in many instances. No interviews were conducted with the convicted killers due to practical limitations in the prison system (Mercader, 2003).

From a social and feminist perspective the killings seemed to represent an extension of women abuse pushed to the extreme. Often the women killed in self-defense. Indicators of this may be the proportion of men killing their partners namely 82% versus just 18% of the women. Therefore it remains primarily a male crime. The reasons for the killings are also vastly different. The French researchers found that men mostly kill partners who are going to leave, have left them or might leave them. So abandonment becomes a major predictor of these killings by men. More than half of the men admitted to killing out of jealousy—whether the women had another love interest or not. Thus it would seem that men primarily kill to keep their partners (Mercader, 2003).

Fifty-five percent of the women in the study cited the tyranny of an abusive man as the reason for the killing. This included references to hate, violence or quarrels. Only 16% cited jealousy as a reason with another 16% killing her partner as a result of him being an obstacle to her aims in life. Five percent of the women stated other reasons had caused the killing. Men seem more prone to kill their former partner whereas women tend to kill their current partner. The French researchers at the University of Lyon felt this may be due to a feeling of owning the other in the relationship on the part of the males. For them the relationship does not end when the female partner leaves, as they feel a certain sense of ownership of the relationship and the woman involved (Mercader, 2003).
In France the class differences seemed to have little overall effect on the crimes, compared to the global prison population. There did appear to be slightly more working class people and slightly less retired persons imprisoned for intimate killings. The women involved in partner killings appeared to be from more abusive families with a higher incidence of poverty, lower education and more alcohol and drug abuse. The researchers postulated two possible mechanisms contributing to the crime of killing an intimate partner. First of all they looked at couples typology and the fact that certain personality types are more attracted to each other. They identified four couple’s typologies; namely the psychotic - narcissistic, neurotic - normal, depressive-eclectic and the perverse typology. The couple tends to take on the typology of the lesser developed of the two. This kind of couple typology might make for interesting research in South Africa, specifically focusing on the extent of the influence of such a typology on the incidence of intimate partner killing. Another contributing factor, according to this study, is that patterns of interaction tend to be repeated by the people involved. So in terms of the families of origin there seem to be certain trends. The family tended to live closed lives with one person generally ruling the family. There may have been generational identity problems with the internal functioning of the family being much stronger than the social institution. This is related to the dynamics of incestuous families and reinforces the notion of possible projective identification problems in these families (Mercader, 2003).

1.2.3 The South African Context

Debbie Jones, coordinator of the Heartwork programme, states that less than two percent of the current South African prison population is made up of women. This seems to some extent to bear out the societal discourse of women being non-violent and non-aggressive. She also highlights the fact that the resources in South Africa for women in abusive relationships are especially underdeveloped. For many of these women the murder was the final option after having sought help from police or social workers. Until recently the perception held that each household had to contend with its own issues; also very often the message conveyed to the women seeking help from authority structures. This in turn reinforced their belief in their complicity and guilt in the abuse (Personal interview, Debbie Jones, 23 May 2003).

Often these women are stripped of their humanness in the prison context through the absolute isolation and aloneness imposed on them by their physical surroundings. The prison system is one of distrust and survival of the fittest to open up and show vulnerability is to ensure physical or emotional hurt from other inmates. So these women again learn that vulnerability is taken advantage of and exploited. This often leads abused women to cope through the use of various substances including dagga, mandrax or bleach. Theirs is an avoidance-escapism coping mechanism and as they very often avoid conflict or blame themselves as causing the conflict, they again become victims in another abusive setting (Personal interview, Debbie Jones, 23 May 2003).

Debbie Jones further believes that the growing awareness surrounding women who kill partners in an abusive relationship is due largely to the new focus on human rights. This creates a space for raising this issue through providing a platform for organizations such as People Opposed to Women Abuse (POWA) to highlight the
plight of an up to now marginalized group. The Centre for the Study of Violence and Reconciliation has added to this focus through their study of sentencing practices in relation to women who commit murder. She believes that it is not in the best interest of the children to send these women to jail, as they are often placed with the husband’s family who then perpetuate the abuse by using the children as a way to exact revenge on the mother. She advocates possible re-education programs for these women to help them to, not only heal, but learn new ways of responding to abusive situations and to deal with conflict. This will stop the repetition of the abusive cycle. This is an area of obvious application for a study such as the present one. Debbie feels it is society’s responsibility to also create viable options for gaining help for these women before they commit these crimes. She suggests that the costs of keeping these women imprisoned can be redirected to create halfway houses, where they can serve a period of incarceration for committing such a crime, but also receive intensive rehabilitation. She states that in her experience of working with these women they often tend to enter another relationship subsequent to their release as they see co-joining with another as the only means of survival. There is no strong sense of coping as an individual but meaning is only found through the notion of a soul mate. Because each person plays a very specific role in the cycle of abuse this may lead to a recurrence of the abusive relationship and once again this woman is trapped (Personal interview, Debbie Jones, 23 May 2003).

A study by the Centre for the Study of Violence and Reconciliation (CSVR) during 2001 (Bhana & Hochfeld, 2001) highlights the fact the long term imprisonment for a mother who has killed her abusive partner is in fact not in her children’s best interest. In South Africa, as in many other countries, children are mainly affected by spousal killings because of their father killing their mother. It is much rarer for women to kill their partners. Abused women who kill their partners are, indeed, very unlikely to be generally violent (Bhana & Hochfeld, 2001). Almost always these children have witnessed violence, been abused themselves, or both. Their study argues that long term imprisonment is not only not in the child’s best interest but society as a whole (Bhana & Hochfeld, 2001).

The study by the CSVR refers to sixteen children from five different mothers currently serving sentences in the Johannesburg Central Prison for killing their intimate partners. The rate of domestic violence is difficult to establish accurately because of the lack of reliable measures. The CSVR reports that a study in three provinces found that over 50% of women in the Eastern Cape and Mpumalanga and nearly 40% in the Northern Province had been emotionally and financially abused in the year 2000. Over 26% of women in the Eastern Cape and Mpumalanga had been physically abused in their lifetimes by an intimate partner and 19% in the Northern Province. Vetten (in Bhana & Hochfeld, 2001) reports that at least one women is killed by her male partner every six days; this is referred to as intimate femicide and represents the extremes reached by domestic violence. A further 45% of 1 400 male Cape Town municipal workers interviewed admitted to abusing their female partners (Bhana & Hochfeld, 2001). Statistics from the USA and the UK show powerful links between child and wife abuse. One particularly extensive study undertaken in America showed that 50% of men frequently assaulting their wives are also abusing their children (Bhana & Hochfeld, 2001).
In most cases the mother is the primary caregiver. However, women who are being abused use enormous amounts of energy to avoid the abuse and stay safe. They tend to have overwhelming emotional needs as a result of the abuse and consequently they have little resources left for their children. Many have lost confidence in their abilities to parent because of their own lack of self-esteem and years of victimization. They may actively try to protect their children from witnessing, experiencing or knowing about the abuse but this only fosters a further unhealthy environment of silence and secrecy. A complex relationship between these women and their children results, both caring and conflictual in nature. This means that they often need assistance in healing their own and their children’s wounds (Bhana & Hochfeld, 2001).

Bhana and Hochfeld (2001) add their voice to the plea for non-custodial sentences, such as correctional supervision, as the first option for abused women who kill their partners. The sentence of correctional supervision was introduced in 1992 in South Africa as an alternative to imprisonment. It is a community based sentence which can be given for any crime, even serious offences such as murder. Given this sentence women could either be released immediately, to serve their sentence in the community, or serve an initial period of imprisonment and the remainder of their sentences under correctional supervision. Correctional supervision allows for rehabilitation within the community and so preserves the vital links between a woman and her family. They also advocate the need for some kind of rehabilitation project for these women facing the stress of re-adjustment, poor financial circumstances and possible housing problems (Bhana & Hochfeld, 2001).

In March 2002 the Centre for the Study of Violence and Reconciliation released preliminary findings of a study undertaken during 1994-1998 under the leadership of Lisa Vetten and Collet Ngwane. This study drew on all the cases of spousal murder during this period heard at the Witwatersrand Local Division High Court, the Transvaal Provincial High Court as well as one regional court, the Johannesburg Magistrate’s Court. Sources of information included probation officer’s reports, expert witness reports, judgments and sentences, trial transcripts and charge sheets. Where no written information was available recorded proceedings were used. In addition newspaper reports for the same period were used to identify the cases (Vetten & Ngwane, 2002).

The first finding made in this study is not surprising; more men than women kill their intimate partners. In a total of 189 cases identified only 43 were women in contrast to the 146 men killing their partners. This means that the number of men accused of spousal killings outweighed the women by almost four to one. Twenty five of these cases resulted in acquittals. Of this twenty five only four involved women while twenty one cases involved males being acquitted on similar charges (Vetten & Ngwane, 2002).

The second finding related to the different reasons for killing an intimate partner, which they found to be strongly differentiated along gender lines. Out of the 164 cases convicted 40 of the men stated struggles over sexual choices and behavior as a reason for the murder while only two of the women gave the same reason. Thirteen of the 39 convicted women stated abuse by the partner as a precipitating factor to the killing. None of the men gave this as a reason. The second most common reason
given by ten of the women was self defense. Only two of the men claimed this (Vetten & Ngwane, 2002).

Fifteen of the 125 convicted men stated that an attempt to end the relationship had led to the killing, while only one of the women felt this led to the incident. Five of the 39 women and nine of the 125 men claimed that the killing was an accident. Two men and two women killed their partners for financial gain. Interestingly enough, in a possible reflection of societal discourses, seven men killed their intimate partners for not obeying them and six for ‘nagging’ and bothering him. Five of the cases against men cited disagreements over money as a precipitating factor. So it seems that the greatest proportion of men kill their partners over their sexual choices and behavior while most women kill their partners in response to ongoing abuse (Vetten & Ngwane, 2002).

Domestic violence was present in a number of these cases with the majority of women killing their partners under circumstances in which they were being abused. The same is not true for the male perpetrators, at least a third of whom abused their female partner before killing her. Fifty six percent of the women claimed to have been abused by the victim while none of the men accused of killing their intimate partners claimed abuse by the partner. Thirty one percent of the accused men admitted to abusing the victim before finally killing her. These figures may be an underestimate as cases where the relationship was cited as ‘unhappy’, ‘unpleasant’ or ‘stormy’ was not included within the sample cases as instances of abuse (Vetten & Ngwane, 2002).

With regards to sentencing, this study concluded that the greatest proportion of women are acquitted or given non-custodial sentences. The greatest proportion of men receives sentences ranging between six and ten years. Twenty eight percent of the women received either an acquittal or non-custodial sentences; with only nine and twelve percent of men receiving an acquittal or non-custodial sentences respectively. Twenty six percent of the men received sentences of between six and ten years and twenty five percent between eleven and fifteen years. Only fourteen percent received sentences five years or less and twelve percent between sixteen and twenty years. Seven percent of the men convicted on these charges were sentenced to twenty one years or more. On the other hand twenty one percent of the women were sentenced to twenty one years or more and only three percent to between sixteen and twenty years. Seven percent were sentenced to five years or less, six percent to between six and ten years and finally seven percent to between eleven and fifteen years for killing their intimate partners. At first glance it may seem as though men receive lengthier sentences than women. However, when the vastly different reasons for killing their intimate partners are taken into account, it becomes clear that a straightforward comparison such as this is impossible. The difference is indeed expected given how many women kill their partners while defending themselves or as a result of an accident (Vetten & Ngwane, 2002).

The study further found that the greatest number of men (31%) with a history of abusing their intimate partners before killing them received a sentence of between eleven and fifteen years. Twenty six percent was sentenced to between six and ten years imprisonment while another fifteen percent will spend five years or less in jail. Only ten percent were either acquitted or given non-custodial sentences. Finally, thirteen percent of the thirty nine cases were given a sixteen to twenty year sentence
and five percent twenty one years or more. On the reverse side of this women who killed their abusive partners were mostly given non-custodial sentences. Fifty eight percent of women claiming abuse by the victim received either an acquittal on the charges or a non-custodial sentence. Only ten percent received sentences of five years or less, four percent of between six and ten years and another ten percent were sentenced to between eleven and fifteen years imprisonment. However, eighteen percent of the twenty two cases were given sentences of twenty one years or more. This highlights the fact that a minority of abused women fare particularly badly at the hands of the criminal justice system. This is the group of women who kill their abusive partners through atypical methods ranging from employing a third party or killing him while he is asleep or otherwise vulnerable. For this group the history of abuse is not taken into account as a mitigating circumstance and they are likened to those who kill for financial gain and their sentences are thus equally lengthy (Vetten & Ngwane, 2002).

Of the eight cases comprising the eighteen percent of women sentenced to twenty one years or more, five women cited abuse as the precipitating factor to involving a third party in the killing. Only one cases stated financial gain as the reason for involving a third party. The single male case accused of involving a third party stated financial gain as the reason (Vetten & Ngwane, 2002).

In cases involving control over sexual choices and behavior, thirty three percent of the men citing jealousy or a perceived sexual slight as a reason for the killing received sentences ranging between six and ten years. Twenty five percent of these men were given sentences between eleven and fifteen years. Fourteen percent of these men were given an acquittal or a non-custodial sentence. Only five percent, or two of the forty cases, were sentenced to twenty one years or more. Nine of the cases will serve five years or less. In comparison the two cases of females citing jealousy or a perceived sexual slight as a precipitating factor for the killing got a non-custodial sentence and between six and ten years respectively (Vetten & Ngwane, 2002).

Perhaps the most shocking finding of the study is that twenty five percent or one quarter of the men convicted of killing their intimate partners had previous convictions, in comparison to only eight percent of the women. Previous convictions of the men include drunken driving, murder, assault, theft, robbery and rape. Of the forty men with previous convictions nineteen also had a history of abusing their female partners. This is a clear accusation against our current rehabilitation system (Vetten & Ngwane, 2002). The previous convictions of the women include drunken driving only. One of the women had a previous conviction for assault and robbery (Vetten & Ngwane, 2002).

Two of the women with previous convictions received non-custodial sentences and one received a sentence of between eleven and fifteen years. The greatest proportion of men with previous convictions was sentenced to between six and ten years. The second highest number (25%) was given sentences of between sixteen and twenty years. Fifteen percent of the men who were convicted of killing their female partners also killed other people. These other victims include children, the victim’s mother or sister or even her new partner. This group tended to receive sentences ranging between eleven to fifteen years. Only one woman killed some one in addition to her
partner namely her partner’s mistress (Vetten & Ngwane, 2002). For a summary of the relevant findings in this study, see Appendix B Table 2-5 p. 91 & 92.

Vetten and Ngwane (2002) believe that these findings suggest a number of conclusions. Firstly, since more men than women kill their partners, their experiences have inevitably become the norm in criminal justice proceedings. Thus, as long as women behave in ways that resemble those of men, they will enjoy access to the same defenses and mitigating circumstances that men do. They believe that the consideration of sameness and difference in men’s and women's behavior are crucial to the fair application of the defenses of provocation and self-defense (Vetten & Ngwane, 2002).

On the strength of their findings they argue that the current law does not adequately take into account differences in physical strength between men and women. For defenses of provocation or self-defense to succeed, it must be shown that the attack occurred immediately following the provocation or threat to life. Vetten and Ngwane (2002) argue that the person who kills in a rage during a sudden and temporary loss of control, or who is able to defend themselves in hand-to-hand combat, is more likely to be male than female. Not only, they say, may the woman be too terrified or powerless to fight back in the heat of the moment, she also lacks the physical strength to beat an adult man to death. As a consequence they sometimes use weapons or third parties to defend themselves or wait until the man is asleep or otherwise vulnerable. Since these attacks then appear premeditated there is no way of claiming that the action took place in the heat of the moment. The sentences for these crimes are lengthier than those for impulsive, in the heat of the moment murders (Vetten & Ngwane, 2002).

Although these findings suggest that the greatest proportion of women do kill their abusive partners during a confrontation, they also illustrate that not all battered women respond identically to actual or threatened abuse and it is therefore dangerous to create a paradigmatic abused woman against whom all other abused women should be measured (Vetten & Ngwane, 2002).

In short, Vetten and Ngwane (2002) argue that law is needed that accommodates both women’s and men’s different experiences as well as the differences between women. Schneider (in Vetten & Ngwane, 2002 p. 8) states that ‘the goal of this work is to expand defense options in order to equalize women’s right to trial and afford women equal opportunity to present an effective defense… the argument is that battered women, like all criminal defendants, have to be included within the traditional framework of the criminal law in order to guarantee their equal rights to trial’.

1.3 AIMS OF THE STUDY

There are three aims for this study:

- First of all this literature review attempts to give a unified theoretical picture of the phenomena of women who kill. The theory in this field of study includes concepts from psychology, criminology, sociology, anthropology and literature. This dissertation is further situated in the South African context by discussing uniquely South African dilemmas, such as the current
debate surrounding abused women who kill and their legal status, as well as interviews done with organizations such as the Heartwork Foundation, working specifically with women in South African prisons. The South African picture is lastly completed by referring to the history of women who kill in South Africa, including the infamous Daisy de Melker and others in Chapter 4.

- The second aim of the study involves the current legal position of women who kill in South Africa. As such a discussion of all three the groups identified in literature and their legal position is included in Chapter 6. Although this is not meant to serve as an in-depth legal critique it serves to complete the picture of the occurrence in a South African context.

- The final aim is to add a case vignette which will serve to demonstrate the findings of the literature review on maternal infanticide.

1.4 TERMINOLOGY

Key words relevant to this study are discussed below. This clarification of terms is specifically focused on Chapter 5 and 6 dealing with women who kill and their legal positions.

Neonaticide: Refers to the killing of an infant within 24 hours of birth.

Infanticide: As opposed to neonaticide, infanticide refers to the killing of a child older than 24 to 48 hours up to the age of one year.

Filicide: The killing of a son or daughter over the age of one.

Female Multiple Murderer: A women who commits more than one murder and kills for a variety of different motives mentioned in Chapter 5.

Domestic Violence: Includes physical, emotional, psychological, sexual and economic abuse between persons who are in a domestic relationship with one another.

Abused women: Women who are subjected to physical, emotional, psychological, sexual and/or economic abuse by a person with whom they are in an intimate relationship.

Criminal capacity: The psychological ability for insight and self-control. This is concerned with certain conative and cognitive functions.

Fault: Consists of either negligence (*culpa*) or intention (*dolus*). Fault is an element of every crime. For the purposes of this dissertation intention is the relevant element of fault. An accused is said to have intention when he/she intentionally commits unlawful conduct knowing it to be unlawful.

Homicide: Can consist of killing oneself (suicide) or another (murder). Intention is not always necessarily an element of homicide as for instance proof of negligence will suffice in a charge of culpable homicide.
Murder: The intentional and unlawful killing of another person where intention is a necessary element of the burden of proof on the State.

Culpability: The legal blameworthiness for the reprehensible state of mind or careless conduct of a criminally accountable person who has acted unlawfully.

1.5 CONCLUSION

This study is a literature review that explores, reflects upon and integrates the current South African position on women who kill. As is clear from the above discussion a much deeper focus in terms of the rehabilitative needs of the Department of Correctional Services is needed. It is proposed that the dissertation will form the basis for further doctoral research, possibly into the personality characteristics and life scripts of abused women who kill their intimate partners in abusive relationships; thereby laying the foundation for effective rehabilitation programs aimed specifically at this group of women. However, before any doctoral study of this nature could be undertaken a thorough literature review, such as this dissertation attempts, was necessary to provide a unified theoretical picture of the phenomena of women who kill. It is thus a hypothesis generating study.

No easy answers are to be found concerning the questions of intention and accountability. An in depth analysis of the elements as part of a bigger law process will provide clarity and direction in the examination of female criminals. Especially the controversy surrounding battered women who kill their partners bear further scrutiny. What is the personality make-up of these women? To what extent are they able to form intention or capacity? Should they be treated differently by virtue of their intense psychological and physical suffering? These are very relevant questions in an age where intimate killings are becoming more commonplace (Maree, 1995).

Very little is known about the personality factors that might contribute to killings as discussed below. An investigation of such factors may provide motives to apparently motiveless killings (Maree, 1995). As will be mentioned, the female murderess has been largely ignored or stereotyped- even more so in the slow - changing, patriarchal South African context. This study examines the picture of the South African murderess and the legal consequences of her actions. The methodology proposed for this type of study is described in the next chapter.
CHAPTER 2

METHODOLOGY

2.1 BASIC DESIGN AND STRATEGY

2.1.1 Basic Design

This study will attempt to provide a succinct survey of the existing literature on women and homicide. For this purpose, the literature regarding the three groups discussed in the following chapters will be exhaustively researched and conveyed in this research project. The three groups comprise women who kill in an abusive relationship, women who kill as a result of pathology and women who kill with a certain motive. Women who kill their children and female multiple murderers are taken as representative of the last two groups mentioned. These three groups have been repeatedly identified in research as representative categories of female homicide. Included in this survey of the existing literature is a descriptive overview of the current legal view of these women and their respective crimes. Therefore legal aspects such as non-pathological criminal incapacity and mental illness as a defense will be looked at.

All of the above have a strong South African contextualization and includes interviews with several knowledgeable people in the field of psychology and law. These interviews are relayed in the section on the motivation for the study (Chapter one) as these interviews contributed valuable South African based knowledge. This provides an important practical basis for the literature survey and serves to further contextualize the theories and research findings discussed in a South African, and perhaps even an African, context.

In conclusion, as mentioned in Chapter 1, the aims of this literature review are quite specifically:

- First of all this literature review attempts to give a unified theoretical picture of the phenomena of women who kill. The theory in this field of study includes concepts from psychology, criminology, sociology, anthropology and literature. This dissertation is further situated in the South African context by discussing uniquely South African dilemmas, such as the current debate surrounding abused women who kill and their legal status, as well as interviews done with organizations such as the Heartwork Foundation, working specifically with women in South African prisons. The South African picture is lastly completed by referring to the history of women who kill in South Africa, including the infamous Daisy de Melker and others in Chapter 4.

- The second aim of the study involves the current legal position of women who kill in South Africa. As such a discussion of all three the groups identified in literature and their legal position is included in Chapter 6.
Although this is not meant to serve as an in-depth legal critique it serves to complete the picture of the occurrence in a South African context.

- An illustrative case vignette on maternal infanticide is added in order to demonstrate the findings of the literature review.

This literature review can therefore be described as a pilot study with the aim of generating hypotheses for further research.

2.1.2 Literature Review As Methodology

Reviewing the accumulated knowledge on any subject or research question is essential in any research project. This provides clues as to what is already known and what might be missing from the research. This, in turn, guides research questions and ideas to contribute to this body of knowledge. A literature review is based on the assumption that knowledge on a subject accumulates. This knowledge is built on what others have done in that specific field. Scientific research is a communal activity with each project contributing a tiny part in the creation of a reserve of knowledge (Neuman, 2000).

The first and foremost goal of any literature review is to establish a degree of familiarity and credibility in relation to a precise area of study. This familiarity with existing body of knowledge enables the researcher to identify defects or gaps in this field of study. Furthermore, it creates a competence and ability to interact with the research process in the field of study (Neuman, 2000).

A literature review is an account of what has been published on the relevant topic by accredited scholars and scientific journals. As an evaluative report of information, the review should describe, summarize, evaluate, and clarify the literature. As mentioned, it provides a literature base for further studies. The purpose is to convey to the reader what knowledge and ideas have been established on a topic and what their strengths and weaknesses are (www.library.cqu.edu.au/literaturreviewpages/what.htm). The literature review as a piece of writing must be defined by a guiding concept in this case to serve as an integration of current knowledge on female perpetrated murders. The literature review relies on two basic skills namely information seeking and critical appraisal of the current knowledge (www.utoronto.ca/writing/litrev.htm).

While the literature review may vary with different types of studies, the basic purpose remains the same. In general, the literature review should provide a context for the research (as is done here with the interviews undertaken with various organizations), should justify the research, enable a learning process from previous knowledge, highlight flaws, and gaps in this knowledge, and help to refine and focus the study (www.utoronto.ca/writing/litrev.htm). In this case, the unique South African context is repeatedly emphasized as well as the lack of research in the area of female murderers.

The research project under discussion focuses on an integrative review of the literature. This implies that the current state of knowledge is presented and disparate research reports pulled together to form a complete picture of the research findings in the area of female perpetrated murders (Neuman, 2000). The literature review may
serve as a self-contained review of writings on a particular subject (http://library.ucsc.edu/ref/howto/literaturereview.htm). Other fields of study will serve to augment the review of existing literature. These fields included law, criminology, philosophy, literature, and sociology; thereby ensuring a valid attempt at a complete and balanced representation of all that is known in this field.

This literature review, through necessity, includes a historical review of theories on female criminality as well as the legal position of the three groups of women under discussion. The historical element shows how a particular idea or theory has developed and evolved over time. Such a review shows the advance of knowledge and how certain ideas were incorporated into broad thought (Neuman, 2000).

Perhaps the most valuable part of any research project lies in the reporting of findings. These findings can be reported in several written forms. This includes scholarly journals, books, dissertations or theses, government documents, presented papers and so on. This is referred to as the theoretical sampling in a study and will be utilized in this study. All these sources will be invaluable in any literature survey or review. In this particular case, government documents such as court cases play a very important role in an integrative survey- not to mention providing a uniquely South African perspective. This comprises the data sampling and is specifically done in this case through interviews, court cases and court reports. An important source of context related information was, of course, the interviews conducted with experts in the fields of psychology, criminology, and law. These interviews were conducted with Debbie Jones, director of the Heartwork Foundation, working with women in South African prisons around the concept of forgiveness. They run several programs in these prisons focused on this concept and bring together families or spouses in need of forgiveness following the after effects of a crime. Several programs this year have been geared toward women who kill abusive partners and their children. Further interviews were done with several people attached to the CSVR, including Lisa Vetten and Kailash Bhana, both concerned with especially abused women who kill their partners and the harsh legal punishment imposed on them. Both of these projects served as gripping material not only for interviewing but personal consideration.

2.1.3 Overview of the Legal Position

The next vital part of the study pertains to the legal question of culpability and capacity as elements of a murder charge. This study looks at the judicial background of culpability and capacity, as well as any changes in legislation over recent years in this respect. It looks at the formulation of these elements in the scenarios sketched in the following chapters, and the impact of this formulation on the judicial process. This is extremely relevant as both are crucial elements in the law process and is frequently called into question during court cases. Especially in the cases of pathology and abused women, the question of capacity and culpability is ambiguous.

2.1.4 Case Vignette

An illustrative case vignette is added to illustrate the findings of the literature review. The case vignette, on the incidence of maternal infanticide, was drawn from interaction with and assessment of the subject, Lesley, whilst serving her sentence in a female prison in Gauteng. Pseudonyms are used to protect her privacy and identity as
well as that of her family and other parties involved in the crime. Further information was drawn from assessments and interviews done for purposes of sentencing in her court case.

2.2 CONCLUSION

As explained in Chapter 1, this study forms part of a broader doctoral thesis research project to be undertaken upon completion of this literature review. As such, this review forms an integral and invaluable part as it brings together knowledge on the subject base, which will in turn guide the larger research undertaking. Therefore, although this study stands alone in full right it does lend itself to broader examination of the field of study.

The next chapter comprises an overview of current and historical theories on women and aggression.
CHAPTER 3
WOMEN AND VIOLENCE: A HISTORY OF SILENCE

3.1 INTRODUCTION

This chapter attempts a concise overview of current and historical theories regarding gender differences in aggression and violence. A broad discussion of the different discourses surrounding women who kill is followed by the various attempts at explaining aggression and the role it plays in the human make-up; be it destructive or survival focused.

This summary of theories serves to provide the theoretical background to a largely social phenomenon, as will become clear when classic South African murderesses are discussed in the following chapter.

3.2 A PORTRAIT OF A WOMAN

According to Frigon (1995), women embody madness. To be a woman is to be, somehow, mad. Within discourses, women are situated on the side of irrationality, body and nature while men are positioned on the side of reason, culture, and mind (Frigon, 1995). One only has to look at the ratio of women in prison versus women in psychiatric hospitals to realize society’s views on proper feminine behaviour (Frigon, 1995).

Frigon (1995) is of the opinion that society criminalizes and pathologises women’s minds and bodies through certain ‘technologies of gender’ such as historical witch trials, chastity belts, more recent Chinese foot binding and genital mutilations. The image of a witch was indeed the basis for some representations of women in criminological theory, which will be discussed later. It has often been argued that certain kinds of women were targets for witch-hunts. Usually widows, unmarried women, or ‘strange’ old women were accused, thus a woman standing alone without the relative safety of being a wife or a mother. Even in literature, there is a particular judgment on women who transgress their true nature and commit crimes. Lady Macbeth is, for example, often linked to images of witchcraft, ravens, blood, demons, and infanticide. She herself acknowledges the transgression of her femininity when she conjures demons to

‘unsex me here;
And fill me, from the crown to the toe, top-full
Of direst cruelty’

Yet her end is equally terrible and tragic. The message is clear: women who transgress accepted boundaries of female behaviour await a horrible end (Frigon, 1995).

As will be seen later on, women’s normal bodily functions were seen as the cause of insanity and deviance. Normal menstruation or pregnancy could form part of a pathological condition. A British doctor in the seventeenth century was first to speculate that the deviations in women were the product of ‘irritation of the ovaries and uterus - a disease by which the chaste and modest woman is transformed into a raging fury of lust’ (Frigon, 1995 p.28).

Today several discourses are used to make sense of violent women and their motivations. Women are not expected to be violent. Current gender relations, and the structures built on these relations, are premised on women’s non-violence. When they are violent these institutions are challenged and explanations are sought to reduce the contradiction. Much of this process takes place in the media who, to a large extent, maintain and construct dominant institutions and constructs. The media is an enormously effective vehicle for the mass consumption of information and finds violence by women not only the epitome of human drama and emotion, because it breaches the expectations of human interaction, but sexualized drama and emotion. There lie all the elements of a newsworthy story (Chan, 2001; Naylor, 1995).

Some of the explanations may be familiar, such as the Madonna-whore complex. Clearly, a criminal woman can have no morals and is capable of any deviance. Often women are also portrayed as emotionally frail with love taking central position in their lives. A crime can be committed under the guise of being desperate for love, a pathetic decrepit creature that had lost everything including her motivation to live; namely love and her relationship (Naylor, 1995). The media revel in the so-called catfight or love battle. The age-old love triangle does make a good story- it is the embodiment of women’s emotionality in contrast to ‘real masculine’ violence, such as duels, and is, almost like children, wholly unthreatening (Naylor, 1995).

Finally, we have the image of the evil, manipulative, scheming woman. This explanation serves as a kind of umbrella explanation for all the evil doings of women and proposes that women are inherently likely to commit crime. This is the femme fatale playing on the chivalric foolishness of men, who would never suspect a woman merely as a result of her sex. This frightening and glamorous image was often employed in the glory days of old Hollywood with the hero’s valiant attempts to extract himself from her snare. Although he might be destroyed in the process, the progression of the film was often towards the restoration of the patriarchal order and the exposure and destruction of the women (Naylor, 1995).

3.3 EARLY THEORIES OF FEMALE CRIMINALITY

3.3.1 Theories on Gender Differences in Aggression

Research on aggression has largely been hampered by definitional differences. Most researchers express doubt as to whether any single theory or definition could encapsulate the diverse actions implied by the terms aggression or violence. The
accepted latitude concerning aggression or aggressive behaviour in any given culture further complicates this type of research (Micheals, 1992).

Micheals (1992) differentiates between anger, hostility, and aggression. Anger is defined as primarily being an affective state that can range from mild irritability to outbursts. Anger is also seen as a secondary emotion underpinned by fear or shock. Hostility incorporates anger but implies a set of attitudes or a way of thinking about and interacting with others. Aggression on the other hand implies destructive behaviour directed towards an object or a person (Micheals, 1992).

Violence is seen as the extreme manifestation of aggression. An act is assumed to reach violent proportions when force is used and injury or harm is threatened to the individual or group. Violence is perpetuated either individually or in groups and can be subdivided into willful acts of violence and accidental violence. These acts can further be defined as legal or illegal based on the prevailing legal system in a society, the context of the violence and the meaning of the act for the perpetrator and the victim (Micheals, 1992). To illuminate the variables implicated in the causes of aggression and violence an overview of the theoretical stances is necessary.

3.3.1.1. Instinct theories of aggression: Freud

An instinct is perceived as a concept between the mental and organic spheres. It does not emanate from an external source but originates in the body and releases energy to the psyche. As such, it generates a constant level of excitation from which the individual cannot escape. The aim of each instinct is to obtain satisfaction. Freud acknowledged that instincts are subject to fluctuations and changes. He suggested a small number of instincts underlying behaviour that is more complex and called these the ‘primal instincts’ (Micheals, 1992).

At first, Freud espoused aggression as a component of the sexual instinct. His theory of the aggressive instinct evolved in three stages. Originally, he considered aggression in terms of sadism. The first aggressive impulse is perceived as the oral-sadistic impulse manifesting during the late oral stage of development when the child is prone to biting things. The sadistic aggressive tendency reaches its climax in the phallic phase of development when the death wish is directed against the parent of the opposite sex (Micheals, 1992).

The second phase in the development of Freud’s theory on aggression involves the oppositional instincts of ego or self-preservative instincts versus the sexual instincts. The aggressive instinct is believed to emerge in defense of the self and ego. In this capacity, aggression is depicted as an external reaction and not a primary biological drive (Micheals, 1992).

The third phase introduces Freud’s final and revised theory on aggression. Freud conceded that not all aggression can be ascribed to self-preservation, and most theorists speculate that this revision is the direct result of Freud’s own experience of the First World War and his clinical observations. Aggression is now treated as a separate entity for the first time. The dual life and death instincts take a central role- Eros, the life instinct, takes over the role of the sexual instincts and Thanatos, the death instinct, emerges in lieu of the self-preservation construct. Aggression is
subsumed under this death instinct. The stronger the death instinct the more aggressive a person will react. To ensure survival man has to direct the inherent self-destructive tendencies in the death instinct outward. In this sense, socially acceptable expressions are sought. Freud proposes two, namely sublimation, where the destructive tendencies are channeled into more active acceptable forms such as being a surgeon or butcher; or by participating in an activity that satisfies other instincts as well such as having sex. In this way aggression can be socialized (Micheals, 1992).

More recent psychoanalysts oppose Freud’s instinct postulations. Horney (in Micheals, 1992) considers basic anxiety and hostility as important determinants in the process of aggression. Basic hostility arises as a child experiences their environment as hostile if their basic dependant needs for warmth and love are not met. They thus develop this basic hostility in reaction to the perceived hostility of their environment. Basic anxiety, on the other hand, is the pervasive feeling of helplessness that children experience when they are unable to cope with their environment (Meyer, Moore & Viljoen, 1997). This is a more comprehensive term that indicates that the environment is experienced as unreliable, merciless and mendacious. The child feels in danger of his/her individuality being obliterated, freedom taken away and happiness prevented (Horney, 1947).

Both basic hostility and anxiety are repressed and become unconscious. Horney (1937) states that repression is not a matter of choice- it is a reflex-like process. Basic hostility and anxiety later manifest as neurotic needs. Horney subsequently reduced these ten needs to three interpersonal styles or ways of relating to others namely: a movement towards others, against others and away from others (Meyer, Moore & Viljoen, 1997).

People who move against others mistrust feelings and intentions of other people and believe that hostility should be met by hostility. They are obsessed by prestige and personal achievement and exploit others in order to achieve their goals. Horney (1947) describes this as an expansionist interpersonal style. According to her there are three types:

- The narcissistic type who expect people to return their favours with interest.
- The perfectionist who believes their abilities are superior and blame others for their failures.
- The arrogant-vengeful type who are very competitive and glory in their outmanoeuvring of others (Meyer, Moore & Viljoen, 1997).

This specific interpersonal style, more than the others, would certainly be characterised by aggression in order to satisfy their needs for prestige and personal achievement even in the face of resistance.

Erich Fromm devoted a considerable amount of time and attention to the pathogenesis of aggression. Initially he only distinguished between reactive or rational hatred, as a biological response to real or imagined threats, and irrational character conditioned hatred. Rational hatred occurs in humans as well as animals and does not have destruction as a primary goal. Character conditioned hatred by contrast is a primarily destructive trait found only in humans (Meyer, Moore & Viljoen, 1997).
Fromm maintains that although rational hatred occurs in all human beings and has a biological basis, the incidence and intensity of character conditioned hatred differs from person to person and culture to culture. Hence this type of hatred emerges in environmental conditions where the satisfaction of basic needs is frustrated, especially those of transcendence (Meyer, Moore & Viljoen, 1997).

In Fromm’s monumental work on aggression, *The anatomy of human destructiveness* (1973), the two types of hatred is referred to as benevolent aggression (a phylogenetically programmed self-protective impulse) and malevolent aggression (a human potentiality created by conditions of human existence with destructiveness as its sole objective) [Meyer, Moore & Viljoen, 1997].

Benevolent aggression includes everything that does not have destruction as its sole objective. This includes pseudo-aggression e.g. aggression in sports, defensive aggression, conforming aggression or aggression in conformance to a higher authority, and instrumental aggression for instance in wars. Benevolent aggression can therefore be controlled by identifying the actual threatening conditions which causes it (Meyer, Moore & Viljoen, 1997).

Malevolent aggression, in which aggression is a goal in itself, is not biologically based but stems from a character structure that is formed through assimilation and socialisation. This character type is usually power hungry and believes that problems can be solved through violence. Their approach is intellectual and devoid of feeling. Fromm calls these character types the necrophylous and the exploitive character types (Meyer, Moore & Viljoen, 1997).

### 3.3.1.2 Biological Perspectives

Fromm (in Micheals, 1992) described aggression as the direct and unalterable expression of human anatomy. Lorenz (in Micheals, 1992) states that aggression is an inherent instinct in man and animal and is not acquired by environmental conditions. While it is believed to harbor destructive tendencies, aggression is primarily aimed at survival (Micheals, 1992).

Lorenz believed that primitive man possessed an inbred aggressive instinct. The civilized modern society is not conducive to the discharge of aggressive energy and therefore aggressive energy accumulates until it will eventually surface even in the absence of environmental stimuli (Micheals, 1992).

Recent research on aggression and the biological influences have focused on the role of hormones. Hormones such as testosterone are thought to influence behaviour in two ways. Firstly, by organizing the human brain in such a way that certain responses become more likely and secondly by activating the physiological mechanisms that help govern certain behaviours (Hale & Bolin, 1998). Recently the description of the Premenstrual Tension Syndrome has sparked controversy surrounding its possible role in female criminality (Micheals, 1992).

During the 1970’s and early 1980’s the possibility of a genetic basis for aggression was investigated. This focused on the chromosomal theory of aggression and specifically a XYY chromosomal abnormality in offenders. The additional Y
chromosome would contribute aggression to a genetically programmed violent supermale. However, this theory has not been supported in research and no clear link has been found between genetic deviations and aggression (Micheals, 1992).

In 1937, a study at the University of Chicago noted a marked behavioural change in a group of Rhesus monkeys following lesions to the temporal lobes. Their aggressive behaviour had decreased and was superceded by tame, friendly behaviour. Many subsequent studies have highlighted the link between brain damage and behaviour change. Perhaps one of the most well known cases is that of Phineas Gage who became more aggressive after a lesion to the frontal lobes of the brain (Micheals, 1992).

**3.3.1.3 Environmental theories of Aggression**

The nature and causes of individual behaviour is considered from a social perspective in the environmental theories. Hence, aggression becomes an interpersonal phenomenon (Micheals, 1992).

Dollard and Miller (in Micheals, 1992) first shifted the argument over aggression from inborn roots to learned phenomena. Their basic postulate considers frustration as a powerful antecedent to aggression. Several factors influence the intensity of the frustration: the strength of the frustrated drive, the intensity of interferences with the goal response and the number of frustrated response sequences. Different frustration sources can converge or summate (Micheals, 1992).

One of the most popular theories on aggression and specifically criminality is that it constitutes a learned behaviour. Social- Learning Theorists such as Bandura and Mischel discredit aggression as a basic human instinct (Micheals, 1992). Learning theory has revolved around conditioning wherein the behaviour (response) is linked to the environment in which it occurs (stimuli). Criminal behaviour is seen as operant behaviour- it is maintained by the changes it produces in the environment. Crimes against a person may involve negative reinforcement or the removal of an aversive stimulus, which acts as a reward and increases the likelihood of the behaviour being repeated (Jeffrey, 1995). Aggression is therefore maintained and regulated by the same processes that govern other types of social behaviour. The person’s cognitive appraisal and expectations of the situation or stimulus will largely influence the consequences he/she attaches to the outcome (Micheals, 1992).

As mentioned above many researchers believe that differences in the rate of aggression can be ascribed to differences in the social roles traditionally assigned to men and women. Popular and mass media consistently show more male violence than female violence. Parents are inclined to buy toy weapons for their boys and dolls for their daughters. Aggression is also more likely to be rewarded in boys and frowned upon in girls. Research has reported that women are more aware of the possible outcomes of aggression than men are. They are more likely to consider the suffering of the victim, the possible loss of a relationship and the effect on their reputation (Hale & Bolin, 1998).

The theory of subculturally induced violence arises from the above-mentioned social learning theory of aggression as an acquired response. This theory regards the highest
incidence of violence as taking place in environments where aggressive models abound and aggressive behaviour is regarded as a highly valued attribute. In such environments, status is obtained through aggression and violence. This combination of aggressive modeling and reinforcement for aggression is effective in fostering an escalating violence and aggression (Micheals, 1992).

Goldstein (in Micheals, 1992) describes the social labeling theory as involving the interaction between the aggressors and the labelers. Thus in order for an act to be seen as aggressive it must be observed and then labeled as aggressive by some one who has the position of power to define an act as aggressive. This involves a process of social judgment that can be influenced by a number of factors. The definition of the act as aggressive will largely depend on the socio-cultural and familial milieu within which the individual is situated (Micheals, 1992).

### 3.3.1.4 Aggression theories espousing intrinsic- extrinsic instigation

Several theorists attribute equal importance to intrinsic and extrinsic variables as instigators of human aggression. Novaco’s model (in Micheals, 1992) perceives aggression to be a means of handling stress such as annoyance and frustration. He identifies four components to the so-called anger-aggression syndrome, namely the external triggering event, the cognitive processes, anger arousal, and the concomitant physiological arousal together with the labeling of the arousal and finally the behavioural reactions. A bi-directional reactional relationship exists between these components (Micheals, 1992).

Plutchik (in Micheals, 1992) postulates a general theory of emotion based on eight postulates. First of all emotion is applicable to all evolutionary levels both animal and human. Secondly, emotions have an evolutionary history, different species assume different expressive modes, and these emotions have a specific adaptive function and assist survival. Certain common patterns can be discerned despite the different expressive modes used and thus a number of primary or basic emotions can be identified. All emotions are also the conglomerate outcomes of mixed states and one must remember that primary emotions can only be inferred from evidence. Lastly, each emotion can exist in varying degrees of intensity or levels of arousal. To this extent the cognitive functioning of the organism assumes a regulatory role. Cognitive evaluations influence the type of appraisal made and in turn the response that it will elicit, positive or negative (Micheals, 1992).

Eight basic emotions are identified according to Plutchik (in Micheals, 1992) namely terror or fear; anger or rage; joy or ecstasy; sadness or grief; acceptance or trust; disgust or loathing; expectancy or anticipation and finally surprise or astonishment. These emotional experiences (e.g. anger or rage) translates into a specific behavioural manifestation, attacking or biting, which in turn constitute a biological system that clarifies the goal or function of the emotion; in this case destruction (Micheals, 1992).

Megargee (in Micheals, 1992) believes the first step in thinking about a particular aggressive act is to realize that it is directed at a specific target and then to analyse its component parts. Most human behaviour according to Megargee (in Micheals, 1992) is an automatic sequential response. A person will select the response offering the most satisfaction and the least dissatisfaction (Micheals, 1992).
The strength of the aggressive response is determined by four categories that interact to determine the strength of the response:

1. Instigation to aggression: this is the conglomerate of all the factors that motivate a person to commit an aggressive act including anticipated economic or political benefits (Micheals, 1992). Megargee (in Micheals, 1992) distinguishes between physiological and psychological instigators. Psychologically there are two classes of instigators namely intrinsic motivation, or to injure a victim, and extrinsic motivation, or to accomplish a purpose such as acquire money or dominance.

The most common sources of extrinsic motivation are personal gain or satisfaction including money, sex, drugs or territory; enhancement of self-concept through demonstrating courage or getting attention; the removal of problems or impediments; achieving personal goals or social goals such as approval or acceptance in a group; achieving political or religious goals and finally altruism. Intrinsic motivation on the other hand applies to the conscious or unconscious desire to injure a person, his/her possessions, or his/her reputation (Micheals, 1992).

2. Inhibition against aggression: this would include any personality factors that act against a specific aggressive act directed at a specific target. This would include concepts such as superego, conscious, moral injunctions against the act, the anticipation of adverse outcomes, proximity, empathy, and identification or learned taboos (Micheals, 1992).

3. Habit strength pertains to the extent to which responses have been rewarded or punished in the past. The more frequent and successful an aggressive act, the more likely it is to be repeated. Habit strength is more applicable to extrinsic motivation and follows the same principles as operant conditioning where aggression is reinforced by the environment in attaining a desired goal (Micheals, 1992).

4. Situational or stimulation factors. While the above all represent personal characteristics, this factor implicates the environmental stimuli that may facilitate or impede aggressive behaviour. A few situational determinants are mentioned by Megargee (in Micheals, 1992) namely the behaviour of the victim; the behaviour of the other group members; bystanders behaviour; opportunities to engage in violence and finally crowding and the availability of weapons.

When a person belongs to a group, there is a natural proclivity to concede to the group’s wishes and decisions. Therefore, a person is more likely to concede to a group’s violent or aggressive behaviour even though it may contravene the individual’s own values (Micheals, 1992). When such an antagonistic interaction is cheered and encouraged through the bystander’s reaction, it becomes difficult to relinquish the dispute for fear of losing face.
Alternatively, disapproval may diffuse the situation completely (Micheals, 1992).

It becomes clear that most of the traditional theories of violence and aggression, such as Freud, tend to explain these phenomena from a highly individualistic point of view. The behaviour of the killer is to be understood as arising from their individual circumstances such as family tension, mental instability, sexual jealousy, and so forth. These views tend to disregard the social encouragements and constraints placed on murder (Cameron & Frazer, 1988).

3.3.1.5 The Ecosystemic view of human aggression

Environmental factors and the person’s interaction with the environment are considered as significant determinants of human behaviour including aggression. Bateson and Maturana (in Micheals, 1992) are important proponents of this view. Bateson (in Micheals, 1992) discredits linear causality and supports the principle of cybernetic epistemology. According to this view, the essence of evolutionary survival lies in the organism plus environment and not within the organism or species as such. The living world is perceived as a gigantic system ruled by circular causal processes. Bateson warns that failure to recognize this leads to interpersonal and ecological disasters (Micheals, 1992).

Maturana (in Micheals, 1992) proposes the principle of structural determinism wherein all organisms and their behaviour are determined by their structure. This structural determinism implies structural coupling which are the building blocks of all human interaction. This involves the relationship between the organism and the medium within which it exists. Aggression would therefore be conceived as the result of interactional variables rather than inherent personality traits (Micheals, 1992).

Van den Heever (1987) specifically argues for a social-organization model in the contemplation of crimes, and murder as such. A study of the social aspects of murder centers on four areas; namely the causes of the crime, the effects of such a crime, the existence of crime etiquettes, and the control of crime. Two approaches are commonly followed within a social-organization model. The first approach is the social-psychological model, which focuses on the individual as the origin of the crime. This approach would focus on the stages in the individual’s criminal career, the way the individual copes with social control efforts and the conditions that leads the individual to commit the crime. In contrast to this, we find the social-structural efforts that focus on the network of social institutions that make up society. It examines the distribution of crime within a society, the consequences of crime for a society and the role of political and economical forces in the creation of ‘deviant’ labels. Thus, society or part thereof is the focus of attention (Van den Heever, 1987).

The concept social-organization refers to a network of social relationships. This includes broadly two types of networks. In the first place, social-organization can be seen as associations that refer to the relationships between a number of individuals that eventually form a group. This association can be formal, as in the case of a university with a specific hierarchy, rules, and goals or informal as is the case with more intimate interpersonal relationships such as within a family unit (Van den Heever, 1987).
Secondly, social-organization can be seen as a transaction. This refers to the relationship between two or more individuals engaged in a common activity. These individuals would not necessarily belong to the same associations, as is the case in marriage ceremonies. While association emphasizes the structure of the groups, transactions emphasise the structure of the common activities (Van den Heever, 1987).

Whether the attention is focused on associations or transactions within the social-organization model two important concepts are used. Position refers to the membership of a person to a specific group or category. It is expected of that person to act in a certain manner, for instance as the mother of a household. Role, on the other hand, is used to illustrate that person’s actual behaviour in that specific position. The mother of a household traditionally has the role of nurturing through providing meals and a safe welcoming environment. Roles and positions can never be separated even as roles are socially determined within a social network. Roles are determined in relation to other roles, for instance the mother role to the child role, or the wife role to the husband role. These roles implicitly and explicitly include certain responsibilities that must be fulfilled by the person but also certain demands that arise from the expected behaviour of other roles in relation to that person’s. These roles, positions, demands, and responsibilities form social organizations (Van den Heever, 1987).

Van den Heever (1987) maintains that the above analyses of social organization also holds true for criminals. He identifies five categories of criminal associations; the loners, the colleagues, the peers, the mobs and the formal criminal organizations. These five categories are defined in terms of whether they participate in criminal behaviour together, whether there is an elaborate division of labor, whether their activity spans over time and whether they associate with other criminals. It is also true that the trespassing of certain roles or responsibilities and demands may lead to a crime being committed, as in the case of a battered woman killing her abusive partner (Van den Heever, 1987).

The social-organization of criminal behaviour shows the ways in which criminal transactions are organized and structured. Thus, the focus is mainly on the behaviour and not the individuals. Transactions take place when two or more people are engaged in a common goal. The behaviour is therefore goal-oriented. All transactions show three characteristics; the participants orientate themselves to a common end, the achievement of the goal brings gratification to some, or all of the participants, there is a division of labor and a flexible coordination to adjust their response to unexpected events. The above may be applied to women who collude with others to kill or harm their partners (Van den Heever, 1987).

In terms of the social-organization of murder, Van den Heever (1987) describes it as a collective transaction wherein a victim, an offender, and possibly an audience engage in an interchange that leaves the victim dead. These transactions are typically situated, for participants interact within a physical territory. As is to be expected the participants develop particular roles each shaped by the other and instrumental in some way to the fatal outcome (Van den Heever, 1987).
As is clear from the above, murder takes place within a larger context. This is referred to as the social occasion or a wider social affair within which many situated transactions form and reform. It also carries the boundaries as to what transactions are considered appropriate and inappropriate. The social occasion of murder in many instances implies an intimate relationship between the victim and the offender (Van den Heever, 1987).

Luckenbill (in Van den Heever, 1987) states that the transactions of murder can be divided into six chronological phases:

1. **Phase 1: The personal attack** - the victim begins by doing or saying something that the offender interprets as a personal attack. This disrupts the order of the social occasion and leads to a situation of tension and aggression.

2. **Phase 2: Value orientation** - This is very often done based on previous interactions with the victim. The offender decides whether the attack was intentional or not.

3. **Phase 3: Revenge** - There are various options available to the offender, among which murder is usually the last.

4. **Phase 4: Agreement** - The victim now has to either defend him/herself against the attack or ignore it. In terms of murder, it is the first option that is normally chosen.

5. **Phase 5: Fight**

6. **Phase 6: Conclusion** - Following the murder the offender can flee the scene, be detained by onlookers, or willingly wait for the police to arrive. Behaviour is usually determined by the relationship to the victim and the reaction of the onlookers. If the relationship with the victim was close, the offender is more likely to stay on the scene or contact the authorities themselves. The onlookers can react in a supportive, hostile, or neutral manner depending on the nature and circumstances of the crime (Van den Heever, 1987).

### 3.3.1.6 Personality and crime

Cameron and Frazer (1988) mention Hans Eysenck as one of the most influential theorists on crime and personality influences. Eysenck works with a model of personality considered pre-social; the newborn infant already has the genetic factors that will determine his/her personality. The infant’s ability to learn and be socialized is determined by the personality type, as are the responses to stimuli of various sorts (Cameron & Frazer, 1988).

Eysenck’s model of personality measures personality along three dimensions: introversion- extraversion, neuroticism and psychoticism. In his early research Eysenck found only two basic dimensions of personality namely introversion-extraversion and neuroticism. These two dimensions were related to the four major temperamental types identified by Greek physician Hippocrates. The unstable introverted dimension would be related to Hippocrates’ Melancholic temperamental type and exhibit personality characteristics such as reservedness, anxiety, pessimism and rigidity. Aggression, excitability, impulsiveness and touchiness would be associated with the unstable, extraverted typology or, in Hippocrates’ terms, the choleric temperamental type (Pervin & John, 1997).
Eysenck later added the third dimension which he labeled psychoticism. People high on this dimension tend to be solitary, insensitive, uncaring about others and opposed to social custom. Symptoms of psychological difficulties are likely to develop as a result of basic personality characteristics and principles of nervous system functioning. Thus, according to Eysenck, there is a biological basis in interaction with certain learning experiences that eventuate in certain psychological manifestations such as extreme aggression. Criminals and anti-social persons would tend to have high scores on all three dimensions; neuroticism, extraversion and psychoticism. Such persons show a marked weakening of social norms (Pervin & John, 1997).

### 3.3.1.7 Specific theories on female criminality

Eagle Russett (in Walklate, 1995 p. 22) rightly states that ‘Women and savages, together with idiots, criminals and pathological monstrosities, were a constant source of anxiety to male intellectuals in the late nineteenth century.’ Victorian science, for example, viewed women as a developmental anomaly. The Caucasian male was believed to have reached the ultimate stage of development and women were in contrast forever trapped in puberty. As a consequence of their arrested development, women were also seen as closer to their species type (Walklate, 1995). The influence of this view is attested to by the prevalence of theories purporting that their differently constructed nervous systems drive criminal women (Walklate, 1995).

Two of the most influential criminological theorists of the nineteenth and early twentieth century were Ferrero and Lombroso. They were staunch supporters of the abovementioned theory of evolution. Lombroso believed that the tendency of criminals to mark themselves with tattoos bore testament to their closer relations hip to savages (Walklate, 1995). The female criminal was, in their opinion, particularly unnatural; being masculine and virile with an inversion of all the qualities that distinguish the normal woman namely reserve, docility, and sexual apathy (Heidensohn, 1995). They represented the traditional school of thought surrounding female criminality, namely that certain psychological and physiological factors inherent in women motivated criminal behaviour (Micheals, 1992).

In 1901 H. Havelock Ellis’s *The Criminal* was published as an attempt to introduce scientific and technical readings on criminality to the lay reader. Ellis was clearly committed to the theory that criminals are born of a specific biological type. The causality is clear- from the ‘inside’ of the criminal, to the acts he/she commits, to the social circumstances that inhibit or exacerbate his/her criminal tendencies. Ellis believed Lombroso to be the most influential criminologist of the era and supported Lombroso’s scientific collection of ‘facts’ concerning criminals. This included their aberrant physical characteristics such as the length of earlobe and jaw-bone dimensions. The assumption behind the collection of the physical data was that of social Darwinism. This doctrine placed certain races at the top of the world hierarchy. Some races and their physical characteristics were simply more advanced on the evolutionary ladder than others, Lombroso and Ellis felt (Cameron & Frazer, 1988).

Ellis, however, became dissatisfied with the implication of Lombroso’s work that all non-European societies were entirely populated by born criminals. Therefore, he turned to the problem of relativism; namely that that which is considered criminal in one culture may not be considered so in another. According to the, then
contemporary, convictions of a progress of evolution from higher to lower life forms, and the assignation of non-European to the lower end of the scale, it followed that they would find it difficult to live up to the standards of the ‘civilized’ European community. Thus, racial stereotypes and convictions are frequently evoked in relation to criminality in the early part of the previous century (Cameron & Frazer, 1988).

Another of the classical criminological writers, Thomas, believed that women are defined by their domestic and sexual roles. While women are uniquely qualified for motherhood and domestic tasks, they are also emotional and irrational, completely dominated by their biological imperatives. Thomas frequently linked women with creatures on the lower order of evolution, including children. He largely equated female delinquency with sexual delinquency, linking crime with adultery and promiscuity in most cases (Heidensohn, 1995).

Pollack, one of Thomas’s contemporaries, wrote that women were actually more evil than men were. The evil was deeply rooted in the feminine make-up, making women more prone to revenge desires. Pollack recognized the importance of women’s domestic role in society, and that women could be contained in the home in a special way. He also reported that women often used the home as a cover for a variety of crimes; poisoning relatives and abusing their children. They could do this because they conceal their crimes better than men do and because they choose vulnerable victims who are unlikely to report the crime to the police. Women use devious means such as poisoning and men, being chivalrous, cannot bear to prosecute or punish women (Heidensohn, 1995).

Konopka’s study in 1966 in Minnesota, America (in Micheals, 1992) focused on adolescent delinquent girls in institutions and again underlined the believed importance of physiological and psychological factors (Micheals, 1992). In 1968 Cowie and Slater (in Micheals, 1992) distinguished between constitutional, predisposing and environmental factors in accounting for female criminal behaviour. Finally, Vedder and Summerville (in Micheals, 1992) considered the significance of family and individual pathologies. We clearly see a widening in the focus of research from the classical theorists.

Earnest Hooton argued in 1939 (in Cameron & Frazer, 1988) that body shape and behaviour are related. The latter is not completely determined by the former, but he insisted the physically degenerate individual would have a greater tendency toward crime, although other factors may intervene to prevent him/her indulging it. In 1940 William Sheldon (in Cameron & Frazer, 1988) introduced the concept of three different body types; the ectomorph (a tall thin body), the endomorph (a short fat body) and the mesomorph (an athletic muscular body). The body type of a person is determined in the embryo stage. From an original sample of 400 delinquent boys he selected a sub sample of 200 and found that there were far more mesomorphs in this group than would be expected in the general population. This association between mesomorph body type and crime was later disputed by several studies (Cameron & Frazer, 1988).

Early European writers tended to confront the duality in women’s social and moral natures. For them women were ‘madonnas’, ‘witches’ and ‘good wives’. Delinquency was often linked to markedly masculine traits such as being uncouth, oversized,
lumpish, or graceless. So a woman could only fit the criminal profile by becoming a sociological male (Heidensohn, 1995). In 1890, Ellis (in Frigon, 1995 p. 28) noted that women convicted of infanticide were ‘endowed with excessive down in their faces, that female thieves went grey more quickly, were uglier, and exhibited more degeneracy (especially of the sexual organs) than ordinary women’. Therefore, the views of female crime during the early twentieth century were that of the eugenics movement. The basis of crime no longer lay in sin or faulty reasoning but in the aberration or abnormality of the individuals’ constitution (Frigon, 1995).

In post-First World War America, the young, male delinquent hero became quite a common theme. He was the symbol of untrammeled masculinity with an aura of glamour and romance. Think back to Humphrey Bogart in ‘The Petrified Forest’ with Bette Davis as a classic example of this (Heidensohn, 1995).

Although it may not seem like it from the above discussion, female criminality as a subject has not been well documented in literature. Until quite recently men in their various capacities as police officers, judges, and legislators had almost exclusively dealt with female crime. The same was true of research and the theoretical background to the subject. This could not fail to present a one-sided picture of the female criminal (Heidensohn, 1995).

Certain assumptions about masculine and feminine gender became crucial to criminological thinking even though these assumptions had not been empirically verified. It was taken as self-evident that certain innate biological differences would translate into social, cultural and behavioural performances related to delinquency (Heidensohn, 1995). We see that it is presumed that sex differences are biologically given and that these differences lead to exposure to different kinds of socialization. For example, it is natural for women to bear children therefore socialization prepares them for this role, hence a girl’s natural preoccupation with forming a stable relationship with a boy, getting married and so forth. If the female deviant is taken into account, it is to understand the circumstances in which she deviated from her expected, biologically-given sex role. Naffine (in Walklate, 1995) argues that for the most part the female in criminology has been associated with her legitimate endeavors to find a mate or sustain a relationship (Walklate, 1995).

A more recent school of thought has focused on sociocultural factors, especially in connection with the etiology of female crime. One such theorist is Hoffman-Bustamante whose sex role theory states that female crime stems from five major factors: differential sex role expectations for men and women; different sex roles, socialization patterns and social control implementations; structurally determined opportunities to commit specific crimes; sex differences subsumed by the crimes and finally differential access and pressures toward criminally orientated careers or subcultures (Micheals, 1992).

Hoffman Bustamante (in Micheals, 1992) believes that sex roles dictate what skills a person will possess in order to commit a crime. Women are exposed to fewer chances to handle a weapon and are therefore more likely to use a household weapon when committing homicide. This is rapidly changing in a society where most women are taught some kind of self-defense measure often involving a weapon.
The women’s liberation movement has also been cited as contributing to the escalation in female crime. Simon and Adler (in Micheals, 1992) states that the entry of women into white-collar positions has precipitated the increase in crimes such as fraud, larceny and embezzlement (Micheals, 1992).

Orban (in Micheals, 1992) describes the crime rate before, during, and after the Second World War in South Africa. South Africa, like many other countries, showed a steady increase in female crime during the war years. This is ascribed to the sudden emancipation of women and the role change induced by the war. Orban specifically focuses on the period 1949 to 1978. She notes a lower crime rate amongst women as compared to men but a steady increase in female crime since 1949. The reasons given for this include the emancipation of women, women’s growing participation in occupational fields and the increasing cost of living (Micheals, 1992). Statistics relating to child homicide in this period show a decrease. More effective birth control methods are cited as an important contributing factor towards this decrease. Micheals (1992) also states that the period stretching from 1979 to 1990 show a lower and steady infanticide rate among females.

Some biological explanations trace man’s active and aggressive propensity and a female’s passivity back to their sexual capacities. The spermatozoon swims actively towards the passive ovum as it awaits penetration. Thus, male sexuality with its primary objective of pursuit and penetration contains an element of aggression, an element not found in the passive female that yields and submits to this (Micheals, 1992).

It is clear that today’s women are faced with an existence fraught with ambiguity. Expectations are often unclear or conflicting. Wetzel (in Micheals, 1992 p. 56) states that ‘today’s women are often expected to be all things to all people, within family structure, in the marketplace, and in relation to the community at large.’ These conflicting expectations are referred to as a catch 22 position for females. The effectiveness of gender control in contemporary societies depends on the proliferation of definitions that trap women into no win situations (Micheals, 1992).

### 3.4. CONCLUSION

Clearly, there is little concurrence on the causes and maintaining factors prevalent in the incidences of violence and aggression. Perhaps the best picture of human aggression can be obtained in the fusion of all the above theories; so that aggression becomes not an individual, not an interactional, not an environmental phenomena but the sum of all.

Female criminality is another problematic subject in terms of theory and discourses. Mirroring the larger social process the description of female criminality has ranged from the blatantly bizarre to the improbable plausible. Most likely true answers will never be obtained and the instigation of aggression in the human race will be assigned to the unexplained category. This does not detract from the actual occurrence of these acts of aggression or humankind’s fascination with female criminals.
CHAPTER 4
CLASSIC SOUTH AFRICAN MURDERESSES

4.1 INTRODUCTION

Any literature study into women who kill in the South African context would not be complete without mentioning some of South Africa’s most infamous female murderers. These case studies not only serve as a background for a discussion on the occurrence of female perpetrated killings but also illustrate many of the theoretical findings surrounding the circumstances and incentives of female killings. These few cases will be used to highlight some theoretical findings as well as popular discourses concerning women who kill in our society. Certainly, a case such as that of Daisy de Melker is uniquely South African, not only grounded in our criminal history but also immortalized in many folksongs and legends.

4.2 CLASSIC CASES OF FEMALE PERPETRATED MURDER

4.2.1 DAISY LOUISA DE MELKER

In the criminal history of South Africa none occupies a more talked about position than Daisy de Melker. She is questionably our most notorious murderess ever and possibly also the most cold blooded. She adheres to the popular stereotypes associated with a female murderer; she was cruel, cunning, ruthless and fearless (Van den Heever, 1987).

Daisy de Melker stood accused of three murders in 1932. She was accused of poisoning her first husband, William Alfred Cowle as well as her second husband, Robert Sproat. Daisy’s third victim was her twenty year old son, Rhodes Cecil Cowle. It appears as though her motive for the killings was two fold: the first money and, in the case of her son, revenge (Van den Heever, 1987).

Daisy Nancorn- Smith was born on the 1st of July 1886 in Grahams Town. She was one of eleven children including seven daughters and four sons. At the age of twelve her father decided to move to Zimbabwe where he died shortly after arrival. In 1901 Daisy went to school in Cape Town but after a stay of two years returned to one of her brothers also now living in Zimbabwe. After eight months Daisy left for Durban where she enrolled in a nursing course. During this training Daisy gained her invaluable knowledge on poisons and its uses. She continued nursing for three years after having completed her degree (Van den Heever, 1987).

Daisy spent most of her holidays with her brother in the now Zimbabwe. During one such a holiday in 1907 she met Bert Fuller and got engaged to him in October of that year. The wedding date had to be postponed, however, due to Fuller’s work responsibilities. In February 1908 Daisy was called to Zimbabwe where Fuller was seriously ill. Tragically Fuller died on the 3rd of March leaving Daisy everything in his will; a then enormous amount of £ 236. So Daisy profited for the first time from a loved ones death (Van den Heever, 1987).
Precisely a year after Fuller’s death Daisy married William Cowle who was fourteen years her senior and worked as a plumber for the local municipality earning £ 28 a month. He was a sober, hard working man and five children were born from the marriage. However, only Rhodes Cecil born in 1911 survived. Her husband, William, was next to die and was laid to rest on 12 January 1923. Daisy told friends and relatives that he had died of heart problems, although his death came as a shock to most who described him as a healthy, energetic man who never missed a days work in the six months leading up to his death. Cowle’s will stated that Daisy was to inherit everything, including a cash amount of approximately £ 1 795, and the house in which they had lived (Van den Heever, 1987).

The prosecution later alleged that Daisy already had plans to marry a much richer man at that stage, namely Robert Sproat, a great friend of the Cowle family. Indeed Robert and Daisy were married just over three years after William Cowle’s death on 1 July 1926. The wedding took place on Daisy’s fortieth birthday. Like William, Robert worked as a plumber for the local municipality. He was also described as a short, healthy man with a well-balanced and energetic personality. He had many business affairs including owning 1 300 shares in the West Springs Mine. Sproat came from a well to do family with his brother and mother living in England at the time (Van den Heever, 1987).

The marriage seemed a happy one with only one aspect a constant source of irritation to Daisy: Robert persisted in keeping his mother as sole beneficiary to his will. This, however, suddenly changed after Robert’s first illness in October 1927. Daisy lost no time in having a new will drawn up with herself as the sole beneficiary under the new terms. The prosecution later claimed that this was all part of an elaborate plan on Daisy’s part to get Robert to change his will under similar circumstances as Bert Fuller had done years ago (Van den Heever, 1987).

Sproat gradually recovered with Daisy in attendance as the devoted wife. However, not long after Sproat again began showing signs of deterioration and finally died on the evening of 6 November 1927. Sixteen months after his marriage to Daisy he was laid to rest next to William Cowle. Sproat left a large inheritance. Daisy inherited £ 4 724 in cash as well as three houses. Daisy did not live like a rich woman; she had no maid and frequently complained of financial difficulties, claiming that the illness of her two husbands had cost her dearly (Van den Heever, 1987).

Rhodes Cecil was sixteen years old when Sproat was buried next to his father. He was Daisy’s only child and she was said to adore him. She never hesitated to provide him with only the best and spoilt him extraordinarily. Despite all this, or perhaps because of it, people described Rhodes as a problem child prone to wild tantrums if he did not get his way. He hated work and was often unemployed or between jobs. The relationship between mother and son gradually worsened as Rhodes became more and more of a financial burden. He started losing his temper with Daisy whenever he could not get his way. In May 1930 Daisy once again found Rhodes a job with a transport company in Swaziland. During his time away, Daisy met her third husband Sydney Clarence de Melker (Van den Heever, 1987).

The couple was married on 11 January 1931, outside of communion of property. Mr de Melker was a mine worker as well as an outstanding sportsman who represented
South Africa on the rugby field. He also had a nineteen year old daughter, Eileen, from a previous marriage. The relationship between Daisy and Eileen was particularly good and Daisy later stated in court that she loved her stepdaughter very much (Van den Heever, 1987).

Shortly after the marriage the couple departed to visit Rhodes in Swaziland. During this visit Daisy behaved strangely, taking will forms with her and urging Rhodes to make a will as soon as possible. Rhodes had no objections and bequeathed his only asset, an insurance policy of £ 100, to his mother (Van den Heever, 1987).

Rhodes returned to South Africa in March 1931, having quit his job, and came to stay with his mother and stepfather. Rhodes suffered from malaria, apparently contracted during his stay in Swaziland. The doctor, however, stated that it wasn’t life threatening and Rhodes recovered within three weeks. His presence caused great upset in the household and his mother normally had to beg him to get ready for work. Sydney de Melker often reprimanded him for this kind of behaviour. This frequently led to violent arguments between the two men (Van den Heever, 1987).

By the end of 1931, Rhodes began threatening to commit suicide. Several of his friends stated that Rhodes had often been depressed and spoken about ‘ending it all’. Eileen de Melker gave evidence in court that Rhodes had also, in his fits of depression and sulkiness, assaulted his mother on more than one occasion. Sydney de Melker stated in court that he was not aware of these attacks at the time (Van den Heever, 1987).

On 25 February 1932, Daisy visited the chemist whom she had used during her marriages to Cowle and Sproat. She requested poison for some stray cats and signed the poison register as Mrs. Sproat after having received sixty grams of arsenic. On the 2nd of March 1932 Rhodes began showing signs of illness that baffled Dr. Mackenzie, his attending physician. On 5 March 1932 Rhodes Cecil Cowle died. He was buried on 6 March 1932 next to his father and Mr. Sproat. The following day Daisy went to Rhodes’ workplace and demanded the money still owed to him. She also filed a claim on his insurance policy on the 8th of March and received the payment on the 1st of April 1932 (Van den Heever, 1987).

Daisy did not have much time to enjoy her inheritance. A family member, whose name is unknown to this day, became suspicious about the many deaths and contacted the police. The bodies of William Cowle and Robert Sproat were exhumed on April, 5 1932. The toxicology results confirmed the presence of poison in all three the victims. Detective- Chief constable J.C.H. Jansen received the laboratory results on the 19th of April and arrested Mrs. De Melker the next day. At first Daisy appeared to be calm, asking whether the police had any evidence of the allegations. When Jansen answered in the affirmative, Daisy began screaming hysterically and nearly fainted (Van den Heever, 1987).

The Rand Daily Mail described the trial as ‘the greatest poison-murder trail South Africa, if not the rest of the world, has known.’ (Van den Heever, 1987 p. 65). The trial of Daisy de Melker began in the Johannesburg High Court on 17 October 1932. The verdict was handed down thirty nine days later by Judge Leo Greenberg after having heard the testimony of more than seventy witnesses. The judge stated that he
could not be sure that Daisy’s guilt in the murders of Cowle and Sproat had been proved beyond a reasonable doubt. He therefore absolved Daisy of guilt on the charges of murder relating to these two (Van den Heever, 1987).

On the charges relating to the death of Rhodes, Daisy’s advocate Mr. H.H. Morris made the following impassioned plea:

‘What is the Crown’s case? … It is that a mother bound her son, and her only son, to his bed with the paralysing fetters of arsenic; that she then remorselessly and callously and cruelly slaughtered him; that she stood by and watched while he writhed in the agony of poison; that she even derived some satisfaction from it. That cannot be. It is an utter negation of her twenty years of care, attention and solicitude. It is contrary to the maternal instinct which is protective and not destructive, and contrary to human nature. It is inconsistent with what we know of how she spoiled Rhodes’ (Van den Heever, 1987 p. 66).

The defense also argued that Rhodes may have poisoned himself, consistent with his many threats of suicide. The judge however felt differently. He concluded that only one person could have poisoned Rhodes- his mother. Judge Greenberg handed down the death sentence; Daisy was to be hanged for killing her only son. On 24 December 1932, Daisy heard that the sentence was to be upheld. She spent Christmas Day with her husband and step daughter. On 29 December the measurements for the noose were taken as well as Daisy’s weight so that the cord would not snap. This procedure filled Daisy with dread and revulsion. The execution took place the following day (Van den Heever, 1987). A prison warden describes Daisy’s last minutes as follows:

‘Ek onthou nog Daisy de Melker se teregstelling so goed of dit gister was. Dis asof ek haar nou nog die laaste paar tree sien gee wat sy ooit op hierdie aarde sou gee. Watter skrille teenstelling was daar nie tussen die gebroke, hulpeloze figuurtjie wat daardie laaste paar tree gegee het, en die meer regop, amper uitdagende mens wat ‘n ruk tevore tot die dodesel toegelaat is nie… Kort voordat sy dood is, het sy nog volgehou dat sy onskuldig is… Maar op daardie laaste oomblikke was sy stil. Sy het net eenkeer omgekyk toe die laksman die swart mus oor haar oë aftrek… Ek onthou tot vandag toe daardie uitdrukking van volslae magteloosheid…iets byna smekends. Ek onthou die totale afwesigheid van enigiets hards, enigiets kouds…’ (Van den Heever, 1987 p. 66).

Daisy brought to life much of the feared evil cruelty of killing for financial gain in absolute cold blood. She represents to many the picture of pure evil and as such provides a fascination so far removed from our own civilised existence. Eventually good does however prevail, and in the description of her final moments one gets the sense that evil has been banished by the rightful judicial process- all is well again…

4.2.2. MARLENE LEHNBERG

On the 14th of March 1975, Judge Diemont handed down a verdict of guilty on account of murder to a nineteen year old girl. Marlene Lehnberg was found guilty with no mitigating circumstances and was sentenced to be hanged. Her crime caused a media frenzy with many newspaper readers complaining that too much was being written about the case in the newspapers of the day (Van den Heever, 1987).
Marlene Lehnberg’s parents were married in 1952 and five children were born from the marriage; Vivian, Marlene, Diane, Dennis and Leonie. Her father had left school at seventeen and was at the time of the marriage struggling to find work. During this time the couple had great financial difficulties and stayed with Mr. Lehnberg’s parents in their garage. Arthur Lehnberg eventually found a position with a tyre company and their financial status improved so much so that the couple was able to buy a small farm on the Cape flats. Their daughter, Marlene, was two years old at the time (Van den Heever, 1987).

In 1969/70 Arthur sold the farm and bought a house in the suburb of Plumstead, Cape Town. He also obtained a position as caretaker at the Diocesan College, Bishops. A social worker stated during the court case that Arthur withdrew from his daughter Marlene at a young age. The reason for this ostensibly was that Marlene was an unplanned and unwelcome child. At her birth the couple could not afford to have children (Van den Heever, 1987). One of the biggest problems was a lack of communication between father and daughter. The relationship was also in no way a loving one, with no physical or emotional expression of love from either party. Her older sister, Vivian, was the recipient of all the attention and love from Marlene’s father (Van den Heever, 1987). Marlene’s mother, Mavis, seems to have been the dominant figure in the household. It also seems as though Marlene’s relationship with her mother was better. Despite this their relationship also centred on the superficial with little sign of emotional attachment (Van den Heever, 1987).

Although neither Mavis nor Arthur was regular church goers they brought their children up in a strictly puritan religious manner. Alcohol, smoking, make-up, dancing and modern clothes were taboo in the Lehnberg household as well as entertainment areas such as movie theatres. In her high school years Marlene became a devoted Christian, singing in the church choir and doing missionary work, while teaching Sunday school (Van den Heever, 1987).

Marlene left school at the age of sixteen after completing standard eight. She tended to be a loner in school, not taking part in any school activities and having very little contact with peers. She also had great difficulty in making friends and especially showed no interest in relationships. This was however consistent with the whole Lehnberg family living a very isolated life with no social contact or friendships (Van den Heever, 1987). Although Marlene did exceptionally well academically, and begged her parents to at least attend prize-givings, they never did (Van den Heever, 1987).

After having completed her school training in standard eight, Marlene eventually accepted a position with the Orthopaedic Centre of the Red Cross Hospital in Rondebosch. Her direct boss was Christiaan van der Linde, who was to play a very prominent role in her life for the next three years. Christiaan van der Linde was married to Susanna Magdalena van der Linde with three children. Apparently Christiaan was regarded by many as quite a ladies man and had previously had affairs out of wedlock (Van den Heever, 1987).

For Marlene, Christiaan was very attractive, strong and the perfect person to work for. Christiaan described his relationship with Marlene at that stage as being fatherly with her often discussing personal problems with him. In April 1973 the relationship
changed to a more physically intimate one. It appears as though Van der Linde took the initiative and that the attention came as something of a shock to Marlene, although not unwelcome. After two months the couple had their first sexual encounter. By this time Marlene was hopelessly besotted. Her parents, with whom she still lived at that stage, did not know of the relationship and Marlene was careful to keep it from their knowledge. The relationship did cause problems indirectly in the Lehnberg household. Marlene’s behaviour and appearance changed drastically. She began smoking and wearing mini dresses that seriously upset her mother. Marlene eventually left her parents home in October 1973 (Van den Heever, 1987).

Marlene settled in a boarding house in Rondebosch. Her lifestyle changed completely with her affair with Van der Linde continuing unabated during the week while he returned to his wife and children over weekends and Marlene took the opportunity to visit her parents. Early in 1974, Mrs. Van der Linde received an anonymous phone call stating that her husband was having an affair with one of his assistants–Marlene Lehnberg. When confronted, he admitted the affair and promised to break it off. However, he wanted to gradually break off the relationship, as Marlene was still so young. It seems that Van der Linde did little to break off the affair at all and sexual relations between Marlene and Van der Linde continued unabated (Van den Heever, 1987).

Violent arguments ensued between Marlene and her lover with her demanding that he divorce his wife and Van der Linde absolutely refusing to do so. He did state that if Mrs. Van der Linde was to die before he did, Marlene and he might get married. Appeal court Judge Rumpff felt that this might have planted the murderous thought in Marlene’s mind, although she denied this, saying that although his wife seemed the only stumbling block, she never contemplated killing her at that stage (Van den Heever, 1987).

In July 1974, Lehnberg claimed she was pregnant by Van der Linde. She later told of a miscarriage but the hospital was unable to confirm this. Van der Linde immediately suggested an abortion and accused Lehnberg of trying to trap him. The arguments became more frequent and violent. Marlene stated that she eventually realised that Van der Linde was unable to solve his own problems and needed someone to do it for him. While she was planning the murder of his wife she still pushed for the divorce with Van der Linde and at one stage personally contacted Mrs van der Linde to discuss a divorce, but was unable to sway Mrs. Van der Linde (Van den Heever, 1987).

The relationship between Van der Linde and Lehnberg reached the final low point in October 1974. Lehnberg then decided to leave Cape Town for Johannesburg and took her final leave of Van der Linde on 1 November. On Monday 4 November 1974, before leaving for Johannesburg, Marlene went for the last time to the place she and Van der Linde used to meet. It is here that she irrevocably decided to kill Susanna Magdalena van der Linde as the only person standing between her and Van der Linde’s happiness (Van den Heever, 1987).

Susanna van der Linde was found dead in her home on 4 November 1974. Three previous attempts on her life had failed. Information came to light showing that Marlene had tried in July of that year with the help of a coloured man, Mr. Marthinus
Choegoe, to have Susanna killed. Mr. Choegoe’s conviction failed him and he did not go through with the murder as planned (Van den Heever, 1987).

This did not dissuade Marlene. She again requested Choegoe to meet with her and, although he initially refused to attempt the murder again, he relented after she gave him money and a portable radio. Once again Mr. Choegoe’s will failed him as soon as he got to the Van der Linde residence. When he called Marlene and refused to go through with the plan, she accused him of being pathetic (Van den Heever, 1987).

Before the third attempt on Mrs. Van der Linde’s life, Choegoe and Marlene met again on the Old Cape Highway. She told him to kill Susanna with a hammer and offered to have sexual intercourse with him as part of the reward for the killing—an offer he demurred from (Van den Heever, 1987).

Choegoe went to the Van der Linde household on 24 October 1974 and rang the front door bell. Susanna became suspicious and called the police. Choegoe was picked up by police running from the house and in custody stated that he only wanted to ask her for work. After his release he called Lehnberg and stated that he wanted no further part in this plan (Van den Heever, 1987).

Lehnberg, on the other hand, had different plans for Choegoe. On 4 November 1974, she picked him up from his house and stated that she needed him as a witness for what she wanted to say to Mrs. Van der Linde. On the way there she informed him that they were on their way to kill Susanna and that she would wait for him at the door while he killed her. She also promised him a motorcar if he went through with the plan (Van den Heever, 1987).

After Marlene had been inside the house for ten minutes Choegoe entered. Susanna attempted to run away when she saw Choegoe but Marlene hit her and restrained her. Marlene instructed Choegoe to strangle Susanna and then to stab her with one of Susanna’s needlework scissors lying on the table by the telephone. After the murder Marlene instructed Choegoe not to touch anything, dropped him at his home and left for Johannesburg (Van den Heever, 1987).

Marlene Lehnberg was arrested on 13 November 1974 in Johannesburg, following an intense police investigation into the murder. Choegoe was arrested the same day. They were found guilty of the murder of Susanna Magdalena van der Linde on 13 March 1975 and given the death penalty with no mitigating circumstances the following day. On 6 May the so called ‘skêr- saak’ was reopened for new evidence by Lehnberg’s and Choegoe’s attorneys; including psychological reports. On 22 May the judge found that there still existed no mitigating circumstances and granted Choegoe leave to appeal the sentence while denying Lehnberg this leave. Her attorney immediately appealed to the Chief Justice and this leave was finally granted. Judge Rumpff handed down the appellate decision on 23 July 1975 (Van den Heever, 1987).

In the Rapport and Sunday Times newspapers of 27 April 1975 (in Van den Heever, 1987) Dr. A.L. Coetzee, a clinical psychologist, stated that Lehnberg showed psychopathic and even possibly psychotic tendencies. She displayed a marked lack of anxiety and insight into her crime; she is emotionally unfeeling and superficial and cannot maintain long term relationships; she is extremely egocentric and shows little
concern over her future. A psychiatric social worker on the other hand stated in the same edition of the Sunday Times that Marlene showed schizophrenic symptoms as well as emotional retardedness due to her abnormal childhood years that left her socially disabled (Van den Heever, 1987). The Rand Daily Mail of 14 May 1975 (in Van den Heever, 1987) quoted Dr. Francis Pascoe, a psychiatrist, as saying that Lehnberg indeed showed no signs of mental illness and, although she displayed psychopathic tendencies, she cannot be classified as a psychopath. Other than the lack of emotional depth, her response patterns were appropriate, according to Dr. Pascoe (Van den Heever, 1987).

Judge Rumpff changed Marlene’s sentence to twenty years. In regard to her testified psychopathic tendencies, Judge Rumpff warned that such evidence must be accepted with caution and that expert testimony is needed in such cases. He also stated that, although her immaturity might serve as a mitigating circumstance, it was in this case negated by the cold blooded and deliberate nature of the act. In light of this the punishment must be severe, in his opinion (Van den Heever, 1987).

Both Marlene’s parents and her sister Vivian petitioned for her release. They were unsuccessful and she was only released on 15 December 1986 after serving twelve years for her part in the murder of Susanna Magdalena van der Linde. Christiaan van der Linde died in December 1983 in Johannesburg after suffering a stroke. Choegoe was released in June 1986 and worked for some time as lay preacher in Cape Town (Van den Heever, 1987).

Marlene’s case clearly illustrates the so-called love triangle, often sensationalised by the media. She is painted as the seductress going to any lengths to secure the love of a man. His wife on the other hand is given the Madonna-role as pure and innocent. This case also highlights the oftentimes-deprived familial background these women come from. Not only do they have immense trouble in forming adjusted adult relationships but also suffer from a serious lack of bonding in their own primary relationships, namely with their parents.

4.2.3 CHARMAINE HELEN PHILLIPS

Charmaine Helen Phillips was sentenced to life long incarceration with an added twenty four year sentence. Her lover, Peter Louis David Grundling, received four death penalties as well as a further sentence of thirty six years. Charmaine was only twenty when this sentence was handed down. Both were found guilty on four counts of murder, three of theft with aggravating circumstances, two counts of fraud and one of theft. This all took place in the space of sixteen days in provinces previously known as Natal, Transvaal and the Orange Free State (Van den Heever, 1987). Although there is much contradiction in the statements of Philips and Grundling, Charmaine’s account of the events will be used here.

Their first victim was thirty nine year old Gerald Douglas Meyer, whom they met on the night of 15 June 1983 in a pub in Durban. After having a few drinks they left to smoke some dagga. Philips stated that she shot Meyer for three reasons: first of all he tried to force himself on her but she endured his attentions because she wanted the dagga pipe, secondly Meyer disgusted her by urinating in front of her and lastly because, when her baby woke up and started crying, the men refused to return to
Durban to buy milk and Philips stated that Grundling would have done so if Meyer had not been with them. She subsequently took a gun from her handbag and shot Meyer. They left the scene without checking whether Meyer was still alive (Van den Heever, 1987).

After Meyer’s murder the accused left for Richards Bay where they met their second victim, Vernon Alexander Swart (28). Two days after their arrival the couple decided to visit Philips’ brother in Vryheid. She asked Swart to accompany them to keep her divorced sister company and Swart agreed. In the town of Melmoth, Philips asked Swart to buy milk for her baby which he refused to do. Stopping just outside Melmoth to smoke dagga, the men left the vehicle and once again urinated in front of Philips. This enraged Philips and she ordered Grundling to tie Swart to a nearby tree whereupon she shot him in the head. The couple stole R270 and some photographs from Swart (Van den Heever, 1987).

Their third victim was to be Barend Eugene Greyvenstein, aged thirty three. Philips killed him after meeting him in a bar in Ermelo. She claimed that he forced himself on her. Once again the couple stole his bankcard and pocket knife and withdrew R800 from his account in Dundee and Vryheid (Van den Heever, 1987).

Their last victim, Martin Mofosi (25) was murdered on 30 June 1983. According to Philips they gave him a lift to his home hoping to buy dagga there. Twenty two kilometres outside of Bloemfontein they stopped to smoke the last of the dagga they had. Here Grundling asked Mofosi for his cash and bank card. Mofosi handed the cash over but refused the bank card. A fight resulted between the two men upon which Philips got out of the car and shot Mofosi. The couple took the bank card and made a withdrawal later in Bloemfontein (Van den Heever, 1987).

Grundling’s background appears relatively stable and normative with his mother describing him as soft hearted and hard working. She does state that he started showing signs of personality changes during time spent in prison for motor theft. In contrast to this stands the catastrophic childhood environment of Charmaine Philips (Van den Heever, 1987). According to Dr. Lucas Steenkamp, a psychiatrist in Pretoria, Philips’ early development was quite normal. She did however need to wear leg iron braces until school going age. She also frequently had nightmares as a child, wet her bed until well after school going age, bit her nails, sucked her thumb and had regular temper tantrums (Van den Heever, 1987).

The family Philips was born into cannot be described as normative. She was one of seven children in a family with a strong background of mental illness, dagga and alcohol abuse, violence, murder, prostitution and run-ins with the law. Her father, Leo Hoppy Philips, was treated for mental illnesses on various occasions and he abused alcohol and marijuana frequently. His relationship with Charmaine was described as good and she stated that he was a good person with tremendous understanding. Her mother, Johanna Philips, had similar problems with mental illnesses and addictions. When Philips was eight years old her mother tried to kill her father, Leo, but failed. She herself was later killed by a lover. Her mother’s death seemed to depress Charmaine severely (Van den Heever, 1987). Likewise her siblings suffered from mental illness, served jail time for armed robbery and spent time in rehabilitation facilities such as Boys Town (Van den Heever, 1987).
After her parents' divorce, Philips spent time in an orphanage. At age fifteen she was adopted by an affluent family from Durban. Philips ran away after a year, leaving a note saying she could never adapt to their lifestyle. Philips now turned to dagga and prostitution as a means of survival. During this time she gave birth to an illegitimate child. She also met and married a Greek sailor but the marriage was predictably not successful. She could not obtain a divorce as her husband was 'somewhere in Greece' and this was one of the reasons why she and her subsequent lover, Grundling, was unable to get married (Van den Heever, 1987).

Philips met Grundling in December 1981 and a little more than a year later he became the father of her second child. Philips later testified that she had hoped to start anew with Grundling but that they led a poor and nomadic life together. Several of the psychiatrists and psychologists who testified in the case were at loggerheads as to whether Philips could be classified as a psychopath. Some of the evidence given stated that she had a drive towards immediate impulse gratification, that she was emotionally superficial, that she had no regret for her actions and could not accept authority and that she easily became irritated and aggressive in tense situations (Van den Heever, 1987).

In his sentence, Judge John Milne said that Charmaine was perhaps the best example one could get of inherent evil. He did however take her chaotic background into account as mitigating circumstances and stated that this was the reason why she missed getting the death penalty by a hair’s breath. He did not accept Philips’ account of why she committed the murders and stated that she was no blushing Victorian lady so easily and deeply shocked. After hearing her sentence, Charmaine walked with a smile towards the cells and said to her father that she would have wrinkles by the time she got out. Her accomplice, Peter Grundling, died in the gallows on 30 July 1985 (Van den Heever, 1987).

Charmaine’s story calls to life nuances of the nature-nurture debate in the social sciences. In this case, as in many others, it is perhaps the culmination of both that brought Charmaine to her destructive and disturbing actions. She also presents an interesting paradox in being, ladylike, offended by the men’s conduct in front of her but then responding in a way that negates this picture of a ‘blushing Victorian lady’. In this two of the most prevalent discourses clash head on; the modest, eyelash-batting lady versus the evil cold-blooded murderess.

4.3. CONCLUSION

As is clear from all of the above case descriptions, the nature-nurture debate is very much alive. Questions surrounding issues such as good and evil, the inherent nature of man and society’s responsibility to victim and perpetrator are conjured by stories like these. The judicial process provides a tenuous assurance that the world is as it should be and that evil is punished and good rewarded. It is often when illusions of security are shattered that humanity is closest to understanding itself- whether it be within a paradigm of inherent or created evil.

The evil, cold-blooded witch using poison as a weapon of choice, the spurned lover seeking to fanatically remove the obstacle in her love triangle and the blushing lady
who, offended, kills to protect her virtue and motherhood. Three very different women and very different motives yet united by societies horror at their deeds. What drove these women to such brutal acts can never be known but available literature may provide some clues.
CHAPTER 5

WOMEN WHO KILL

5.1 INTRODUCTION

Perhaps the best way in which to contextualize the incidence of female perpetrated murder is through the ory. This not only provides a valuable background to these crimes but also a grasp on possible meanings to be found in these crimes. Furthermore, theory can be used to determine the antecedents of such murders, which in turn informs the rehabilitative and judicial process. This study aims to bring together the current theoretical pool into a discernible whole from which further needed studies can be identified. Indeed no psychological study can be undertaken without a firm understanding of the field in which its focus lies.

Firstly, the theory surrounding mothers who kill their children be it in the form of neonaticide, infanticide or filicide - will be examined. This discussion includes a historical and literary glimpse on maternal killings to sketch the context of these killings in a societal and cultural environment. Theories on the causes of such killings are expounded where after certain possible measures to prevent such killings are mentioned. This is done simply to complete the picture on the incidence of such murders and what could be done to circumvent these happenings.

The second focus is on multiple female murderers, a relatively unknown commodity in the South African story. A brief introduction is followed by a look at the typologies and possible motives involved in these killings. The third group of female killers identified is women who kill their intimate partners in a context of ongoing abuse. As mentioned in Chapter one, this is quite a contentious subject in our country at the moment. Information from the South African Police Services as well as the revised Domestic Violence Act is included. A look at the societal reactions to abuse rounds of the discussion.

5.2 FILICIDE, NEONATICIDE, AND INFANTICIDE: THE SPECTRE OF PATHOLOGY

5.2.1 Endangered Children throughout History

It quickly becomes apparent from cultural and historical surveys that poverty, whether of the individual or society, plays a large role in whether children are allowed to live or not. However, surveys of the literature reveal that emotions dominated the motives for child killings in history- anger, jealousy, shame or revenge- while these tended to reflect the era in which the accounts of the killings were written (Schwartz & Isser, 2000). Religion is also permeated with stories of child killing, reflecting a particular motive- be it greed, revenge or a craving for power. A well-known example of this in the Christian tradition is the killing of all boys of two years and younger by King Erodes at the birth of Christ (Schwartz & Isser, 2000).

Resnick (in Schwartz & Isser, 2000) was the first to define neonaticide as the killing of an infant within hours of birth, while infanticide was the murder of a child up to 1
year of age and filicide the murder of a son or a daughter over the age of one. These crimes were viewed as unnatural, especially since a woman was supposed to love and nurture her offspring. Therefore these acts were often associated with witchcraft, heresy, patricide or sodomy. At all times child murder was a reminder of the fragility of the prevailing moral order in a society (Schwartz & Isser, 2000). In the past, newborn infants were killed for a variety of reasons: sacrifice, primitive birth control, eugenics, shame, fear of punishment for adultery or illegitimacy. Jimmerson (in Schwartz & Isser, 2000) gave the example of Han Fei, a classic Chinese legal philosopher from 2000 BC, who wrote of parents praising the birth of a son but, upon the birth of a daughter, killing her.

Gender traditions contributed to the fact that women often had to bear the shame of falling pregnant outside wedlock and being labeled as ‘loose’ or ‘used goods’. This often led to abortion or child murder being perceived as the only option for many women (Schwartz & Isser, 2000). Stereotypes affect the way society characterizes and punishes women to this day. Since women, for instance, could not kill their children if they (the mother) were normal there must be some kind of mitigating circumstance, in most cases a mental aberration (Schwartz & Isser, 2000). These gender traditions are often reflected in the literary tradition of the day.

5.2.1.1 The Literary Legacy

Literature, art, and popular culture with their symbols, analogies and sometimes simplifications, enable humankind to grasp the inherent moral ambiguities in society. Myths and stories are the reflections and creation of cultures. The problem of child homicide does not only involve the crime, but the social and economical environments that contributed to the commission of this crime. The unwritten codes of communities that punish the transgression of sexual behaviour and inflict shame and disgrace, often also push young women to commit child murder (Schwartz & Isser, 2000).

In ancient Greece, and more particularly Sparta, the exposure of newborn infants to the elements was not only accepted, but also in some cases, enforced by law. Weak or deformed infants were often killed for fear that they would become a ward of the state, and thus a cost, or were killed because of their imperfections. Plato called for the eradication of all babies born of inferior parents while Aristotle felt that exposure (and the subsequent death) was the best way to control overpopulation. Ancient Romans continued this practice but only the farther could choose to put his child to death (Schwartz & Isser, 2000).

Unlike the classical world, Judaism firmly renounced any form of neonaticide. These traditions were later incorporated into the Christian, Catholic and Protestant religions. During the Middle Ages child killing was denounced by the church, although it was difficult for them to detect, as many children died from neglect or disease (Schwartz & Isser, 2000).

Fairy tales illustrate the poverty and difficulties of peasant life in pre-industrial societies. This was the fairy tale world of stepmothers, orphans and excruciating toil. Hansel and Gretel, for example, is representative of the abandonment of children in hard times. Mothers in these fairy tales were stereotypically nurturing, caring and
loving towards their children while stepmothers (think of Cinderella or Snow White) were cruel and evil, trying to harm the child in most cases (Schwartz & Isser, 2000).

Perhaps one of the best known plays in the Western tradition is that of Sophocles’ Oedipus where the father, Laius, attempts filicide following a fateful prophecy as to his child’s destiny. However, it is the story of Medea, based on ancient mythology and recreated by Euripides that best symbolizes the inherent weakness of society and the horror of child homicide (Schwartz & Isser, 2000).

Medea was a witch who, obsessed by love, betrayed her father and killed her brother in order to help her lover, Jason, obtain the Golden Fleece. In return he pledged marriage, protection and love. Medea left her homeland for Corinth where she was regarded as a barbarian and an outsider. She was plagued by feelings of guilt, rejection and loneliness, all recognized and pitied by the theatre audience. Her husband, despite his debt to her, abandoned Medea for another woman and she in turn sought to avenge her honour. Medea vowed vengeance and wreaked havoc on Jason by killing their sons (Schwartz & Isser, 2000).

Euripides’ drama is all the more effective because both Medea and Jason represent typical archetypes. Medea is the overly erotic and passionate female (witch) who turns to violence; while Jason is the callous husband who dismisses his wife and children rationalizing that as long as he supports them he is justified in doing so. The play still strikes a cord today. The relationships are familiar in their primitive emotions of obsession and love. It is the complexity of the characters and the meaning of honour, duty and filicide that implicit in this play that still binds our attention (Schwartz & Isser, 2000).

One of the most widely spread themes in the didactic novels of the nineteenth century is that of the innocent, humble country girl who falls prey to seductive upper class men once they come to the city and are then left to their individual terrible fates. The purpose of these novels was not only to encourage women to avoid temptation for moral reasons but to vividly illustrate the consequences of shame and despair which befell women who did not protect their virtue. George Eliot played upon this theme in his novel Adam Bede. The novel portrayed the interplay between class, gender and communal mores in the development of the tragedy of neonaticide. The story is centered on Adam Bede, a young carpenter, who falls in love with one Hetty Sorel. However, Hetty becomes involved in a secret liaison with Arthur Donnithorne, the local squire’s grandson and heir, which results in her pregnancy. Completely overwhelmed with anxiety, Hetty leaves the village and delivers the baby elsewhere where she abandons it to die. Hetty is arrested for neonaticide and condemned to hang. Arthur, filled with remorse, leaves to join the Army and only returns after ten years to take up his role of local landlord and squire. Adam, on the other hand, suffering from Hetty’s betrayal and tragic fate, develops greater tolerance and patience for human frailty and essentially lives happily ever after (Schwartz & Isser, 2000).

Eliot’s novel depicted real people that most readers could identify with as they struggled to earn a living and establish communal relationships. It portrayed the shame in a society where Arthur and Hetty broke the social codes and rigorous mores. The story was used to show that even decent people driven by emotion could commit
terrible crimes. Although the crime of neonaticide was never condoned in the storyline the idea of mitigating circumstances became more acceptable (Schwartz & Isser, 2000).

The novels and plays discussed above were concerned with the cases of women who had been seduced, lured or driven by erotic desires. They were viewed as complicit in their victimization in that they yielded to temptation and defied their communal mores. They paid a great price for their moral frailty; clearly much greater than their male counterparts in any event (Schwartz & Isser, 2000).

What of the women who were not willing collaborators in their pregnancies? Under the institution of slavery the master claimed the woman’s maternal history and her identity as a mother. She was subjected to sexual exploitation and his will, with no choice in the matter. The mother was separated from her children with little she could offer in the way of resistance. Some of the slave women used primitive contraceptives, abortifacient drugs or practiced infanticide (Schwartz & Isser, 2000). In her book, *Beloved*, Toni Morrison used filicide as a way to force her readers to confront the nightmares of slavery. The plot is set in the period immediately following the Civil War in America. It tells of Sethe, a slave woman, who kills her second oldest daughter, Beloved, to spare her the dehumanization of slavery. Morrison`s novel used the acts of infanticide and filicide to raise questions about the motives that drive people and especially those that arise from brutal and degrading environments such as slavery. The murder forces the reader to rethink what good and evil are in these environments (Schwartz & Isser, 2000).

Just as Toni Morrison`s novel was involved with the psychological effect of slavery on women’s lives, so Maxine Kingston focused on gender relationships and women’s adjustment to the broader community. In this novel a young, guilt stricken girl drowns herself and her illegitimate baby rather than face the censure and wrath of the family and society she lives in. The lesson in this was clear: women are carefully monitored and their behaviour scrutinized. Any deviance from accepted moral codes would not be tolerated and the disgrace would involve her family as well. The woman’s role is clearly defined. She is to be subservient as wife and mother but not to be defiled outside of marriage (Schwartz & Isser, 2000).

It is clear from this discussion that neonaticide, filicide and infanticide has provided themes and plots for literature from ancient times to the present. Novels, dramas, popular songs and narratives highlight the various socioeconomic, psychological and emotional environments that lead to child homicides. It also offers an incisive illumination of cultural attitudes regarding women and maternity. The message often not only confirms a female’s proper role but decrees what happens should she deviate from it (Schwartz & Isser, 2000).

Often the mother’s relationship with the child is viewed as the prototype for subsequent social relationships and social contact. Seen as the primary caretaker, the mother exerts a profound influence on the family. In order to provide the child with emotional sustenance the mother needs adequate emotional resources of her own. Great pressure is therefore placed on the mother through societal expectations as well as theoretic concepts, such as Roger’s unconditional positive regard for the child in order to promote psychological well-being within the child (Micheals, 1992).
The main female/male biological difference is of course the female ability for gestation and lactation, so often glamorized and idealized in verse and prose. However, it is true that there are limits to nature’s dictatorial power and the rest belongs to culture. This culture has driven these ideas of female inferiority as God given, instead of man made, so deep into the basic tenets of modern thinking that it is seldom questioned (Crump, 1984).

Motherhood is often presented as the essence of womanhood in the modern Western culture. It is the fulfillment and true destiny of any woman. To be a mother carries with it certain social expectations. You have to want the children, love them dearly and unconditionally, immediately and forever, to put their interests first at all times, to enjoy every aspect of childcare and to be perpetually smiling, cheerful and all-perfect. This is natural; to be anything less is to arouse suspicions of ‘not coping’ or failure. These ideas are widely held and deeply rooted, instilled from birth into the heart of every woman. Part of this socialization is once again the picture of a woman being passive, submissive and gentle. Women are supposed to be non-violent. There is always astonishment when women are featured in crime and even more so when the object of the violence is a desired object namely her child (Morris & Wilczynski, 1993).

For many women the main source of their self-esteem lies within the identity of being a wife or a mother. In this capacity they are forced to withhold expressions of anger or aggression through societal prescriptions for these roles. Often this anger is directed inwards leading to depression or anxiety (Micheals, 1992). However, it is the questions surrounding the causes of the crimes that most fascinates humankind.

5.2.2 Theories on causes of filicide

Although on a much smaller scale than in previous times, the crime of child homicide persists. Young people enjoy more freedom from adult supervision, have greater economic opportunities and have a longer adolescence than in the past. The pressure to engage in sexual intercourse is substantial, and if a young girl does happen to fall pregnant, she has various options available to her. These options of abortion or adoption, for example, are much more viable than they used to be. Killing the child is one tragic option that is still exercised today. Professionals and lay public alike need to understand why these incidents occur and what public agency, educational and legislative actions can and should be undertaken to reduce the incidence of these crimes (Schwartz & Isser, 2000).

As mentioned, murder of children by their parents is not a new phenomenon. It is relatively common in ancient times and was widely practiced in the eighteenth century. Child murders are not restricted to unwed mothers, as is widely believed, and children under the age of one year are four times more likely to be murder victims (Mann, 1996). When pre-school children are a source of frustration and stress to their primary caregivers their helplessness and small size make them especially vulnerable (Mann, 1996).

Micheals (1992) discusses various psychodynamic theorists and their views of child killing. For instance, the act of filicide is sometimes considered to be the expression
of the unconscious hatred a mother harbors towards her daughter as a potential rival. Other psychodynamic explanations include the mother’s perception of the child as an extension of herself; the mother’s identification with the child and her subsequent projection of her own unacceptable symptoms onto the child or that the aggression acted out onto the child is, in fact, representative of displaced aggression towards the perpetrator’s mother, father, or spouse (Micheals, 1992).

Dawkins (in Micheals, 1992) believes that culture could be indirectly contributing to genetic-behavioural differences that reinforce cultural stereotypes. Micheals (1992) hypothesizes that infanticidal mothers have been subjected to patriarchal dictates and are expected to yield to their own mother’s narcissistic needs and demands. In the process their own emotional development is deeply affected by the subordination of their own individuality. They reduce their own needs and in so doing stunt autonomous growth. This proclivity continues into adulthood often damaging their self-image, feminine identity, and coping resources. The adoption of self-sacrificing behaviour is apt to lead to resentment that must erupt somewhere (Micheals, 1992).

Micheals (1992) particularly focuses on the neopsychoanalytic-existential work of Robert Firestone in attempting to understand mothers who commit child murder. According to Firestone, society inculcates the individual with its own values by way of social pressure. The propensity of human beings to conformity best illustrates this social pressure. The nuclear family forms the primary environment to which the individual is exposed. Through social pressure great pull is exerted on members of the family. So parents feel duty bound to exert superiority over the child and to socialize the child. Society tends to reinforce the idea that children belong to their parents and that their parents have their best interests at heart (Micheals, 1992).

Regrettably this socialization process within the family standardizes and perpetuates conformity and conventional thinking. As adults they then tend to yield to cultural ‘shoulds’ rather than personal preferences. So certain beliefs become difficult to question in a conformist society (Micheals, 1992).

Firestone (in Micheals, 1992) believes that parental behaviour often contradicts the generally accepted notion of unconditional parental love. Most parents deny overt or covert manifestations of malevolent feelings and the concomitant aggressive promptings. Firestone (in Micheals, 1992) states that the child can often intuitively sense the underlying tension and anger.

Depression is often linked to the crime of child killing. In the traditional psychoanalytic approaches, depression is perceived as the expression of repressed, denied or inhibited hostile and aggressive feelings. Freud (in Micheals, 1992) believes the hostility of a neurotic or psychotic depressed individual directs inwards, emanating from the threatened, symbolic or actual loss of a significant object. According to Abraham (in Micheals, 1992), another classic psychoanalytic proponent, the characteristics of a manic-depressive patient stems from the frustrations of the oral strivings and the concomitant repression of violent and sadistic impulses (Micheals, 1992). Klein (in Micheals, 1992), of the object relations school of thought, perceives the predisposition to depression as an expression of hostile feelings towards the integrated mother object.
This view of depression of course implies the presence of violent tendencies towards the self or others. Empirical findings suggest a close link between violent behaviour towards others and suicide or violent behaviour against the self (Micheals, 1992). Plutchik (in Micheals, 1992) proposes a two stage model to explain the link between violence and suicide. This model views any event as the vectorial outcome of interactive oppositional forces (Micheals, 1992).

In accordance with psychoanalytic theory, all behaviour presupposes a direction, an energy source (libido) and an object. Most behaviour is seen as a compromise formation. A small number of triggers are assumed to be capable of activating aggressive impulses. Major triggers include threats, challenges, loss of control and a decrease in one’s hierarchical position (Micheals, 1992). The aggressive impulses activated by the triggers can be accentuated depending on the presence of other variables. Such accentuates or amplifiers of aggressive impulses can include physical symptoms, mental illness and access to weapons. Factors that can bring these impulses under control are a strong family unit, certain coping mechanisms and personality factors such as timidity. These accentuating and attenuating factors coexist. Hence the intensity of the aggressive impulse will be the vectorial outcome of these opposing factors (Micheals, 1992).

Plutchik (in Micheals, 1992) also stresses that all action needs to be goal or object directed. This object is determined by a separate set of variables. The presence of depression, life problems, for instance medical or work related, or recent psychiatric symptoms, may predispose a person to direct the aggressive impulse against the self. Conversely impulsive trends, clashes with the law and life stressors may predispose the person to direct the aggressive impulse against others and in so doing increase the risk of violence (Micheals, 1992).

Micheals (1992) suggests that pedicidal mothers have the following premorbid personality features:

1. A negative self concept featuring feelings of inadequacy, a need for approval and a fear of rejection.
2. Strong dependency needs, the subordination of individuality and a propensity to passivity, compliance and self sacrifice.
3. Unresolved separation-individuation so that a gap exists between the ideal self, or the person they would like to be, and the actual self.
4. Difficulties in handling frustration and aggression. Such feelings are generally withheld and remain unexpressed.
5. A depressive predisposition.

So it would seem that the pedicidal mother tends to maintain an over-loved relationship with the younger member of the family, generally the youngest child. She is likely to assume the traditional role as mother and wife, and to adhere to patriarchal dictates. In her exclusive role as homemaker, the woman is economically isolated. Her self-esteem, sense of identity, and lifestyle will thus be largely determined by interfamilial relations and events (Micheals, 1992).
Research indicates that pedicidal mothers tend to be older than infanticidal mothers. While the infanticidal mother’s motives are centred on financial difficulties or the unwanted child, the pedicidal mother’s motives are much more complex, enigmatic and elusive (Micheals, 1992).

Schwartz and Isser (2000) note that child killing can be divided into separate age groups e.g. neonaticide, infanticide and filicide but also into separate murderers. In neonaticide the perpetrator is usually the new mother who has given birth unattended. Occasionally she may have the child’s father with her. In the case of filicide or infanticide it is usually one of the child’s parents, much more rarely both (Schwartz & Isser, 2000).

One of the most important risk factors for infanticide seem to be a maternal age of less than fifteen or a second infant born to a mother of less than 17 years of age (Overpeck, Brenner, Trumble, Trifiletti & Berendes, 1998). The mean age for females who commit fatal child abuse seems to be 23 years (Mann, 1996).

In America, data from the National Centre for Health Statistics indicated that infant mortality rates were higher for mothers who began prenatal care after the first trimester or not at all; with infant mortality rates at 35.6 per 1000 live births in 1997 for those who had no prenatal care at all (Schwartz & Isser, 2000). The highest frequency of infant mortality by the age of the mother was for the age group under twenty years of age, and the highest rate of infant mortality by the years of education for the mother was in the nine to eleven years of education group (Schwartz & Isser, 2000).

5.2.2.1 Neonaticide

The classic study of Resnick during 1970 (in Schwartz & Isser, 2000) suggested several motives for neonaticide. One must however keep in mind that abortion was not legalized at that stage in America, and that the stigma that society attaches to an unwed mother today is considerably less than thirty years ago. However, Resnick found that the child being an unwanted baby motivated 83% of neonaticide reports and so he asserted that illegitimacy with the accompanying social stigma was the leading cause of neonaticide. Resnick also mentioned the denial of pregnancy by the mother, with the apparent expectation that the baby would be stillborn or somehow magically disappear. When this is not the case the mother is forced to do away with the neonate herself. In many cases, he found that the girl could also not reveal the pregnancy to her mother fearing anger, punishment, and rejection. Another motive for neonaticide, Resnick concluded, was rape or extramarital pregnancy (Schwartz & Isser, 2000).

To most people the murder of their newborn is beyond contemplation and comprehension. Indeed, even by those who commit neonaticide, it is one of the most unpredicated crimes. Therefore to simply look at intention is not enough. Obermann (in Schwartz & Isser, 2000) states that ‘neonaticide is a reflection of an atomized society that places little value on the mental and physical well being of its most vulnerable constituents’. Those who would prevent neonaticide must begin by identifying and remedying girls’ vulnerability long before they become pregnant.
Oberman (in Schwartz & Isser, 2000) found that many neonaticide cases involve families that are remarkably disinterested in their children’s lives. Those that commit neonaticide often lack open honest relationships with caring and reliable adults. However such isolation isn’t always the case. Many young women fear rejection or disappointment on their parents’ part (Schwartz & Isser, 2000).

As one theorist suggested ‘shame has become in the 1990’s what self esteem was in the 1980’s...’ (Schwartz & Isser, 2000). Often the shameful ones are the unwed mothers of our society. Shame is not a new way of dealing with pregnancy among the unwed: it has been used by parents, the clergy and interested others to keep unmarried girls from having sexual relations for centuries. Shaming clearly promotes one end; it communicates the shamer’s disgust for the offender and the offense. This can have one of two potential effects. First of all, it could be a devastating incursion into the self of the person, or it could spark a rebellion in lieu of ‘if I’ve got the name I will play the game’. Here the influence of religious background and discourses are clear as to what constitutes shame and what the consequences thereof are for the individual (Schwartz & Isser, 2000).

One of the most baffling, and yet common, traits exhibited in neonaticide is the denial of the pregnancy itself. A related interesting phenomenon is that in most cases the family and friends also deny the pregnancy. The woman or girl gains little weight, as compared to most pregnant women, and ascribes her missed menstrual periods to some other cause. This is truly not a matter of only saying; it is really believed (Schwartz & Isser, 2000).

This denial behaviour is not a new occurrence. Records of English courts in the 17th and 18th centuries reveal similar denials of pregnancy that had also been observed in American colonies and France. Court records from Victorian England indicated denial and concealment of pregnancy during that era as well. Most 19th century Bavarian servant girls similarly denied pregnancies and had their babies in privies (Schwartz & Isser, 2000).

Studies provide evidence of this phenomenon. In Oberman’s study, (in Schwartz & Isser, 2000) of the 47 cases of neonaticide, 19 denied pregnancy to themselves, 10 concealed it from others and 43 delivered without assistance, which is consistent with what has been mentioned earlier. Overpeck (1998) showed that 95% of infants killed during the first day of life were not born in a hospital as compared with 8% of all infants killed during the first year of life.

Denial of pregnancy can contribute to prenatal conditions that render the baby vulnerable to being underweight, ill at birth or even mentally retarded. This is because the young woman has had no prenatal care and is generally not following a diet or physical regime that is conducive to the development of a baby (Schwartz & Isser, 2000).

Denial can occur with an otherwise intact reality testing (nonpsychotic denial) and in those with deficits in cognitive functioning or reality testing (psychotic denial). Reasons for nonpsychotic denial may include young age, anger towards the baby’s father, rejection of the fetus, childhood psychological and sexual traumas as well as a restricted acknowledged sexuality in response to strict religious or parental
prohibitions on premarital sex. Separation from partner or stress arising from other interpersonal problems may precipitate the denial as may social isolation (Schwartz & Isser, 2000).

5.2.2.2 Infanticide and Filicide

Infanticide refers to the killing of a child older than 24 to 48 hours but younger than one year. Silvermann and Kennedy (in Schwartz & Isser, 2000) assert that immaturity and psychological stress are of paramount importance as motive in infanticide. This seems probable when the age of many of these perpetrators are considered as well as the lack of preparation for parenting (Schwartz & Isser, 2000).

As mentioned it is not considered a crime in all cultures to kill an infant. Among the Zulu people it has been permitted to kill one or both of the twins born feet first and to kill the deformed or albino child (Crump, 1984).

Postnatal depression has often been linked to maternal filicide. It is said to affect one in ten mothers and includes symptoms of tearfulness, inability to cope, despondency, tension, irritability and exhaustion. Although postnatal depression has a strong hormonal basis, many writers also emphasise the social factors such as lack of support, marital problems, social isolation, and the reality of motherhood which bears little relation to the idealized view of it. Most mothers are quite unprepared for the exhausting and isolating work associated with looking after a child (Morris & Wilczynski, 1993).

Wetzel (in Micheals, 1992) traces knowledge of depression back to 1033 B.C. in the Old Testament of the Bible where King Saul recounted symptoms of depression in the book of Job. Around 450 B.C. Hippocrates, known as the father of modern medicine, challenged Greek beliefs in the Gods by applying the terms mania and melancholia to describe mental disturbances. Hippocrates divided mental illness into three categories: mania, melancholia and phrenitus or brain fever. Melancholia was conceived as being the cumulative effect of black bile. Hippocrates also first recognized the influences of environmental and emotional stress on the body and mind (Micheals, 1992).

With the inception of the Middle Ages, the treatment of melancholia fell under the jurisdiction of the priests. Melancholics were often women who were considered evil witches or heretics (Micheals, 1992). Robert Burton (in Micheals, 1992), a doctor working in the seventeenth and eighteenth centuries first published ‘The Anatomy of Melancholia’ in which he observed that weaker members in society were more prone to develop melancholia. He treated melancholia by drawing large amounts of blood from the patient (Micheals, 1992).

Micheals (1992) lists certain predisposing factors to the development of depression in women between the ages of 25 and 44. These factors include the death of a mother before the age of eleven and conflicts surrounding sociocultural imperatives attached to being female encouraging moral goodness. This leads to a continual compromise between personal feelings and needs that result in self-restraint and denial. Socio-cultural demands can interact with the demands of adulthood to contribute to symptoms of hopelessness and low self-esteem. Other predisposing factors include problems experienced in relationships, poverty or unemployment, the presence of
three or more children under the age of fourteen, and the absence of a support system (Micheals, 1992). Economic stresses are also very prominent in filicide and infanticide. These women are often young, immature, single, first-time mothers from a working class background and the child is usually unplanned and unwanted (Morris & Wilczynski, 1993).

What is deemed as acceptable in terms of disciplining a child or caring for him or her in one era may not be permissible in another time or place. Whipping a child may have at one stage been accepted as a parent’s prerogative, but it is now commonly viewed as child abuse within a western worldview (Schwartz & Isser, 2000).

Wilczynski (in Schwartz & Isser, 2000) listed ten categories of motives of those who kill their children:

1. Retaliation killing, for example where one spouse kills the children to get back at the other parent, usually an ex-spouse at the time.
2. Jealousy of/or rejection by the victim. In this case the father usually commits the homicide.
3. The unwanted child is the most common basis for neonaticide as mentioned.
4. Discipline, such as the so-called Battered Baby Syndrome.
5. Altruistic
   a) Primary- usually in the form of mercy killing such as with a severely mentally retarded child. This is an attempt to alleviate real or imagined suffering on the child’s part (Michaels, 1992).
   b) Secondary- due to a lack of support in parenting or due to post partum depression. Noteworthy here is cases of suicide linked to filicide in which case the parent feels unable to leave their children behind when they kill themselves.
6. Psychotic deficit. This type of killing is associated with the presence of hallucinations or delusions (Michaels, 1992).
7. Munchausen By Proxy
8. Killing secondary to sexual or ritual abuse
9. Neglect
10. Not known

One of the most common categories of filicide is referred to as the battered baby syndrome. In these cases, death is the result of injuries sustained after a serious assault or a series of assaults. Shaking a baby, especially an infant under the age of one, could lead to brain damage, while the spanking of a ten week old baby for crying too long or sucking his/her thumb, is common of the discipline motive underlying many cases of infanticide (Schwartz & Isser, 2000). Again research points to the importance of social stresses. Common features are marital violence, financial and housing problems, separation from parents in childhood, current pregnancy, having other children to care for, and a history of violent and chaotic family life. Personality problems such as low self-esteem, immaturity, and low intelligence are also commonly noted (Morris & Wilczynski, 1993). A case in illustration would be that of Rebecca Smith, who was hanged in 1849 on nine counts of infanticide. She was undernourished and in poor health living in terrible poverty with a drunken husband. Her only explanation for the killings was that she did not want the children to suffer as she had, again the seemingly altruistic killing of a child (Crump, 1984).
Research has consistently suggested that women who kill their children are not addicted to any substance, are mentally ill, new or recent mothers under 30 whom, acting alone and without any weapon, kill only one child who is usually of preschool age (McKee & Shea, 1998). They noted that eighty percent of their participants suffered from a mental disorder, while 35 % was mentally retarded or classified as Borderline Intellectual Functioning. Just over twenty percent were in adult abusive relationships (McKee & Shea, 1998).

In a study of 42 women imprisoned for killing their children, it was found that many of them had experienced inadequate mothering, lack of protection as children, and violence as a means of settling disputes in their family of origin. They had such poor self-esteem and a lack of a sense of self that they were unable to form attachments with their children (Schwartz & Isser, 2000). Another similar study found that seven of the nine women interviewed had suffered some physical and/or emotional abuse in their childhoods. They had also suffered the additional problems of neglect, poverty, spousal abuse, and lack of effective support systems (Schwartz & Isser, 2000). Marleau et al (in Schwartz & Isser, 2000) found the majority of their subjects had personality disorders which, when combined with situational stress such as financial or domestic stress, contributed to committing filicide. Many of them involved an extended suicide plan in which the perpetrator takes significant others with them or was an altruistic homicide in the eyes of the perpetrator (Schwartz & Isser, 2000).

In the case of filicide, the scenarios seem to fall into two broad categories. The first involves the more psychopathic mothers. The aim here is sadistic, it is meant to inflict emotional or physical suffering. The child was not wanted and is killed, as is mentioned above, as a result of severe abuse or in a deliberate vengeful act (Kunst, 2002).

The second scenario is that of the psychotic mother. Here the violence is self-preservation, aimed at managing a perceived threat or danger to the self or the child. These are the women who suffer from a severe mental illness such as psychotic depression or bipolar disorder (Kunst, 2002). Kunst (2002) identified two types of character structure within the group of women suffering from psychotic mental illness. The first, or disorganized type, is distinguished by an extreme personality fragmentation that is rooted in a mental illness. The prognosis for these women is poor, due to the pervasive and intractable nature of the psychological difficulties. Often these difficulties show a slow degenerative course that begins early in life. Their early lives are characterized by tremendous deprivation, chaos, and neglect. The presence of a proper mothering figure is often lacking, but it is particularly the presence of a destructive mother that eventually leads these women to violence. Their crime is normally neonaticide with the victim being under 12 months of age (Kunst, 2002).

The second, or organized type, described by Kunst (2002), is characterized by a premorbidity more integrated ego that becomes temporarily but severely fractured. The organized type bears a better prognosis with treatment. This group of women is likely to have been married, educated, and successful in the workplace. They are often described as devoted parents and few have a history of child abuse. For most of these women the state of mind at the time of the crime represented the first psychotic
episode in their lives. They do have in common profoundly poor attachments to their parents. Although they all had a mother present during their childhood, the mother often suffered from some kind of mental illness. A significant number of these women report the later loss of a mother due to death or desertion. The women characterized as falling in the organized category were without exception the victims of interfamilial sexual abuse (Kunst, 2002). Kunst (2002) noted that the deterioration of the mental state usually begins with the emergence of depression. Some of the environmental or social stresses mentioned above can contribute to this but these women normally mentioned a minor stressor, such as being asked to work overtime, as being the final unraveling (Kunst, 2002).

Some cases have been reported in which the parents have taken out life insurance on the child, and are therefore killed for the personal gain of the parents. There are also murders of babies initially labeled as ‘crib deaths’ or Sudden Infant Death Syndrome (SIDS) that are subsequently recognized as infanticide. Police authorities usually treat three or more SIDS deaths in a family as suspicious. Often these parents are diagnosed with a variant of Munchausen’s Syndrome, in which the person feigns or induces illness, in an attempt to get attention and care from medical workers and significant others. In the variation known as Munchausen by Proxy, parents falsify or induce illnesses in the child. The child or infant is repeatedly brought to hospital suffering from shortness of breath, diarrhea, or some other symptom. A falsified medical history can create a damaging self-image in the child while the unnecessary medical tests might cause damage themselves. The child is healthy during the hospital stay but returns after a few weeks at home with new symptoms. It should be noted that the fathers are rarely directly involved in these cases with the mother being the main culprit (Schwartz & Isser, 2000). Another particularly difficult scenario involves the neglect of the child’s medical needs by the parents, who may be part of a religion that prohibits medical intervention (Schwartz & Isser, 2000).

Silverman (in Micheals, 1992) has attempted to determine the ways in which child killings differ from spousal homicide. In particular, they questioned the characteristics of the victim and offender, the circumstances surrounding the homicide, and the motives of the offender. The results confirmed a woman’s propensity to murder an intimate other instead of a stranger (Micheals, 1992).

Several differences emerged from the study. Spousal murders generally do not confirm mental illness while mothers who kill their children are much more likely to be mentally ill. Women who kill their significant others are more likely to use a weapon such as a gun whereas women who kill their children are more likely to use their hands, be it by means of strangulation or suffocation (Micheals, 1992).

Having now looked at the theory surrounding these killings, the question remains: how can these murders be prevented, what is society’s responsibility in terms of providing alternatives for these women? The following section focuses on what is currently being done and what the focus of the preventative measures in South Africa is.
5.2.3 Alternatives available to mothers and preventative measures

Teenage girls today are exposed to a variety of sexually explicit films and song lyrics that promote sexual relations as the norm. However, adolescents are often ill prepared to prevent pregnancy or to deal with it. If a girl chooses not to have sexual intercourse pregnancy is obviously not a risk. If, however, a girl does choose to have sex, but with the necessary effective contraception, pregnancy is also mostly not an issue. If no contraception is used, pregnancy becomes a risk and certain choices now need to be made. Principally the prospective mother has two choices: either to have the fetus aborted or to continue with the pregnancy (Schwartz & Isser, 2000).

Termination of pregnancy is an option for many girls and women. Studies suggest that adolescents who choose to have an early abortion do so because they recognize their immaturity as potential parents, and that they face fewer physical risks from the abortion than from the pregnancy as well as fewer adverse psychological effects. Abortion is not an acceptable option to every woman. Some are opposed to abortion on moral or religious grounds and therefore choose to carry on with the pregnancy and exercise other choices (Schwartz & Isser, 2000).

Many young women decide to keep the baby. Whatever the reasons are, many young unwed mothers are not prepared for the tremendous change in routine and lifestyle once the baby is born. Not only do many find the loss of privacy and freedom a shock, but also a financial, emotional, and physical strain. Sometimes the adolescent mother stays with her parents and may receive invaluable help from the family but it still requires immense internal resources and external support to successfully raise a child (Schwartz & Isser, 2000).

For many young women keeping the baby is simply not a viable option. They may recognize that they do not have the means or the ability to be a mother or their family may view the birth of children out of wedlock as a disgrace. Placing the baby up for adoption becomes the most reasonable alternative in cases like this. Several studies suggest that it may be advisable for the mother to have some guidance and counseling regarding her decision to have the baby adopted (Schwartz & Isser, 2000).

It is doubtful if the abuse and murder of children will ever be eradicated completely. A society that focuses exclusively on punishment rather than prevention has learnt little from the past. Programs broadly focus on two levels namely the primary level aimed at preventing pregnancy and the secondary level working with prenatal care or parental guidance programs (Schwartz & Isser, 2000).

Sex education specifically focuses on the primary level of preventing pregnancies among particularly the high child homicide risk group of adolescents. There is growing controversy as to the content of sex education in schools and the inclusion of education on contraceptives to encourage young people to at least take proper precautions. Many feel that this would conversely encourage or condone premarital sexual activities. On a secondary level counseling, prenatal care and parenting education may go a long way to reducing the incidence of filicide and infanticide. Support systems for the parents, communication strategies, and alternative discipline training could provide adaptive coping mechanisms for many parents (Schwartz & Isser, 2000).
5.3 KILLING WITH A MOTIVE: SERIAL OR MULTIPLE MURDERS

Some have argued that the existence of relatively few female multiple murderers is an artefact of a society that simply does not acknowledge that women may have violent, even sadistic, proclivities similar to men (Cameron & Frazer, 1988). After all history recounts many powerful women indulging voracious appetites for violence; think of Catherine the Great or the Countess Bathory who bathed in the blood of her victims (Cameron & Frazer, 1988).

Women who commit multicide tend to share a few common characteristics. The average female serial killer kills for the first time when she is just over 31 years of age. Thirty nine percent are in their thirties and thirty four percent in their twenties. Seven percent are under twenty, thirteen percent are in their forties and just five percent are in their fifties when they commit their first murder. On average, a female serial killer kills for five years before she is apprehended and kills seventeen victims (Hale & Bolin, 1998).

Most sources confirm that female serial killers will kill more victims than male serial killers (Hale & Bolin, 1998). The total number of victims of a male serial killer is placed at 10 to 12. A significant number of the murders by female multiple murderers take place in the victims’ residence with the most common method being poison, such as arsenic. Today, potassium chloride is also often employed, especially in a medical setting because it is difficult to detect. Another favourite is the poison succinylcholine, which is used to relax the muscles during surgery (Hale & Bolin, 1998). The more defenseless the victim the more aggressive the female killer tends to act. The majority of her victims are known to her in some way, be it family, extended family or employers (Hale & Bolin, 1998).

Hickey (Holmes, Hickey & Holmes, 1998) believes that female serial killers benefit from society’s reluctance to believe that women are capable of mass killings when it comes to sentencing. He also estimates that 12% of all female serial killers were never apprehended. Hickey examined thirty-four serial killers. He noted that 82% of the cases had occurred since 1900 and that one in two killers had a male accomplice. More than one third of the women began their killing since 1970. Hickey offers several explanations for this, including improved police investigation, population increase, and increased media attention. Most of the women in this study were homemakers (32%) or nurses (18%). One in five killers reported no occupational title whatsoever. Ninety seven percent were white and began killing when they were 33 years old. In contrast to male offenders, Hickey found that only one third of the women reported having killed strangers. Almost without exception the women did not travel far in their quest for their victims. Their motives were also significantly different from their male counterparts (Holmes, Hickey & Holmes, 1998).
5.3.1 Typologies and Motives of Female Serial Killers

As mentioned previously, a close personal relationship often exists between the killer and the victims. Research has however shown that since 1976 there has been an increase in female serial killers killing strangers (Hale & Bolin, 1998).

Overall, 53% of female serial killers are at least partially motivated by money, while 41% killed exclusively for money. However, the expression of an altruistic motive is not uncommon among female serial killers. Often this motive can be understood in relation to the type of victim chosen. These target victims are described as latent victims and include people who are unable to defend themselves or have limited abilities to defend themselves. These include children, old or sick people. Research notes that lust is commonly not a motivation for female killers although many of them do kill their partners (Hale & Bolin, 1998). Most often money is the common motivation for serial killings although other motives can include sex, revenge or spurned love interests (Holmes, Hickey & Holmes, 1998).

Some suggest a connection between stress and female perpetrated crime. The New York Times reported that nearly every female serial killer had witnessed violence as part of her upbringing, typically that of her mother being abused by her father. In addition, many of these women had been victims of either sexual or physical abuse. They also found that more than half of the women had experienced the loss of someone close to them during childhood. In many instances, this was due to death, divorce, separation, or being placed in foster care. This loss would typically bring with it further stresses such as the loss of companionship, a role model, the physical and mental uprooting from an established home life, and related questions experienced in any case of loss. Although this study is notably unscientific it bears further scrutiny (Hale & Bolin, 1998). Of course, everyone experiences life stresses without a similar outcome and therefore Hickey (in Hale & Bolin, 1998) suggests that the way these women deal with the stress and specifically the meaning they attach to these experiences are significant.

The following are some of the typologies of female multiple murderers established by literature and certain scientific studies.

5.3.1.1 Spatial Mobility and serial murder

Most killers tend to be geographically stable or geographically transient. The first type of murderer resides in one place and seeks their victims in the same area or nearby. Unlike the male serial killer, female killers seem to fall almost exclusively in this geographically stable category. This may be as a result of traditional female roles that centre most on activities around the home and family. Of course, this also increases the chances of detection and apprehension as these offenders maintain close personal, occupational, and social ties to the community (Holmes, Hickey & Holmes, 1998).
5.3.1.2 The Visionary Serial Killer

Most serial killers are not psychotic and understand legally, if not morally, that killing is wrong. Most could perhaps be classified as possessing anti-social personality disorder, with no apparent concern for the welfare of others. In the above mentioned type of killer there is, however, a severe break with reality which leads to an extrinsic compulsion to commit these acts. The motivation is extrinsic to the personality, and comes from some kind of auditory or visual hallucination. The killing is often spontaneous with the victim selected according to the instructions of the message-giver (Homes, Hickey & Holmes, 1998).

5.3.1.3 The Comfort Serial Killer

The comfort serial killer is motivated, not by psychological gain, but by material rewards. This typology tends to be the most prevalent among female serial killers. The offender will usually kill persons she is acquainted with, and the material gain is often money or the promise of money, such as insurance benefits or real estate (Homes, Hickey & Holmes, 1998).

5.3.1.4 The Hedonistic Serial Killer

Perhaps the most disturbing, and least understood, of all female serial killers is the hedonistic type. The hedonistic killer is one who has made the connection between violence and personal and sexual gratification. The motivation for the killings appears to be intrinsic to her personality; personal and sexual pleasure (Homes, Hickey & Holmes, 1998).

5.3.1.5 Power Seekers

Power is defined as the ability to influence the behaviour of others in accordance with your own desires. Power may also be defined as the ultimate domination of one person by another. For instance some killers will repeatedly poison their victims and then nurse them back to health. Recently the Munchausen Syndrome by Proxy has been applied to individuals who fabricate and induce medical problems in children under their care. Offenders usually receive some form of psychological satisfaction such as praise from superiors or gratitude from the patient and family (Homes, Hickey & Holmes, 1998).

5.3.1.6 Disciple Killer

Finally some women kill when they are under the influence of a charismatic leader. One of the most famous cases involves the female followers of Charles Manson. Victim selection is based upon the decisions of the leader, and reflects more of the leader’s wants than those actually committing the murder (Homes, Hickey & Holmes, 1998).

In some cases personal relationships seem to facilitate violence. In all likelihood some people would never kill without the involvement of some other person(s). Mutually
shared fantasies appear to stimulate some relationships into actualizing their fantasy (Homes, Hickey & Holmes, 1998).

As mentioned above female multiple murderers are quite uncommon in South Africa and therefore not a rich source of literature. Recently the situation of abused women who kill their intimate partners has received much attention in the media and in judicial circles. This group of women forms the focus in the discussion below.

**5.4. WHEN BATTERED WOMEN KILL**

Domestic violence is a serious crime against society, and has an unacceptably high incidence in South Africa. The number of incidents of domestic violence, in which especially women, children and the elderly are the victims, appear to be continually on the increase in South Africa (www.saps.org).

An act of domestic violence often starts a debilitating cycle of violence from which the victim finds it increasingly difficult to escape. The Battered Woman's syndrome describes this in detail. This can then lead to repeated victimization and offending which can eventually spiral into fatality (www.saps.org).

A National Victimisation Survey which was carried out in South Africa during 1998 made the following significant findings with regard to violent crimes (www.saps.org):

Most assaults (54%) and sexual offences (68%) occur in and around the home of the victim. Victims are most likely to know their attackers. A significant proportion of attackers are closely related to their victims; 33, 8% in the case of assault and 27, 9% in the case of sexual offences (www.saps.org).

Domestic violence, as a key feature in gender-based violence, is further confirmed by city surveys conducted in 1998 by various reputable organisations in Cape Town, Durban and Johannesburg. These surveys indicated that in 58, 7% of cases, the abuser was the partner, lover or spouse of the victim and in 18, 3% of cases the abuser was another relative of the victim. Domestic violence clearly constitutes a significant proportion of all violent crimes committed in South Africa (www.saps.org).

Victims of domestic violence incidents are almost always the most vulnerable members of society, namely women and children. The vulnerable status of these groups of people is widely recognised, and several international Conventions have been drafted to improve the protection of these groups. Such conventions include the Convention on the Elimination of All Forms of Discrimination Against Women (1979). The South African government has ratified this convention and in so doing took it upon themselves to ensure the rights of women in South Africa. This includes protection of the right of women to equality and the promotion of their social progress (www.saps.org). The Bill of Rights, as contained in chapter 2 of the Constitution, 1996 (Act No. 108 of 1996) entrenches the right of every person to equality and to freedom and security. It applies to all people in the country and requires respect for the rights of all people (www.saps.org).

According to the recently adopted Domestic Violence Act (Act No. 116 of 1998) the conduct which constitutes domestic violence may be divided into different categories.
which include physical, emotional, psychological, sexual and economic abuse between persons who are in a domestic relationship with one another (Domestic Violence Act, Act No. 116 of 1998).

In addition to the above, conduct between persons who are in such a relationship which, according to the Act, also qualifies as domestic violence includes:

(a) intimidation;
(b) harassment;
(c) stalking;
(d) damaging of property;
(e) entry into the residence of the victim without consent, where the parties do not share the same residence; or
(f) any other controlling or abusive behaviour towards a victim, where such conduct harms, or may cause imminent harm to the safety, health or well-being or the victim. (Domestic Violence Act, 1998 (Act No. 116 of 1998).

Battered women who kill their partners have not been the focus of much research (Ewing, 1987). They inevitably have few coping resources for the constant physical and/ or psychological abuse they suffer from their partners (Ewing, 1997).

Society tends to ridicule abused women for staying in such a destructive relationship. Incredulously people ask: why doesn’t she just leave? Never considering the practical and emotional implications of ‘just’ leaving. Even if an intimate relationship could be severed so cleanly, couples often have property in common, children in common, have mutual friends; know each others daily routines, places of work and family residences. This makes a move into hiding particularly difficult. If she takes her children with her, she is faced with disrupting their routine and even runs the risk of retaliatory violence by her partner. The point where most people insist that a woman leaves is precisely when she is most incapable of planning such a move, right after an abusive incident. The majority of women are never even identified as abused, never aware of how many other women share their experiences. They believe people might think less of them or even blame themselves for getting into such a relationship in the first place (Browne, 1987).

In the homicide group examined by Browne (1987), some women had attempted to leave their husbands. Some had even been separated or divorced for up to two years before the incident. Many women stayed because they had tried to escape and had been beaten for it, or because they believed that an attempt to leave would lead to further violence. Almost all the women believed that the abuser would or could kill them if they attempted to leave him. It is also true that many women who leave an abusive relationship is harassed and some even killed by their partner after separation. Abusive men faced by the loss of their partner may be severely depressed, angry,
agitated, homicidal or even suicidal. All this contributes to the likelihood of another violent incident (Browne, 1987).

Any abusive incident must be understood within the broader systemic context. The cybernetic flow of energy and dynamics between two people in a complex destructive relationship cycle should be taken into account. In many cases the relationship becomes a cycle of physical, verbal or psychological abuse. A co-dependent relationship may develop with both parties becoming dependent on the cycle of violence. It also bears mentioning that complex dyadic systems such as these relationships are never linear in terms of cause and effect, but usually comprise an enmeshed circular dynamic. Some important factors contribute to destructive relationships. These can include mistrust, disloyalty, lack of commitment and passionate sexuality in a context of previous adultery. A multitude of factors can combine to form a complex relationship dynamic which can be exacerbated by other elements such as alcohol abuse or an irrational conflict management style. These dynamics become so ingrained that both partners might find it increasingly difficult to function without these destructive cycles. In many instances there is an inability to end the relationship on both parts (Court evaluation, Prof. H.G. Pretorius, 5 August 1999).

Carol Gilligan (in Browne, 1987) speculates on the following:

Since masculinity is defined by separation while femininity is defined through attachments, male gender identity is threatened by intimacy while female gender identity is threatened by separation. Thus males tend to have difficulty with relationships, while females tend to have problems with individuation.

It is true that a particular part of a woman’s role is to persevere in the face of hardship, to soothe, to understand, to assign higher priority to others needs, to be unselfish and self-sacrificing. Thus it is not surprising that women attempt peacemaking and resolution as the first coping strategies in violent relationships (Browne, 1987).

Kaplan and Surrey (in Browne, 1987) speak of the relational self when referring to the importance assigned by women to connection. The quality of the relationships with others lying at the core of the self-esteem, leaving women to do the ‘lesser’ tasks of nurturing and caring for relationships while men are mastering themselves and their environment without the impediment of too many needs and emotions (Browne, 1987).

Chodrow (in Browne, 1987) points out that for both boys and girls the primary caretaker in the childhood is the mother or a female caregiver. Thus, girls’ impressions are formed by a basic connection to someone very like themselves while boys’ connection is with someone opposite to their gender (Browne, 1987). As they mature girls continue to identify with someone like themselves while boys’ begin to divorce themselves from this close association and build their own male role identity. So for a boy the path of development lies not in the continuation of an attachment but in the separation from the caregiver and defining himself as different, masculine and independent (Browne, 1987).
It again becomes clear that women’s identities are generally defined in relation to their intimates. Women tend to therefore assume responsibility for the maintenance of the relationship and often internalize the blame for its failure. Their ability to care for others is primarily ascertained by others’ well being and happiness. In a study on morality, Gilligan (in Browne, 1987) found that men emphasised rights and autonomy while women tended to focus on care giving and an understanding of the responsibilities in relationships.

Women living with abusive men become almost hyper-vigilant in scanning the environment for cues that might upset their partner and attempting to predict and moderate their reactions. This leads to a constant state of tension that the woman has to endure. It has to be remembered that in the vast majority of cases the woman does not know that she is getting involved with a violent man. Often the first incidence of violence is viewed as atypical. Their sense of commitment and concern, their love for the man, and their cultural conditioning toward continuity in a relationship, and the responsibility of taking care leads them to search for other explanations and solutions for the violence rather than leaving at once. Moreover, always there is the hope of improvement… ‘I go to bed pretty beaten down every night, but my soul gets back up in the morning’ (Browne, 1987).

What then precipitates the shift from victim to perpetrator? One possible explanation may be that of the social judgment theory of Sherif and Hovland (Browne, 1987). This theory involves the concept of a continuum on which all incoming stimuli is organized. The latitude of acceptance is the range of possibilities that the individual is willing to agree with or adapt to. A stimulus falling outside this range is met with either noncommitance or rejection. This latitude is defined by anchors that determine the end of this extreme. Internal anchors originate from within the individual while external anchors are provided by social consensus. Past learning can also play a part in what a person will find acceptable (Browne, 1987). If a particular event or stimuli falls close to the end of the continuum or even just above the endpoint it will produce a shift of the range or assimilation. If, however, the stimulus is too far beyond the range, it will produce a contrast effect and the stimulus will be perceived as even more extreme than it really is (Browne, 1987).

The abused woman’s latitude will be affected by the degree to which she has been socialized to accept such behaviour. This could be through previous experiences with similar stimuli, for example violence in her childhood home. Other internal anchors could be the degree to which she feels trapped within the abusive relationship. One could perhaps argue that Seligman’s Theory of Learned Helplessness can be applied here, in terms of the woman feeling powerless to change her circumstances. Society’s ambivalence where violence against women is concerned would strengthen her reliance on internal anchors to determine what is acceptable. Throughout this process a certain level of abuse becomes commonplace. The latitude of acceptance is what these women think they can live through. By the end of the relationship they are surviving attacks they would not have thought possible a few months ago. They are involved in a constant process of assimilation and readjustment. In recounting the events that led to the homicide women frequently say: ‘He had never done that before.’ This indicates some change in the pattern of violence that seemed to them even more threatening. The act would be so far beyond the range of what these women are willing to assimilate that it becomes for them life threatening. However
other theorists feel that these battered women tend to understate the levels of violence in their relationships to such an extent that they might only be, for the first time, making a realistic appraisal of the abusive situation (Browne, 1987).

Crump (1984) believes that the rising incidence of domestic violence and specifically killings as a result of abuse warrants practical intervention. Perhaps the first level of intervention would be to train police officers in crisis intervention or arrange for a counselor to accompany officers in the event of a domestic dispute callout. Telephone and follow up services would also be invaluable in this regard as many women turn to law enforcement as an immediate remedy for the situation. On a broader level awareness of legislation and other resources available to these women should be promoted (Crump, 1984).

5.5 AN ILLUSTRATIVE CASE VIGNETTE ON MATERNAL INFANTICIDE

Lesley was convicted of murder on the 21st of October 2002. Her sentence was twenty years to be served in a female prison in Gauteng. She and her husband Gregg stood accused of the murder of her four month old baby daughter, Shelley. The couple both maintained that they were innocent of the charges although medical evidence provided an overpowering picture of prolonged abuse.

Lesley was born in 1973, the elder of two children. Both she and her brother were adopted and raised by a couple now retired. The only thing Lesley knows about her biological mother is that she was sixteen years old at the time of her birth and that her biological father was twenty one. Lesley never had a satisfying relationship with her adoptive mother and communication with her adoptive father she reports as being difficult. Her relationship with her brother was also never close and she suspected him as the guilty party in her child’s death. She however has no proof of this and states that the baby was never alone with him for prolonged periods. Lesley reports being sexually abused by her nephews while still in primary school and believes that her adoptive parents did nothing to protect her from this abuse.

After matriculating, Lesley started studying through the University of Pretoria. However, she moved back home after her first year, not only due to the pressure of the studies, but according to Lesley she was raped by a friend during this year. She did not report the incident to anyone. Lesley held quite a number of jobs after this, often changing her line of work. She first met her husband and co-accused when she was sixteen, working in a restaurant. They went their separate ways but renewed the acquaintance some years later through a mutual friend. At this stage Lesley was pregnant with her first daughter from a previous relationship. Lesley and Gregg subsequently got engaged and married a year later. Gregg’s mother stayed with the couple and Lesley reports a more satisfying relationship with her than her own adoptive mother.

One daughter was born from the marriage between Lesley and Gregg, the deceased Shelley. She was delivered through emergency Caesarean section, three and a half weeks prior to the expected date. Lesley saw her for the first time the next morning as she had to receive oxygen directly after the birth. Shelley was bottle fed. Lesley maintained that she has never suspected her husband of any drug abuse or any form of abuse to the children. The report submitted to court show remarkable similarities.
between the statements from Lesley and Gregg. Indeed at some stages one feels that one person is under scrutiny. This is even evident in their answers as they would often use the same expressions such as ‘manages to stay on an even keel’ or ‘a while to get back to normal after a mishap’. They were also both very worried about the others health and never questioned each other as to the events surrounding the baby’s death. Indeed according to Lesley they never spoke about the incident. While in prison Lesley started to report ongoing sexual abuse by her husband, drug and alcohol abuse as well as entertaining the possibility that he may have been responsible for their child’s death. It did not seem to bother her that she would then be serving a prison sentence for her husband’s crime. She still maintained that she never saw anything wrong with Shelley although the medical evidence found signs of ongoing abuse over the four months of her life. Lesley did testify to biting the baby in a fit of rage one day.

The court report contains summaries of several psychometric tests done with Lesley to assist the court in the judgment of her case. On the Human Behaviour Questionnaire the following is noteworthy:

- Lesley reports that she stuttered between ages 6 and 8.
- She remembers her adoptive parents as very strict and getting a lot of hidings.
- She does not sleep the whole night through but wakes at intervals. This is interesting in light of the fact that she later stated that Gregg must have abused Shelley while she was asleep at night.
- She reports high levels of activity, talking excessively and fidgeting.
- She finds criticism difficult to handle and may take it as a form of rejection.
- She reports biting her nails as well as having a spastic colon.

Two Millon Clinical Multiaxial Inventories (MCMI) have been administered to Lesley. One at the time of the case and one while in prison some four years later. The initial MCMI-III showed the following:

- The validity scale indicates an attempt to portray herself favorably.
- A significant elevation on the Histrionic scale which could indicate emotional and varying moods, attention-seeking behaviour, greater than average need for approval, little to no insight, low tolerance for frustration as well as a drive to maintain a carefree life style with little concern for responsibility.

The subsequent MCMI-III profile, done while in prison, was valid although a slight elevation on the debasement scale is noteworthy. This would suggest a moderate tendency towards self deprecation and a consequent exaggeration of current emotional problems. Therefore one must keep in mind that the client may have reported more psychological symptoms than objectively exists. This may however also be interpreted as a ‘cry for help’ especially in light of the elevations on the Major Depression and the Dysthymia subscales. The following is an extract form the psychometric report written based on the findings of this test.

In terms of severe personality pathology only the slight elevation on the borderline subscale is noteworthy. The core feature of individuals with an elevation on this scale is an instability and unpredictability of mood and behaviour. This self destructiveness may reflect a severely punishing conscience and much of the unstable behaviour seems to be directed by internal factors rather than in reaction to the environment. There is marked mood swings, intermittent periods of depression and generalized
anxiety. These behaviours cause significant interpersonal difficulties although these clients are extremely concerned with maintaining the care and emotional support of others. Even though they often elicit rejection they react quite strongly to fears of abandonment. There is a poorly developed sense of identity, feelings of emptiness and disorganized thoughts. They may intermittently idolize people but eventually come to devalue and criticize them.

This personality style may manifest in a wide variety of clinical syndromes including the three noted on this MCMI profile namely dependant, negativistic and to a lesser extent masochistic. An unexpected elevation concurrent to these is on the schizoid subscale. Borderline personality styles can be conceptualized as an extension of the negativistic, dependant and masochistic clinical subscales. The negativistic subscale emphasizes the conflicted aspects of borderlines. They feel intensely dependant and yet is extremely anxious and ambivalent about it. They feel resentment and anger but also believe that these feelings are unacceptable. These extremes eventually give way to a disintegration of a sense of self.

The elevations on the dependant subscale may indicate low self esteem, passivity and apathy combined with a need for someone who will take care of them. The combination of borderline and masochistic elevations would highlight the impulsive and self destructive characteristics of this client. She maintains a strong sense that she is not worthy of happiness and a belief that she should be exploited and humiliated. This again goes hand in hand with the presence of depression.

The most apparent elevation on the clinical personality pattern scale is that of the schizoid subscale. This scale is quite significantly elevated. It would suggest that Lesley has little or no interest in other people. These clients are usually detached, impersonal, impassive and impersonal and rarely seek involvement. They have little self awareness or insight into the implications of interpersonal relationships. A frequent spousal complaint would be the lack of closeness, sharing or understanding. They are quite self sufficient and are comfortable spending time alone. Concurrent elevations on the dependant and negativistic subscales may indicate that Lesley has many conflictual feelings and resentment toward the few interpersonal relationships she has. This resentment would perhaps centre on the wish that someone would nurture and guide her along with the fear that she may be rejected and abandoned. This elevation may be in reaction to the prison environment she finds herself in.

The second highest elevation on the dependant subscale again confirms some of these hypotheses. It would seem that she feels inadequate and insecure, quickly forming alliances with stronger people to identify herself in terms of these people. The elevation on the masochistic scale in conjunction with this highlights her poor self esteem based in part on having been in a series of painful relationships- again eliciting rejection as mentioned previously.

On the clinical syndromes the symptomology of depression and anxiety are very clear. The anxious complaints such as difficulty in relaxing may manifest in physical complaints (somatoform subscale). Lesley has frequently complained of headaches especially when there have been some difficult events in her life. These complaints may be directed towards eliciting sympathy and attention and may tie in with the slight elevation on the debasement scale mentioned earlier. The elevation on
Dysthymic Disorder may to some extent verify her interactional style of self debasement and deprecation. This is true of her low self esteem, guilt, feelings of uselessness and self doubt. The high score on Major Depression indicates severe depression and psychological difficulties often associated with this include suicidal ideation, ruminating, loss of sexual desire and a sense of hopelessness.

Several of the other tests reported similar findings in terms of intense outbursts of anger, trouble expressing emotions in a controlled way, overreaction to environmental events, blaming other instead of taking responsibility herself, poor impulse control, over inflated sense of self, highly disruptive interpersonal relationships, not being sensitive to the needs of others and possibly being more taken by the idea of motherhood than the actual task. She further indicated that her baby was too young to relate to as well as finding it difficult to accept signs of independence and autonomy from her older daughter. Some degree of immature romantic idealism was evident when questioned on sexual adaptation and functioning. Lesley fell pregnant again after the death of Shelley, but does not seem to have experienced this as traumatic in light of the pending court case or the then recent death of her daughter.

The above discussion raises several interesting hypotheses. If one thinks of the attempts to present a favorable picture on all the tests, questions around manipulation arise. Further her intolerance of inactivity may be indicative of a high autonomic arousal level coupled with intense attention seeking behaviour. She also clearly externalizes the blame for the abuse to others; first her brother and then later shifting towards the husband. In terms of the prolonged and severe abuse of the deceased child questions around impulse control and intermittent aggression abound.

The fact that Lesley was adopted may be significant in light of her own lack of bonding with the deceased child. The child was withheld after birth and the bottle fed which may have created some distance from the mother-child relationship. Lesley reports a history of abusive, stormy relationships together with an unstable work history. Personality characteristics associated with infanticide such as immaturity is very evident in this case. Studies mentioned earlier also highlight some of the elements found in Lesley’s case. This includes experiences of inadequate mothering and lack of protection as a child, as Lesley reported concerning the sexual abuse in her childhood. Indeed most women guilty of infanticide report some kind of abuse in childhood, in this case sexual. The majority of subjects in the studies were found to have personality disorders which coupled with situational stress triggered the killing. Of course the relationship between husband and wife also played a pivotal role in the abuse and final killing. Gregg was speculated as having a Narcissistic Personality Disorder based on his psychological and psychometric evaluations while Lesley seems to fulfill the criteria for Borderline Personality Disorder when looking at her clinical presentation. One can only speculate as to the relationship dynamics that led to such a tragic end for all concerned.

The court found in terms of Section 78 (1) of the Criminal Procedure Act of 1977 that Lesley could appreciate the wrongfulness of her act as well as act in accordance with the appreciation. Therefore the court found that the element of capacity, fault, voluntary action and unlawfulness were present to incur criminal liability. She and her husband were found guilty on the charge of murder and sentenced to twenty years imprisonment for the death of their daughter.
5.6 CONCLUSION

As mentioned previously these three groups of female murderers were identified based on available literature. A perusal of this literature clearly indicates the importance of these women’s backgrounds in understanding their crimes. More often than not incidences of family violence or abuse are to be found. Furthermore, their current situations are equally important, be it financial strain or relational difficulties that finally contribute to a killing. Genetic contributions such as a history of mental illness or difficulties play a significant role. Little is however said about personality traits, and how this may fit into the greater picture of the female perpetrated homicide. The case vignette brought the case of one such a woman to life. She starkly represents the tragedy of maternal infanticide on all the parties irrevocably scarred by the killing. The next chapter examines the legal situation concerning these three groups of women in the South African context.
CHAPTER 6

WOMEN AND THE LAW: CULPABILITY AND CAPACITY AS CRUCIAL ELEMENTS

6.1 INTRODUCTION AND CLARIFICATION OF TERMS

This chapter examines the current legal situation of three groups of women who kill, identified in available literature. This is done to ensure that a complete picture of these crimes is presented. This review does not attempt to provide an expert legal opinion of the commission and punishment of the crimes but merely to contextualise the crimes and to provide completeness to the study in question. A brief clarification of terms is followed by a short summary of the legal stance on each of the crimes discussed in the previous chapter.

For criminal liability, the State must prove beyond a reasonable doubt that the accused has committed a voluntary act, which is unlawful, and that this act was accompanied by criminal capacity and fault (also referred to as *mens rea*) (Burchell & Milton, 1997). The Latin term *mens rea* is a technical term and the very fact that this term rather than an English equivalent is used, clearly shows that it is not regarded as readily translated into or explained in simple English. It may, however, be translated literally as ‘a guilty mind’ (Snyman, 2002).

To qualify as conduct it must be conduct of a human being which was voluntary. The conduct can be in the form of either a commission or an omission. If the conduct results in an unlawful consequence there must be a causal connection between the conduct and the unlawful consequence. Finally the conduct must, of course, be unlawful (Burchell & Milton, 1997).

The voluntariness element is derived from the predominantly Western philosophy that holds that all human beings are born with free will and can direct their actions and choices accordingly. Therefore a person will only be held responsible for the consequences of his/her chosen or free will. It is however recognised in South African courts that a person who deliberately and consciously creates an unconscious circumstance in order to commit a crime, e.g. a person who gets drunk in order to commit a murder, is guilty of committing the crime even though at the time of the actual crime he/she was acting involuntarily. This is known as the *actio libera in causa* principle (Burchell & Milton, 1997). If a strictly deterministic point of view had been adopted, accepting that all man’s actions are predetermined by, for example, biological or genetic make-up or by the social milieu that he/she grew up in, there would be no need for culpability as an element as all conduct would be the result of blind causal processes. The whole basis of criminal law would collapse, as the commission of a crime would be beyond the person’s control, much as contracting a deadly virus would be (Snyman, 2002).

Criminal capacity refers to the psychological ability for insight and self-control. Thus it is concerned with the cognitive and conative functions. The test for determining criminal capacity is whether the accused could appreciate the wrongfulness of his/her actions at the time of the crime and direct his/her conduct according to this appreciation (Burchell & Milton, 1997). Provocation or severe emotional distress
could deprive a person of criminal capacity in certain circumstances as is discussed below in *S v Eadie 2002 (1) SACR 663 SCA*.

Lastly, to incur criminal liability the existence of fault is a prerequisite. Fault is an element of every crime. It consists of either negligence (*culpa*) or intention (*dolus*). For the crimes under discussion, *dolus* or intention are relevant regarding fault. An accused is said to have intention when he/she intentionally acts unlawfully, knowing this conduct to be unlawful. Thus there are two elements present: intention to commit an unlawful act and knowledge that the act is unlawful. Generally, the person’s motive for committing a crime, whether good or bad, is irrelevant to criminal liability. The reason for this is that motives are too obscure and complex to provide a reliable basis for determining liability (Burchell & Milton, 1997).

Homicide refers to the killing of another human being. This is probably regarded as one of the most serious crimes; in part due to the sanctity attached to human life by various traditions and religions. Homicide can consist of killing oneself (suicide) or another (e.g. murder). Murder consists of the intentional and unlawful killing of another person. An intentional killing is not unlawful under certain circumstances, for example when done in defence of person or property. The state must prove intention; negligence is insufficient for murder (Burchell & Milton, 1997).

The death sentence used to be a competent sentence for murder but in 1995 in *S v Makwanyane 1995 2 SACR 1 (CC)* the Constitutional Court held that this form of punishment was unconstitutional, because it amounts to an unjustifiable violation of the right to life, the right to dignity and the right not to be subjected to cruel, inhuman or degrading punishment. Before 1997 the court had a free discretion as to the period of imprisonment to be imposed on a conviction of murder. It is a well known fact that the incidence of murder has increased alarmingly since about 1990. As a reaction to the high crime level section 51 of the Criminal Law Amendment Act 105 of 1997 was enacted. This makes provision for minimum sentences to be imposed for certain crimes, such as murder, in certain circumstances. So for instance Section 51 (1) of the Act provides that a High Court must sentence a person convicted of murder to imprisonment for life if the murder was planned or premeditated. This has implications for abused women who kill using a third party as an accomplice (Snyman, 2002).

### 6.2 FILICIDE: CAPACITY AND MENTAL ILLNESS

Burchell and Milton (1997) define mental illness as a disease or defect that may deprive a person of the capacity to appreciate the wrongfulness of his conduct. It may also deprive the person of the ability to control such conduct (Burchell & Milton, 1997).

Since 1977 the defense of mental illness has been governed by statute, namely the provisions of sections 77 to 79 of the Criminal Procedure Act 51 of 1977. These sections are the direct result of the *Report of the Commission of Inquiry into the Responsibility of Mentally Deranged Persons and Related Matters* often referred to as the *Rumpff Report*, after Rumpff CJ, the then judge of appeal, who headed the commission (Snyman, 2002).
Before there can be any question of criminal culpability and therefore intent it has to be established that the accused had the mental ability to distinguish between right and wrong and could control his/her conduct according to this distinction at the time of the offence. This is referred to as criminal accountability or capacity. Indeed in *S v Adams* 1986 4 SA 882 (A) 899 the court held that criminal accountability or capacity is a prerequisite for criminal liability and should be clearly distinguished from intention which the prosecution must prove to secure a conviction in cases where this is a requisite. In the opinion of Visser and Maré (1990), criminal accountability should however not be confused with knowledge of unlawfulness. The knowledge that the act is wrong forms part of intent and indicates that the accused was aware of the fact that his conduct was unlawful. Criminal accountability on the other hand deals with the issue of whether the accused had the ability to distinguish between right and wrong or to act accordingly in the eyes of the law. Although this distinction may be theoretically clear it may be problematic in its practical application. It is however premature to enquire into knowledge of unlawfulness before criminal accountability has been determined. Factors such as youth, mental illness or intoxication may exclude or diminish a person’s criminal capacity. In the context of the current study and the focus on filicide with a pathological etiology, mental illness as a mediator of criminal capacity becomes especially relevant (Visser & Maré, 1990).

6.2.1 The Rumpff Commission Report of 1967

The functions of the insanity defense are diverse and ultimately its effect is dependent upon the facts and circumstances of the case under review. The Rumpff Commission, appointed after the assassination of Prime Minister H.F. Verwoerd by Demitrio Tsafendas, is described as one of the most thorough examinations of the relationship between the criminal law and psychiatry. Tsafendas was not tried because the Supreme Court found him to be insane on being arraigned. In the background was the case of Pratt, who had attempted to assassinate Dr. Verwoerd in 1960 and was also found to be insane and therefore not tried. The Commission was appointed on the 5th of December 1966 with the following terms of reference:

‘To inquire into and to report on the efficacy or otherwise of existing statutory provisions and legal rules regarding (a) the adjudication of criminal cases involving persona alleged to be suffering from some form of mental derangement, (b) the responsibility and criminal liability of such persons, (c) the prevention of acts by such persons which are dangerous to others, and to make recommendations concerning any law reform deemed necessary and expedient in the interests of such persons and in the public interest’ (Rumpff Commission of Inquiry Report, 1967).

As is evident this comprised quite a broad and contentious brief (Rumpff Commission of Inquiry Report, 1967). According to the Rumpff Commission of Inquiry (RP 69/1967) the criminal law is concerned with the question of responsibility; the accountability of a specific person for a crime due to his/ her *mens rea*. *Mens rea* here means a blameworthy state of mind with which the perpetrator acts. In Roman law and in Roman Dutch law the principle *nulla pena sine culpa* applied (or no punishment without *mens rea*) and this principle is found in every civilised legal system (Rumpff Commission of Inquiry Report, 1967). *Mens rea* presupposes the presence of certain mental faculties by which the person is deemed to have willed the particular crime. A person with a morbid mental disorder or defective mental
development is viewed as not responsible and therefore not punishable for the crime in question. Two concepts are relevant here:

1. responsibility and
2. morbid mental disorder.

According to the Rumpff Commission report (RP 69/1967) criminal law adopts the point of view of indeterminism. Therefore, a man can direct his will in respect to his actions. It does not however allege that the disposition, character and environment exercise no influence in shaping the human will, but holds all mentally sound persons accountable for punishable actions, irrespective of the extent of the influence of the factors mentioned in shaping the will. Thus, society and the jurist proceed from the assumption that a ‘normal’ person is criminally responsible (Rumpff Commission of Inquiry Report, 1967).

6.2.2 Background to the insanity defense and the current position

It was not until the nineteenth century that the question of responsibility and what is to be understood by a ‘normal’ person was approached as a separate doctrine. According to some of the Continental authors, including some prominent articles in the *Tydskrif vir Hedendaagse Romeins- Hollandse Reg* featuring Prof. van Bemmelen of Leyden, character is the totality of a person’s volitional drives and a person is responsible for his actions when an act stems from and is in consonance with his character. Van Bemmelen (Rumpff Commission of Inquiry Report, 1967) deals with nineteenth century writers such as Kant who stated that the ‘normal’ idea has its seat merely in the idea of the judging subject and therefore never appears in reality. The ‘normal’ idea must draw from experience and therefore the mental image of normality so formed is at the same time the archetype of the species. Thus the normal idea becomes the average and the ideal something different from the normal idea. He concludes that normality must be related to the total personality of a person and that a single test cannot be used as criterion. The criminal judge therefore has to resolve the conflict between the individual and society and would not impose punishment on an abnormal person, since he knows that a person who deviates to such an extent from the fictitious norm that he cannot maintain himself or his place in society, can not be driven to do so by punishment (Rumpff Commission of Inquiry Report, 1967).

A more modern version of these ideas was found by the Rumpff Commision (RP 69/1967) in Bromberg and Cleckley’s 1952 article *The Medico- Legal Dilemma: A Suggested Solution*. In this article it is suggested that instead of applying the M’Naghten rules (discussed below) the object of the investigation should be to determine whether the defendant was suffering from a disease of the mind and whether this was sufficient to render him accountable under the law of the crime charged. Wiersma (in Rumpff Commission of Inquiry Report, 1967) classifies the criteria of non-responsibility in three groups. The biological criterion is applied when the volume of clinico-psychiatric factual material collected is deemed sufficient to exclude non-responsibility. The psychological criterion is used when, as a result of the presence of certain mental conditions or a particular mental characteristic or combination of characteristics, responsibility is excluded without taking into account the causes of the conditions. This is not a suitable criterion, Wiersma believes, as it would raise the question of free will and therefore the question of determinism or
indeterminism, which lies in the philosophical sphere (Rumpff Commission of Inquiry Report, 1967). The mixed criterion is applied when the perpetrator must be shown to have a biological as well as a psychological symptom (Rumpff Commission of Inquiry Report, 1967).

The Commission also stated that when an accused wishes to raise a defense that he is unfit to stand trial on account of a mental disease or that he cannot be held responsible for the act charged, he must give notice of his intention no later than when he is called upon to plead or, if the accused provides sound reasons or if he is not defended, at such a later time as the court approves. If the accused gives such notice, or there is doubt concerning the accused’s fitness to stand trail or when the court feels that the mental disease will become an issue in the case, the court must appoint the medical superintendent of a mental hospital (or the psychiatrist appointed by the superintendent) to examine the accused and may send the accused for observation for a period not exceeding thirty days or longer, if necessary (Rumpff Commission of Inquiry Report, 1967).

Two psychological factors render a person responsible for his/her voluntary acts. The first is the free decision, choice or voluntary action of which he/she is capable. The second is the insight or ability to distinguish between right and wrong before the act is committed (Burchell & Milton, 1997). In early Roman law, mentally ill persons were categorised with children, considered as lacking criminal capacity, and therefore not liable. Roman-Dutch law also held that mentally ill persons should not be punished while English law convicted mentally ill offenders but granted them automatic pardons (Rumpff Commission of Inquiry Report, 1967). In neither the Roman law or the writings on Roman-Dutch law are there any indications to be found as to when a person must be deemed insane (Rumpff Commission of Inquiry Report, 1967). The traditional English approach to the question of mental illness is described in the M’Naghten rules and essentially the accused is judged on whether he/she can distinguish right from wrong and good from evil. The M’Naghten rules have been followed in England since 1843. Daniel M’Naghten, who suffered from paranoia, shot Sir Robert Peel’s secretary, one Drummond. He was found not guilty on grounds of insanity. After a debate the House of Lords put five questions to the judges and the replies of these fourteen or fifteen judges are known as the M’Naghten rules. It has become practice in England whenever the sanity of the accused is in question to present the replies to questions II and III to the jury as the approach adopted by the law (Rumpff Commission of Inquiry Report, 1967). These rules were adopted in South Africa but later expanded to include the following:

a) Every man is presumed to be sane until the contrary is proven
b) For mental illness to be a defense, it must be proved that at the time of the crime the accused was suffering from such a defect of reason due to a mental illness that he did not appreciate the nature of his act or that he was doing something wrong (Rumpff Commission of Inquiry Report, 1967).

The Rumpff Commission (RP 69/1967) found that the courts usually accept well-grounded and responsible evidence from psychiatrists. The evidence will however not be accepted when the court does not accept the facts upon which the diagnosis was based and when the psychiatrist’s conception of non-responsibility in a particular case does not agree with that of the court. The report also mentions a brief report appearing
in the *South African Law Journal* of 1924 detailing a symposium held by representatives of the local Bar and the medical profession on mental disease and criminal liability. They call for the use of skilled psychiatrists and not ordinary doctors as well as stating the necessity for lawyers to be better acquainted with the subject of mental deficiency (Rumpff Commission of Inquiry Report, 1967).

During 1925 Dr. Dunston, the then Commissioner of Mental Hygiene, commented on mental illness and criminal liability saying that any crimes, torts or misdemeanours committed by a person suffering from some form of mental disease are generally just symptoms of the disease. ‘No lawyer or jury would presume to make a diagnosis in the case of liver or heart disease yet need not, according to the law, hesitate to do so when the diagnosis concerns disease or disorder of the most important and complex organ of the body’ (Rumpff Commission of Inquiry Report, 1967). In conclusion he recommended that the M’Naghten rules which are impractical and unsound be done away with completely (Rumpff Commission of Inquiry Report, 1967). Indeed a written and oral presentation made by the Medical Association of South Africa to the Rumpff Commission stated that the M’Naghten rules were not in line with the state of psychiatric knowledge at that time (Rumpff Commission of Inquiry Report, 1967).

If the defense of mental illness is raised today, the test to determine criminal responsibility or accountability set out in Section 78 (1) of the Criminal Procedure Act must be applied. Section 78(1) of the Criminal Procedure Act 1977 provides:

‘A person who commits an act which constitutes an offence and who at the time of such commission suffers from a mental illness or mental defect which makes him incapable

a) of appreciating the wrongfulness of his act; or

b) of acting in accordance with an appreciation of the wrongfulness of his act,

shall not be criminally responsible for such an act’ (Snyman, 2002).

It is clear from the context of the section that the words ‘an act which constitutes an offence’ do not refer to an offence for which the person is liable, but only to an act which corresponds to the definitional elements of the relevant crime. In the case of murder as discussed here the elements of the crime would be as follows: a) an act b) causing the death c) of another person d) unlawfully and e) intentionally (Snyman, 2002).

The test enunciated in this section has two legs. The first comprises the pathological or biological leg as it is sometimes called while the other refers to the psychological leg of the test (Snyman, 2002). When the question of mental illness or insanity arises a psychologist or psychiatrist must assist the judge in his deliberation of the case. For the sake of convenience, Visser & Maré (1990) identifies three categories of mental functioning in human beings namely the cognitive or intellectual; the affective (emotions and feelings) and the conative or volitional activities. There may be a disintegration of any one or all of these functionings that influences the determination of mental illness.
It is not necessary to prove that the mental illness or defect originated in the person’s mind, the defense may be successful even if the origin was organic as in the case of arteriosclerosis. Nor is the duration of the mental illness relevant. It may be either temporary or permanent in nature. In the first scenario it must have been present at the time of the act. It is also irrelevant whether the mental illness is curable or not. If the person was mentally ill before the act but committed the act during a *lucidum intervallum* (sane interval), he is criminally responsible for the act (Snyman, 2002).

The fact that a person has been or may be declared mentally ill in terms of the Mental Health Act 18 of 1973 does not mean he/she is therefore also mentally ill for the purposes of Section 78 (1) of the Criminal Procedure Act. Such a declaration in terms of the former act is something completely different from criminal non-capacity and mental illness as intended in Section 78 (1). It is however a factor that the court may take into consideration, among others, when deciding whether a person lacks criminal capacity (Snyman, 2002).

The fact that the person suffers from a mental illness is not in itself enough to warrant a finding that he/she is criminally unaccountable. The mental illness must have some effect on her abilities. In the case of mothers accused of filicide the court will have to ascertain whether the mother at the time of the crime lacked the capacity to

a) appreciate the wrongfulness of her act or
b) act in accordance with the appreciation of the wrongfulness of her act.

The ability to appreciate the wrongfulness of the act forms part of her cognitive mental functions while the ability to act in accordance with such an appreciation forms part of her conative mental functions (Snyman, 2002). The first part of the psychological criterion for criminal responsibility, namely the capacity to appreciate the wrongfulness of the conduct, confirms a certain part of the M’Naghten rules which applied in our law before 1977 and was discussed earlier. However no mention is made of the further requirement in the M’Naghten rules in Section 78 (1) that the person must also be able to understand the nature of his act. The second part of the criterion namely capacity to act in accordance with the appreciation of wrongfulness may be subject to a gradual disintegration of the conative functions (Snyman, 2002).

The burden of proving that she was mentally ill at the time of the commission of the crime and can therefore not be convicted of the crime as charged rests on the accused. She discharges it by proving on a preponderance of probabilities that she was mentally ill. This is a departure form the normal principles, according to which the onus rests on the state to prove all the requirements for liability (Snyman, 2002). If the defense of mental illness is successful, the court must find the person not guilty by reason of mental illness or defect. Such a verdict must invariably be accompanied by an order that the person be detained in a psychiatric hospital or prison pending the signification of the decision of a judge in chambers. She then becomes a state patient. This order is given even in a case where the mental illness was of a temporary nature (Snyman, 2002).

The Act does not stipulate a specific period for the person’s detention in a mental hospital. The decision for release is taken later by a hospital board or a judge in
chambers. The release of a state patient is governed by the provisions of section 29 of the Mental Health Act 18 of 1973 (Snyman, 2002).

6.3 BATTERED WOMEN WHO KILL: CULPABILITY AND CAPACITY

In this context the legal question of culpability (also referred to as mens rea or fault), and specifically intention as an element of culpability, arises. Visser and Maré (1990 p. 37) provide the following definition of culpability:

‘Culpability is the legal blameworthiness for the reprehensible state of mind or careless conduct of a criminally accountable person who has acted unlawfully.’

A reprehensible state of mind usually refers to intention or conscious wrongdoing in contrast to negligence. Snyman (in Visser and Maré, 1990) describes intention as the direction of the will towards performing an act, awareness of the circumstances and awareness of unlawfulness. With reference to the direction of will, intention is to know and to will an act. Knowledge is the cognitive or intellectual element whereas the will is the conative or volitional element. If an accused deliberately commits an act or causes a result without realizing the unlawfulness attached to the act, he/she will have no intention. In this regard, South African courts follow the psychological approach to intention. According to this approach, the question of whether an accused has acted intentionally depends solely on his/her subjective state of mind. So if the accused willed a result without being aware of the unlawfulness of the conduct he/she has to be acquitted of a crime for which intention is a requisite, however unreasonable that lack of knowledge may be. The reverse is of course also true; an accused must be convicted for a crime requiring intention if he/she willed a result while being aware of the unlawfulness of the conduct (Visser & Maré, 1990). According to this theory of culpability, it is unnecessary to bother with the question of whether, apart from the person’s intention, he/she can be fairly blamed for what he/she has done or whether the law could have expected from him/her to act differently (Snyman, 2002).

One may argue that the normative-fault doctrine, being the other psychological approach to intention, may be more lenient with regards to battered women. According to this doctrine fault consists of more than a mere state of mind. Intention requires an evaluation of the state of mind and that state of mind must be blameworthy. Therefore, one can still commit a crime but lack fault in circumstances where one cannot be blamed for one’s conduct. This may be applied to women who have endured years of physical and psychological/emotional abuse and, it can be argued, can hence not be blamed for their intention to kill their abuser (Visser & Maré, 1990).

Another possible defense arises from the question of criminal capacity. The term non-pathological criminal incapacity was formulated for the first time by Judge Joubert in S v Laubscher 1988 (1) SA 163(A). The judge wanted to separate and distinguish this defense from that of mental illness created in Section 78 (1) of the Criminal Procedure Act. He pointed out that the defense set out in Section 78 (1) applies to pathological disturbances of the mental abilities but apart from this defense our law also recognizes the defense of non-pathological criminal incapacity (Snyman, 2002). As already
mentioned above criminal accountability/capacity can be diminished or excluded by four factors namely youth, mental illness, intoxication and provocation. However after the decision in the case of S v Chretien 1981 (1) SA 1097 (A) the view has been expressed that any factor relating to the mental ability of the accused at the time of the commission of the relevant act which made it impossible for him to appreciate the wrongfulness of his conduct or to act in accordance with that appreciation could be taken into account. Many argue in favour of such a general defence of criminal incapacity. It is however recognised that this would place the onus on the courts to guard against potential abuse of such a defence. One such a case where this general defence was employed the by dissenting judge was S v Campher 1987 (1) SA 940 (A). In this particular case, the appellant killed her husband after years of abuse and maltreatment. Shortly before she fatally shot him, he had attacked and insulted her, forcing her to help him drill a hole and, when the hole turned out to be skew, ordered her to pray it straight. While the two other judges took different views, Judge Viljoen held that, although her defence was not that of mental illness or provocation, she lacked criminal capacity due to the emotional stress she had suffered and the resulting disintegration of her resistance to the impulse to kill her husband. He held that she should be acquitted. Judge Jacobs was not prepared to accept a general defence of non-pathological criminal incapacity while Judge Boshoff felt that the lack of expert medical evidence in this case prevented him from finding that she did not have criminal capacity at the commission of the crime. He did however feel that criminal incapacity should not be restricted to cases of mental illness alone but could include cases where the mental abnormality was of a temporary nature. Accordingly, the appellant’s conviction of murder was confirmed by the majority decision of the court.

Certainly one of the most comprehensive judgments ever handed down in a criminal case relating to criminal capacity is that of S v. Eadie 2002 (1) SACR 663 SCA. In this case Navsa JA provides a concise overview of the legal position taken by courts on the question of non-pathological criminal incapacity up to now. The appellant stood trial on charges of murder and the obstruction of justice. The appellant was involved in a road rage incident in the early hours of the morning and admits to assaulting and killing the deceased. He subsequently disposed of a hockey stick used in the attack and falsely showed the police a pair of jeans not worn by him (the appellant) during the attack. The appellant raised the defense of non-pathological criminal incapacity due to severe emotional distress, provocation caused by the deceased and a measure of intoxication. He disputes his ability to distinguish between right and wrong at the material time or his ability to act in accordance with this distinction (S v. Eadie 2002 (1) SACR 663 SCA).

In the court a quo his defense was rejected but on appeal the defense of non-pathological criminal incapacity was once again raised. He conceded that although he could distinguish between right and wrong at the relevant time he could not act in accordance with this appreciation (S v. Eadie 2002 (1) SACR 663 SCA).

The court of appeal denied the appeal and held that when an accused acts in an aggressive and goal directed manner, while spurred by some emotion such as anger, but can still appreciate the difference between right and wrong and is still able to control his actions, it would be ludicrous to claim that some time during this direct and planned action he lost the ability to control his actions. The deceased’s behaviour
did not entitle the appellant to act as he did. One can only lack self-control in a state of automatism (S v. Eadie 2002 (1) SACR 663 SCA).

In his judgment, appeal court Judge Navsa held the following: in a defense of NPCI (non-pathological criminal incapacity), the State bears the onus of proving the criminal capacity at the time of the alleged crime.

1. In this the State is assisted by the natural inference that in the absence of exceptional circumstances a sane person who engages in conduct which would ordinarily give rise to criminal liability does so voluntarily and consciously.
2. An accused that raises such a defense is required to lay a basis for such a claim sufficient to create a reasonable doubt.
3. Evidence supporting such a claim must be very carefully scrutinized.
4. The expert evidence, facts and accused’s actions during the relevant time will assist the court in determining the accused’s criminal capacity (S v. Eadie 2002 (1) SACR 663 SCA).

Criminal incapacity due to mental illness is classified as pathological incapacity. Where it is due to factors such as intoxication, provocation or extreme emotional distress it is termed non-pathological criminal incapacity (NPCI) (S v. Eadie 2002 (1) SACR 663).

In S v. Chretien 1981 (1) SA 1097 (A) it was held that persons who were so intoxicated that their acts were merely uncontrolled muscle movements, could not appreciate what they were doing or were unable to appreciate the difference between right and wrong, would lack criminal capacity and would escape criminal liability. In this regard Judge Rumpff felt that accused should suffer some penalty due to the blameworthiness of his willingness to achieve such a state of intoxication during which time he/she could not be held judicially responsible for his/her actions. This is recognized in South African law as the actio libera in causa principle (S v. Chretien 1981 (1) SA 1097 (A).

Severe emotional stress, in combination with factors such as provocation and/or intoxication, has become a very popular defense, according to Judge Navsa. The Judge proceeds to provide a quite detailed look at cases in which the defense of NPCI was considered. For example in S v Van Vuuren 1983 (1) SA 12 (A) the judge declared himself prepared to accept that a person should not be held criminal responsible for an unlawful act where his/her failure to comprehend is not only due to intoxication but other factors such as provocation or severe emotional distress as well. In S v Campher 1987 (1) SA 940 (A) the appellant shot and killed her husband who had repeatedly and indeed shortly before the incident subjected her to extreme physical and psychological abuse. In this case, judge Viljoen delivering the minority judgment, accepting that at the critical moment the appellant was aware of the difference between right and wrong, stated the following:

Die vraag is egter of sy die vermoë gehad het om ooreenkomstig daardie sef op te tree, met ander woorde die nodige weerstandskrag gehad het. In die huidige geval word die ondersoek gereduseer tot die vraag of sy onder die geweldige emosionele druk wat sy op daardie oomblik beleef het die vermoë gehad het om weerstand te bied.
Judge Boshoff, however, felt that the accused demonstrated her ability to acknowledge the wrongfulness of her actions throughout the relevant time and neglected to exercise her willpower to guide her actions accordingly. Judge Jacobs took the view that where an accused has the ability to distinguish between right and wrong the defense of irresistible impulse would only be available where some mental illness or defect occurs [S v Campher 1987 (1) SA 940 (A)].

In S v Laubscher 1988 (1) SA 163(A) this test of criminal capacity namely the ability to distinguish between right and wrong and secondly the ability to act according to this comprehension was once again confirmed. Appeal court Judge Botha stated that one does not expect some one acting in a state of NPCI to be able to provide a detailed continuous account of the incident.

In one of the few cases where the defense of NPCI was successfully and correctly raised [S v Wiid 1990 (1) SACR 561 (A)] appeal court Judge Goldstone ruled that there was some doubt as to whether the appellant acted voluntarily. The fact that she intended to deliberately and consciously kill the deceased is irreconcilable with her personality and characteristics. In this case, the appellant shot and killed her husband. He had been unfaithful to her throughout their marriage and had assaulted her on two occasions. Psychiatric evidence showed that the intake of sedatives with alcohol, lack of eating, and the threat of severe assault and even death could very well have induced a lack of criminal capacity.

Judge Kumleben stated in S v Potgieter 1994 (1) SACR 61(A) that evidence should be produced on behalf of the accused to create reasonable doubt as to whether the act was voluntary. This should be substantiated by medical or expert evidence that asserts that this involuntary act was committed due to some other cause than mental illness or deficiency. If any doubt exists as to the voluntary nature of the act, the accused should be given the benefit of the doubt. Many emotional states such as stress, frustration, fatigue, or provocation may lead a person to lose self-control and could in turn lead to a conscious act amounting to a crime. Many subsequent manifestations of emotions such as panic, guilt, fear, and shame accompany acts either deliberate or involuntary in nature. Therefore, evidence in cases of this nature should be carefully scrutinized.

In the above regard Appeal court Judge Scott [S v Henry 1999 (1) SACR 13 (SCA)] held that the verbal testimony of the accused should be seen in the light of all the circumstances and particularly the alleged criminal conduct viewed objectively. A mere loss of temper is insufficient. In its ordinary sense it is an everyday occurrence and although it could serve as mitigation, it does not exonerate. Non-pathological loss of cognitive control arising from some emotional stimulus and resulting in an involuntary action is on the other hand most uncommon [S v Henry 1999 (1) SACR 13 (SCA)].

From the above discussion of cases in S v Eadie 2002 (1) SACR 663 SCA the court came to the conclusion that in order to escape criminal liability on the basis of NPCI the accused would have to produce evidence that it was an involuntary act. The inference that people act consciously and voluntarily will only be disturbed in
exceptional cases. The court carefully considers the actions of the accused before, during, and after the incident. It takes into account any planned, goal-directed or focused behaviour. The courts have also repeatedly indicated that a detailed continuous recollection of events militates against a claim of loss of control. The judge in the case under discussion (S v. Eadie 2002 (1) SACR 663 SCA) draws from the *South African Law and Procedure vol 1* by JM Burchell which states that most legal systems do not see provocation as an excuse from criminal liability. People are expected to control their emotions and seek vengeance for harm suffered through the public criminal process.

In terms of the question whether NPCI and automatism are separate defenses, Judge Griesel in the court a quo (S v. Eadie 2002 (1) SACR 663 SCA) was of the opinion that in many instances the defenses of criminal incapacity and automatism could coincide. A person deprived of self-control is incapable of a voluntary act and at the same time lacks criminal capacity. Snyman (cited in S v. Eadie 2002 (1) SACR 663 SCA) makes the following distinction:

1. The inability to act in accordance with an appreciation of wrongfulness of the act, which must not be confused with
2. the inability of a person to subject his bodily movements to his will or intellect; in which case a person acted involuntarily and there is no act or conduct as understood in terms of criminal law.

Judge Navsa concluded that there is no distinct difference between sane automatism and NPCI but argues that the accused would still have to show involuntariness in cases where the accused could distinguish between right and wrong. However, the result is the same. In the case of automatism the accused’s actions would only have been unconscious and involuntary (S v. Eadie 2002 (1) SACR 663 SCA).

The judge goes on to say that the time has come for the courts to realize that there are instances in which the courts, in dealing with accused persons for which they have sympathy, be it because of the circumstances or vile nature of the deceased, have resorted to reasoning not in line with the approach of the decisions of The Supreme Court of Appeal. Of course mitigating factors should be taken into account during sentencing but when an accused acts in an aggressive and goal directed manner while spurred by some emotion such as anger, but can still appreciate the difference between right and wrong and is still able to control his actions, it would be ludicrous to claim that some time during this direct and planned action he/she lost the ability to control his/her actions (S v. Eadie 2002 (1) SACR 663 SCA).

The accused’s evidence as to state of mind should not only be justified in the light of prior and subsequent conduct but also in light of the court’s experience of human behaviour and social interaction. This will serve as a brake against unwarranted extensions of this defense (S v. Eadie 2002 (1) SACR 663 SCA).
6.4 MURDER WITH A MOTIVE: SERIAL OR MULTIPLE MURDERS

Although there is limited agreement on what constitutes a detailed description of a psychopath, it can be accepted that some general characteristics of a psychopath are as follows: he/ she is a person who from an early age suffers from emotional immaturity or instability manifested in an inability to conform to social norms or morals. He/ she acts impulsively, lacks the ability to learn from previous experience, is egocentric and feels little or no compassion for others. He/ she also feel little or no guilt and accordingly find it more difficult to appreciate the wrongfulness of his/ her conduct or to act in accordance with such an appreciation. Most authorities nowadays are of the opinion that for legal purposes psychopathy indicates an antisocial personality rather than a mental illness or defect which excludes criminal capacity. Psychopathy may, either alone or cumulatively with other factors, lead to a finding of diminished responsibility, provided the psychopathy is causally related to the crime in question and of a sufficiently serious degree to weaken the person’s self control to the extent that he is morally less blameworthy than a person endowed with normal will power would have been (Snyman, 2002).

Following certain recommendations by the Booysen Commission of Inquiry the Criminal Procedure Act was amended in 1993 by the insertion of sections 286 A and 286 B. These sections provide that if the court is satisfied that the person represents a danger to the physical or mental well-being of other persons and that the community should be protected against him/her; the court must declare him/ her a dangerous criminal. The court must then impose imprisonment for an indefinite period and direct that he be brought before the court on the expiration of a period determined by the court. Although these provisions do not refer expressly to psychopaths, it is apparent that psychopaths will frequently be dealt with in terms of these provisions (Snyman, 2002).

The South African Law Society has provided the following regarding the position of criminal accountability in the case of antisocial personality disorder (Burchell & Milton, 1997). Firstly, the South African Law Society defines an antisocial personality as someone who exhibits an emotional immaturity and instability, which manifests itself from an early age in an inability to conform to accepted moral and social standards that the society in which he/she lives, demands. Furthermore, they feel that antisocial personality disorder does not in itself constitute a mental illness or defect that could constitute criminal non-responsibility (Burchell & Milton, 1997). It could however constitute the mental illness requisite to lead to diminished responsibility. Each case does depend on its own circumstances and the mere fact that the accused is clinically regarded as having antisocial personality tendencies is not *per se* a ground on which a finding of diminished responsibility will be made. It can be an extenuating circumstance, again depending on the circumstances of the case (Burchell & Milton, 1997). Expert evidence is called for as the question of antisocial personality disorder, and specifically as an extenuating circumstance, must be evaluated with great care (Burchell & Milton, 1997). These statements have been supported in judgements such as the one in *S v Mnyanda 1976 (2) SA 751 (A)*.

In the above-mentioned case, the accused was convicted of murder. At the trail, evidence was given that the accused could be diagnosed as a psychopath. Finding no extenuating circumstances the court sentenced the accused to death. In an appeal
however the accused argued that his psychopathy could be regarded as a mental illness and therefore forms an extenuating circumstance [S v Mnyanda 1976 (2) SA 751 (A)]. As the law then stood, an extenuating circumstance had the effect that the death sentence could not be imposed.

Appeal court judge Rumpff took the evidence of the psychiatrist in the case as well as other relevant court decisions to indicate that a psychopath is, in absence of any full-blown symptoms, criminally responsible due to the fact that he/she can distinguish between right and wrong and act according to this appreciation. The psychopath is less inclined to resist the commission of unethical deeds or crimes due to lessened willpower, which is an aspect of his/her particular personality composition. The court further stated that the mere fact that an accused can clinically be regarded as a psychopath does not indicate that the accused must be found to be of diminished responsibility. Only when in respect to a particular misdeed it can be said that the psychopathic tendency was to such a degree as to diminish the capacity for self control to such a point that according to a moral judgment he/she is less blameworthy than if he/she had not had such a weakening of the power of self control can it be a question of diminished responsibility [S v Mnyanda 1976 (2) SA 751 (A)].

6.5 CONCLUSION

Certainly the legal perspective provides quite a different stance on the commission of the crimes under discussion. Perhaps the psychological and legal views are supremely suited to serve complementarily to each other in providing a concise picture of female perpetrated murders. The above discussion provided a short layman’s interpretation of the current law. The following chapter moves into the realm of research methodology employed in the completion of this literature survey.
CHAPTER 7

EVALUATION AND CONCLUSION

7.1 REFLECTIONS, LIMITATIONS AND RECOMMENDATIONS

The limitations of a literature review are relatively non-existent as it only attempts to provide a literature backing to the generation of further hypotheses for researching. It should therefore be considered that a literature review such as the one undertaken here gains much value when seen as part of a larger research project. It is also clear that this field marries many different and differing disciplines which make a universal overview of the subject nearly impossible. However, a well-structured and well-balanced overview could provide a useful theoretical and conceptual framework for future research undertakings.

This study has been constructed to prompt further research into the discussed field. As mentioned, any research endeavor must be founded in a solid knowledge of the field to be studied. Not only can this study prompt studies into the legal position and possible critique of the current system based on psychological and legal elements but can also stimulate research into psychological, literary, anthropological and sociological as well as criminological fields. Psychologically speaking research into couple’s typologies, personality characteristics, possible life script issues and relationship characteristics such as attachment styles are called for. This study certainly only provides a glimpse of the multifaceted and complex world of female perpetrated murder. This study indeed forms part of a greater study focusing on the personality characteristics of women who kill their intimate partners in a male perpetrated abusive relationship. These characteristics can then be used to great effect in the structuring of rehabilitation programs for these women focusing on elements of self-identity and relationship management.

This study also illustrates the immense difficulty in studying any phenomena in a narrow fashion. Often elements of various different fields are incorporated to form a unified picture of any human experience. This has up to now been a neglected field in most studies. Perhaps it is time for psychology to transcend the artificial boundaries set between social sciences such as literature, sociology, anthropology and so forth to become truly transdisciplinary. This will lead to greater depth and richness of understanding. The current study has attempted to do just this, although to a much smaller extent. Future studies could indeed benefit from a diverse world view accommodating many voices. Especially the African cosmology has been neglected in this sense and specifically in the field of female perpetrated violence. This also indicates future research in this area.
7.2 CONCLUSION

This study comprises the fields that many people make their life’s work. It is indeed, as can hopefully be deduced from this study, one of the most fascinating areas of human experience to study. In South Africa it is only now that the field of female perpetrated killings is coming under the attention of the public, the media, the academia and the practitioners in various disciplines including law and psychology. In light of the fact that this is such a new endeavor much of the knowledge held on the South Africa context has yet to be brought together into a coherent whole and publicized. It would be interesting to explore certain cultural elements attached to female murder and so create a unique South African theoretical body of knowledge on the subject in question.

Perhaps most fascinating are the stories attached not only to the killings, and the some times gruesome details thereof, but the women involved in the killings. Often when expecting a monster one receives a broken human being. But for different circumstances would many of these women not be sitting behind their personal computers writing a dissertation- one of the many irresolvable mysteries of life and human existence.

What is evil but good tortured by its own hunger and thirst? A hunger and a thirst that we all know and mostly recoil from. We use images to make sense of the hunger, to make us feel safe again in the glass house of our ever failing humanity. Yet to venture outside this glass house is to face what we each could have been. Is evil the invisible worm in William Blake’s sick rose? Very possibly evil is not something that exists but something humanity creates- through neglect, through inaction, through carelessness. Does the portrait of derangement make us feel safe merely by the complete antithesis to our safe existence?

‘O Rose, thou art sick!
The invisible worm
That flies in the night,
In the howling storm,

Has found out thy bed
Of crimson joy:
And his dark secret love
Does thy life destroy.’

- William Blake (1757- 1827).

(In Anderson, Kossick & Pereira, 1993)
8. REFERENCES:


S v Campher 1987 (1) SA 940 (A)

S v. Chretien 1981 (1) SA 1097 (A)

S v Eadie 2002 (1) SACR 663 (SCA)

S v Henry 1999 (1) SACR 13 (SCA)

S v Laubscher 1988 (1) SA 163(A)

S v Mnyanda 1976 (2) SA 751 (A)

S v Potgieter 1994 (1) SACR 61(A)

S v Van Vuuren 1983 (1) SA 12 (A)

S v Wiid 1990 (1) SACR 561 (A)


Appendix A

Table 1

Number of Female Murderers Imprisoned in South Africa During 2001 and 2002

<table>
<thead>
<tr>
<th>PROVINCE</th>
<th>CRIME CATEGORY</th>
<th>2001</th>
<th>2002</th>
<th>TOTAL 2001&amp;2002</th>
</tr>
</thead>
<tbody>
<tr>
<td>Eastern Cape</td>
<td>Culpable Homicide</td>
<td>9</td>
<td>5</td>
<td>14</td>
</tr>
<tr>
<td></td>
<td>Murder</td>
<td>152</td>
<td>140</td>
<td>292</td>
</tr>
<tr>
<td></td>
<td>Attempted Murder</td>
<td>44</td>
<td>36</td>
<td>80</td>
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<tr>
<td>TOTAL</td>
<td></td>
<td>205</td>
<td>181</td>
<td>386</td>
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</table>

<table>
<thead>
<tr>
<th>PROVINCE</th>
<th>CRIME CATEGORY</th>
<th>2001</th>
<th>2002</th>
<th>TOTAL 2001&amp;2002</th>
</tr>
</thead>
<tbody>
<tr>
<td>Free State</td>
<td>Culpable Homicide</td>
<td>10</td>
<td>5</td>
<td>15</td>
</tr>
<tr>
<td></td>
<td>Murder</td>
<td>48</td>
<td>28</td>
<td>76</td>
</tr>
<tr>
<td></td>
<td>Attempted Murder</td>
<td>14</td>
<td>11</td>
<td>25</td>
</tr>
<tr>
<td>TOTAL</td>
<td></td>
<td>72</td>
<td>44</td>
<td>116</td>
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<table>
<thead>
<tr>
<th>PROVINCE</th>
<th>CRIME CATEGORY</th>
<th>2001</th>
<th>2002</th>
<th>TOTAL 2001&amp;2002</th>
</tr>
</thead>
<tbody>
<tr>
<td>Gauteng</td>
<td>Culpable Homicide</td>
<td>12</td>
<td>6</td>
<td>18</td>
</tr>
<tr>
<td></td>
<td>Murder</td>
<td>194</td>
<td>174</td>
<td>368</td>
</tr>
<tr>
<td></td>
<td>Attempted Murder</td>
<td>77</td>
<td>85</td>
<td>162</td>
</tr>
<tr>
<td></td>
<td>Murder Child</td>
<td>2</td>
<td>2</td>
<td>2</td>
</tr>
<tr>
<td>TOTAL</td>
<td></td>
<td>283</td>
<td>267</td>
<td>550</td>
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<table>
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<tr>
<th>PROVINCE</th>
<th>CRIME CATEGORY</th>
<th>2001</th>
<th>2002</th>
<th>TOTAL 2001&amp;2002</th>
</tr>
</thead>
<tbody>
<tr>
<td>Kwazulu-Natal</td>
<td>Culpable Homicide</td>
<td>13</td>
<td>10</td>
<td>23</td>
</tr>
<tr>
<td></td>
<td>Murder</td>
<td>202</td>
<td>178</td>
<td>380</td>
</tr>
<tr>
<td></td>
<td>Attempted Murder</td>
<td>95</td>
<td>79</td>
<td>174</td>
</tr>
<tr>
<td>TOTAL</td>
<td></td>
<td>310</td>
<td>267</td>
<td>577</td>
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<td>PROVINCE</td>
<td>CRIME CATEGORY</td>
<td>2001</td>
<td>2002</td>
<td>TOTAL 2001&amp;2002</td>
</tr>
<tr>
<td>--------------</td>
<td>----------------</td>
<td>------</td>
<td>------</td>
<td>-----------------</td>
</tr>
<tr>
<td>Limpopo</td>
<td>Culpable Homicide</td>
<td>4</td>
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<td>5</td>
</tr>
<tr>
<td></td>
<td>Murder</td>
<td>25</td>
<td>11</td>
<td>36</td>
</tr>
<tr>
<td></td>
<td>Attempted Murder</td>
<td>8</td>
<td>3</td>
<td>11</td>
</tr>
<tr>
<td></td>
<td>Murder Child</td>
<td>1</td>
<td>15</td>
<td>1</td>
</tr>
<tr>
<td></td>
<td></td>
<td>38</td>
<td></td>
<td>53</td>
</tr>
<tr>
<td>NORTH WEST</td>
<td>Culpable Homicide</td>
<td>4</td>
<td>1</td>
<td>5</td>
</tr>
<tr>
<td></td>
<td>Murder</td>
<td>32</td>
<td>35</td>
<td>67</td>
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<tr>
<td></td>
<td>Attempted Murder</td>
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<td>14</td>
<td>27</td>
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<tr>
<td></td>
<td></td>
<td>49</td>
<td>50</td>
<td>99</td>
</tr>
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<td>Mpumalanga</td>
<td>Culpable Homicide</td>
<td>2</td>
<td>1</td>
<td>3</td>
</tr>
<tr>
<td></td>
<td>Murder</td>
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<td>Attempted Murder</td>
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<td>12</td>
</tr>
<tr>
<td></td>
<td></td>
<td>55</td>
<td>16</td>
<td>71</td>
</tr>
<tr>
<td>PROVINCE</td>
<td>CRIME CATEGORY</td>
<td>2001</td>
<td>2002</td>
<td>TOTAL 2001&amp;2002</td>
</tr>
<tr>
<td>--------------</td>
<td>----------------</td>
<td>------</td>
<td>------</td>
<td>-----------------</td>
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<tr>
<td>Northern Cape</td>
<td>Culpable Homicide</td>
<td>10</td>
<td>8</td>
<td>18</td>
</tr>
<tr>
<td></td>
<td>Murder</td>
<td>61</td>
<td>43</td>
<td>104</td>
</tr>
<tr>
<td></td>
<td>Attempted Murder</td>
<td>11</td>
<td>24</td>
<td>35</td>
</tr>
<tr>
<td>TOTAL</td>
<td></td>
<td>82</td>
<td>75</td>
<td>157</td>
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<table>
<thead>
<tr>
<th>PROVINCE</th>
<th>CRIME CATEGORY</th>
<th>2001</th>
<th>2002</th>
<th>TOTAL 2001&amp;2002</th>
</tr>
</thead>
<tbody>
<tr>
<td>Western Cape</td>
<td>Culpable Homicide</td>
<td>41</td>
<td>38</td>
<td>79</td>
</tr>
<tr>
<td></td>
<td>Murder</td>
<td>202</td>
<td>152</td>
<td>354</td>
</tr>
<tr>
<td></td>
<td>Attempted Murder</td>
<td>31</td>
<td>31</td>
<td>62</td>
</tr>
<tr>
<td>TOTAL</td>
<td></td>
<td>274</td>
<td>221</td>
<td>495</td>
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</table>

<table>
<thead>
<tr>
<th>NINE PROVINCES</th>
<th>2001</th>
<th>2002</th>
<th>TOTAL</th>
</tr>
</thead>
<tbody>
<tr>
<td>TOTAL</td>
<td>1368</td>
<td>136</td>
<td>2504</td>
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</tbody>
</table>
Appendix B

Table 2

More men than women kill their intimate partners (Vetten & Ngwane, 2002)

<table>
<thead>
<tr>
<th></th>
<th>Female</th>
<th>Male</th>
<th>Combined Totals</th>
</tr>
</thead>
<tbody>
<tr>
<td>Number of cases identified</td>
<td>43</td>
<td>146</td>
<td>189</td>
</tr>
<tr>
<td>Number of cases resulting in acquittals due to a lack of evidence</td>
<td>4</td>
<td>21</td>
<td>25</td>
</tr>
<tr>
<td>Final sample totals</td>
<td>39</td>
<td>125</td>
<td>164</td>
</tr>
</tbody>
</table>

Table 3

Gender Differences in Reasons for the Intimate Partner Killings (Vetten & Ngwane, 2002).

<table>
<thead>
<tr>
<th>Precipitating event</th>
<th>Female</th>
<th>Male</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Struggles over sexual choice or behaviour</td>
<td>2</td>
<td>40</td>
<td>42</td>
</tr>
<tr>
<td>No explanation/insufficient information</td>
<td>5</td>
<td>30</td>
<td>35</td>
</tr>
<tr>
<td>Ending relationship</td>
<td>1</td>
<td>15</td>
<td>16</td>
</tr>
<tr>
<td>Defending self</td>
<td>10</td>
<td>2</td>
<td>12</td>
</tr>
<tr>
<td>Miscellaneous</td>
<td>1</td>
<td>9</td>
<td>10</td>
</tr>
<tr>
<td>Abuse by partner</td>
<td>13</td>
<td>0</td>
<td>13</td>
</tr>
<tr>
<td>Accident</td>
<td>5</td>
<td>9</td>
<td>14</td>
</tr>
<tr>
<td>Did not obey</td>
<td>0</td>
<td>7</td>
<td>7</td>
</tr>
<tr>
<td>Nagging or bothering</td>
<td>0</td>
<td>6</td>
<td>6</td>
</tr>
<tr>
<td>Disagreements over money</td>
<td>0</td>
<td>5</td>
<td>5</td>
</tr>
<tr>
<td>Financial gain</td>
<td>2</td>
<td>2</td>
<td>4</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>39</strong></td>
<td><strong>125</strong></td>
<td><strong>164</strong></td>
</tr>
</tbody>
</table>
### Table 4

**Summary of all sentences by sex (Vetten & Ngwane, 2002)**

<table>
<thead>
<tr>
<th>Sentence type</th>
<th>Female</th>
<th>Male</th>
</tr>
</thead>
<tbody>
<tr>
<td>Acquitted</td>
<td>11 (28%)</td>
<td>9 (7%)</td>
</tr>
<tr>
<td>Non-custodial</td>
<td>11 (28%)</td>
<td>12 (10%)</td>
</tr>
<tr>
<td>0-5 years</td>
<td>3 (7%)</td>
<td>18 (14%)</td>
</tr>
<tr>
<td>6-10 years</td>
<td>2 (6%)</td>
<td>32 (26%)</td>
</tr>
<tr>
<td>11-15 years</td>
<td>3 (7%)</td>
<td>31 (25%)</td>
</tr>
<tr>
<td>16-20 years</td>
<td>1 (3%)</td>
<td>15 (12%)</td>
</tr>
<tr>
<td>21+ years</td>
<td>8 (21%)</td>
<td>7 (8%)</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>39</strong></td>
<td><strong>125</strong></td>
</tr>
</tbody>
</table>

### Table 5

The greatest proportion of women who kill their abusive partners are given non-custodial sentences (Vetten & Ngwane, 2002).

<table>
<thead>
<tr>
<th>Sentence Type</th>
<th>Female accused abused by victim</th>
<th>Male accused abusing victim</th>
</tr>
</thead>
<tbody>
<tr>
<td>Acquitted</td>
<td>5 (22%)</td>
<td>2 (5%)</td>
</tr>
<tr>
<td>Non-custodial</td>
<td>8 (36%)</td>
<td>2 (5%)</td>
</tr>
<tr>
<td>0-5 years</td>
<td>2 (10%)</td>
<td>6 (15%)</td>
</tr>
<tr>
<td>6-10 years</td>
<td>1 (4%)</td>
<td>10 (26%)</td>
</tr>
<tr>
<td>11-15 years</td>
<td>2 (10%)</td>
<td>12 (31%)</td>
</tr>
<tr>
<td>16-20 years</td>
<td>5 (13%)</td>
<td></td>
</tr>
<tr>
<td>21+ years</td>
<td>4 (18%)</td>
<td>2 (5%)</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>22 (100%)</strong></td>
<td><strong>39</strong></td>
</tr>
</tbody>
</table>