

**An Intellectual History of Public Discourse in the Post-Civil War Era:
Infanticide and Emerging Reproductive Regulations**

Angela Cortes

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Professor Catherine A. Jones, Ph.D.

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Introduction

The 1873 Comstock Laws blocked access within the United States to information about abortion and birth control under the guise of restricting pornographic material.¹ Prior to these laws information and tools concerning self-performed abortion, birth control, and other reproductive services were relatively easy to access through newspaper advertisements and the mail delivery system.² Given that the desire of legislators to control large quantities of erotica within Civil War soldier camps led to the creation of the 1865 postal laws, which laid the groundwork for and upheld the 1873 Comstock Laws, it is interesting to examine other ways in which the American Civil War influenced the reproductive laws that emerged in the second half of the nineteenth century.³

Crises born from wartime destruction took away the ability of many women to provide life-sustaining care for their offspring. Lack of food, shelter, and medical care caused numerous deaths among freedpeople, especially vulnerable infants.⁴ Imprecise use of the category of infanticidal death to discuss loss of life related to non-life sustaining conditions likely led to the noticeable increase in reports of infanticide within public discourse. Within the context of this essay, the term *public discourse* is used to note the varied and numerous mediums such as popular media, legislative debates, professional medical literature, and private papers where infanticide rhetoric was commonplace. Furthermore, the postwar years marked the emergence of concerns from the government, religious organization, and medical association regarding

1. This is in Section 211 of the Federal Criminal Code, enacted in 1873, and considered the “parent” of the Comstock Laws.

2. Linda Gordon, *The Moral Property of Women* (Urbana: University of Illinois Press, 2002), 12-13.

3. For more on the association between pornography in Civil War camps and the Comstock Laws, see Judith Ann Giesberg, *Sex and the Civil War: Soldiers, Pornography, and the Making of American Morality* (Chapel Hill: The University of North Carolina Press, 2017).

4. Elna C. Green, “Infanticide and Infant Abandonment in the New South: Richmond, Virginia, 1865-1915,” *Journal of Family History* 24, no. 2 (April 1999): 187–211.

women's reproductive choices as measurements of national morality. The Comstock laws had federally blocked the sale of contraceptives, and by 1880, every state had criminalized abortion.⁵ Beyond legal changes, public discourse used the frequency of instances of infanticide between nations as a way to compare which nation had a higher moral standing. Also found within public discourse, was deceptive language that used the word infanticide directly when discussing the use of birth control and in-utero abortion or that was misleading by using infanticide rhetoric in close proximity to conversations taking a negative position or tone concerning the use of birth control and in-utero abortion.

The theory of critical discourse analysis states that text and discourse are communicative events open to interpretation, with different words ascribed to different values and attitudes. The language used to describe issues is important, as it has the ability to create opinions and change minds, thus rendering it a powerful tool capable of shaping society.⁶ Using the theory of critical discourse analysis, this essay examines a wide variety of public discourses that illuminate the nation's use of infanticide rhetoric in the immediate postwar years, dating from the end of the Civil War (1865) to the passing of the Comstock Laws (1873). This time period has been chosen because it captures a tremendous moment of change in American culture. The public discourse examined within this essay suggests that the jarring emotions many experienced in relation to the idea of infanticide supported the movement to restrict women's reproductive options. Thus, this essay argues that public discourse concerning the apparent increase in crisis-induced infanticide in the immediate postwar years created a context in which the government, religious organizations, and The American Medical Association, who were all advocating for stricter

5. Leslie J. Reagan, *When Abortion was a Crime: Women, Medicine, and Law in the United States, 1867-1973* (Berkeley: University of California Press, 1997). 4.

6. Norman Fairclough, *Critical Discourse Analysis: The Critical Study of Language*.

moral standard, could advance their legislative agenda to limit the public's access to birth control, contraceptive knowledge and abortion.

Birth Control Before the War

To highlight the significance of the change in reproductive regulations that emerged in the postwar years it is necessary to understand common antebellum birth control practices. Although there was a sizeable indigenous population of women, as well as pockets of female immigrants from various parts of the world living within what is now known as the United States, the scope of this essay does not include their experiences in its analysis. It is important to note that this essay focuses on public discourse associated with the lives of white and black women because of their closer proximity to the issues and actions of the Civil War.

Before the war, common law still guided the limits of white women's reproductive autonomy by allowing for induced abortions during the period before a mother is able to recognize fetal movement in her womb, commonly referred to as quickening. Most nineteenth-century women seemed to hold the belief that it was morally and legally acceptable to take action to restore or "bring on menstruation," provided this action happened before quickening. Otherwise, women typically recognized the moral obligation to carry a fetus to term.⁷ Gordon argues that in preindustrial societies, infanticide was legal, respectable, and fully distinguished from criminal and justifiable homicide by various laws and customs.⁸ Prior to emancipation, enslaved women had no legal authority over their reproductive systems, thus rendering any form of fetal destruction an act of resistance.⁹ Historian Sharla Fett describes the medicine and healing methods used by enslaved women, who were both practitioners and

7. Linda Gordon, *The Moral Property of Women*, 26–27; Reagan, *When Abortion Was a Crime*, 8–10.

8. Gordon, *The Moral Property of Women*, 14–15.

9. Jennifer L. Morgan, *Laboring Women: Reproduction and Gender in New World Slavery* (Philadelphia: University of Pennsylvania Press, 2004).

patients. Of particular interest are the herbal remedies women used to induce miscarriages, and the ways in which these methods became known to female slaves. They often grew herbs and mixed their own medicines, derisively referred to as “negro remedies” by white Southerners. A common concern among slave owners was that their slave women were using cotton root as an abortifacient. This worried slave owners because it impacted their ability to gain additional profit from the offspring of their female slaves. Fett writes that doctors also worried that enslaved women were using traditional emmenagogues, such as pennyroyal, tansy, and rue, to end pregnancies because these remedies could sometimes be dangerous. These doctors were eager to control the use of herbal remedies, especially the remedies that regulated menstruation, among white females and slave women.¹⁰ These common antebellum practices placed birth control in the private sphere of the home and plantation rather than in the public sphere where political and legal regulations would exist.

Wartime Crisis and the “Increase” in Infanticide

Inaccurate use of the category of infanticidal death to discuss infant death related to non-life sustaining conditions arising from wartime destruction likely led to the noticeable increase in reports of infanticide within public discourse. Historian Elna C. Green is direct in her argument that the Civil War and Reconstruction produced economic dislocation on a large scale, with one product of this economic upheaval being the increasing problem of infanticide and infant abandonment.¹¹ Historian Jim Downs details the unintended consequences of the war and emancipation in terms of the illnesses and suffering of African-Americans. Dislocation, disorder, destitution, and disease became what Downs refers to as the “promise of emancipation.” The

10. Sharla Fett, *Working Cures: Healing, Health and Power on Southern Slave Plantations* (Chapel Hill: University of North Carolina Press, 2002), 65.

11. Green, “Infanticide and Infant Abandonment,” 1.

obstacles faced by the freed slaves could not be overcome, regardless of how determined and unrelenting they might have been. The greatest obstacle was disease, which was exacerbated by a lack of medical care, food, clothing, and shelter, leading to the deaths of thousands of freedpeople. “Folk remedies enslaved people had developed during the antebellum period for medical use including childbirth proved inadequate for the onslaught of illness and epidemic outbreaks after the war.”¹² Downs does not explore in detail the additional hardships that pregnant or birthing women endured, but his description of the available medical care or lack thereof indicates that freedwomen—especially those isolated from slave communities—were most likely left to fend for themselves in terms of their reproductive health.

Green recognizes that narratives of infanticide had a purpose beyond merely identifying and punishing the crime. She contributes to the theory that the larger nationwide rhetoric concerning at the time infanticide was part of an effort to label black women as bad, ignorant, and murderous mothers.¹³ While this is likely to be accurate, critical discourse analysis of infanticide rhetoric shows that there are additional significant meanings associated with the discussion of infanticide. By putting the blame of infant death onto newly freedwomen instead of acknowledging the circumstances created by war and the undoing of a chattel-slavery system government leaders, religious organizations, and medical associations were able to relieve themselves of any duty to provide relief or accountability. Transfer of blame combined with inaccurate categorization of infant death had the ability to associate *any infant death* with the immorality of a black woman. American legislation and common culture were highly accustomed to regulating all aspects of black women so by painting *any infant death* as the issue

12. Jim Downs, *Sick from Freedom: African-American Illness and Suffering during the Civil War and Reconstruction* (New York: Oxford University Press, 2012), 24.

13. Green, “Infanticide and Infant Abandonment,” 17.

of a black woman, the need to regulate all women's reproductive health became acceptable. Public discourse of the Civil War era, such as personal letters, supports the understanding that freedwomen faced horrible circumstances after the war, especially in terms of having healthy birthing and newborn practices.

Harriet Jacobs, a former slave, documented the extreme hardship newly freedpeople faced, including information about infants and death. In a letter to Samuel Joseph, a public humanitarian, dated February 10, 1865, Jacob describes the conditions of newly freedpeople by relaying information reported by the Loyal League and by sharing what she witnessed during her time trying to help suffering people in contraband camps. Jacobs reported to Joseph that the Loyal League had sent a committee to evaluate the amount of suffering among the freedmen. "Among others, they visited five hundred families without food or fuel. In these five hundred destitute families there were one hundred newborn infants, some without rags to wrap them in."¹⁴ The findings of the Loyal League demonstrate that a high number of families, based on this report one out of five, faced the difficult—if not impossible—task of caring for an infant without basic life sustaining supplies. How many of these infants, and others in similar situations, survived is unknown, but it is reasonable to assume that many died from not having access to food and shelter. It is also possible that some parents made the unimaginable choice to use infanticide to either expedite the end of their newborn's suffering or to ensure scarce resources were allocated elsewhere. A newspaper, *The Anderson Intelligence*, reported on a mass grave of black infants found behind a camp for freedpeople in 1865. "In the barrack grounds, used by freedmen and women, the bodies of fifteen negro infants have been found, unquestionably the

14. Harriet Jacobs, "Harriet Jacobs to Samuel Joseph May. February 10, 1865," in *The Harriet Jacobs Family Papers*, Vol. 2 (Chapel Hill, NC: University of North Carolina Press, 2008), 618.

victims of infanticide.”¹⁵ Although it is possible that this grave site was for infants who died from infanticide it seems more plausible that it was a mass grave for infants who died from starvation, disease, and exposure brought on by wartime conditions. Either way, the public discourse concerning this mass grave site reported it as an unquestionable instance of infanticide. Reports such as this one likely contributed to people’s belief that cases of infanticide were on the rise.

Jacobs continued documenting the conditions of freedpeople in relation to infants by sharing with Samuel Joseph information of what she witnessed while working as a relief aid. While passing out clothing that had been donated, a little girl begged Jacobs to come help her mother because she “had not a crust of bread to give her children.”¹⁶ Jacobs took the child to the nearest grocery but “the man shook his head and with a grieved face said I can’t sell today—my baby is dead.”¹⁷ Jacobs wrote that she heard the wail of grief in that house and shared that she had strong emotions thinking about the starving children that she could not help. “I could but wish the death Angel has spread his wings [sic] oer some of the little ones I had just left.”¹⁸ Jacobs believed death was a divine decision to be left to the angels and did not directly advocate for infanticide, implying that although infanticide was an option, it was not favored or encouraged. Even so, she understood and shared her belief that death was the most compassionate option for the infants of many women, post emancipation. Although this is a private letter that Jacobs wrote in a friendly, personal tone, she most likely understood that her

15. *The Anderson intelligencer*, October 26, 1865. 1. <https://chroniclingamerica.loc.gov/lccn/sn84026965/1865-10-26/ed-1/seq-1/>.

16. Harriet Jacobs, *The Harriet Jacobs Family Papers*, Vol. 2, 618.

17. Harriet Jacobs, *The Harriet Jacobs Family Papers*, Vol. 2, 618.

18. Harriet Jacobs, *The Harriet Jacobs Family Papers*, Vol. 2, 618.

information would be shared with the wider community, as Samuel Joseph was a clergyman and public activist for peace, racial equality, and women's rights.¹⁹

Even if documents reporting infanticide were accurate there is no evidence to prove that infanticide actually increased after the war, as numerical data from the Antebellum Period are not available for comparison. However, reports from newspapers show that people believed that infanticide was on the rise. *The Evening Telegraph* wrote an opinion piece that said establishing birth hospitals would not address the increased rate of infanticide but would instead increase the rate of births of unmarried young women.²⁰ Another article published in the *Public Ledger* began by stating that, "The alarming increase of infanticide in Massachusetts is beginning to attract the attention and to excite the sympathy of philanthropic observers in other States." The article then pivoted to using China as an example to understand what was happening in the United States, noting that women in China turned to infanticide because of poverty and because they were unable to rear their infants.²¹ *The Bedford Gazette* published an article stating that many cities were "alarmed at the increase of infanticide." It claims that infanticide was not given enough media attention and that people need to change to "lessen the slaughter of children by their mothers."²² Infanticide had become a popular topic within public discourse after numerous crisis-induced infant deaths become associated with the immorality of black women. Infanticide was being used as a measuring tool for women's morality while it was also being used as a measuring tool of morality for the common national identity.

19. "Samuel Joseph May," in *The Dictionary of American Biography* (New York, NY: Charles Scribner's Sons, 1936),

<http://link.galegroup.com/oca.ucsc.edu/apps/doc/BT2310008109/BIC?u=ucsantacruz&sid=BIC&xid=9875ffe>.

20. *The Evening Telegraph*, October 20, 1869, <https://chroniclingamerica.loc.gov/lccn/sn83025925/1869-10-20/ed-1/seq-6/>.

21. "Infanticide in Massachusetts and Mississippi," *Public Ledger*, May 10, 1866,

<https://chroniclingamerica.loc.gov/lccn/sn85033673/1866-05-10/ed-1/seq-1/>.

22. *The Bedford Gazette*, January 15, 1869, <https://chroniclingamerica.loc.gov/lccn/sn82005159/1869-01-15/ed-1/seq-2/>.

Measuring Morality

In the postwar years, national discourse frequently compared and measured the moral authority of the United States in relation to other nations by examining practices of infanticide. In an article titled the “Wholesale Slaughter of Infants,” published in 1869, the author compared the rise in the rate of infanticide in the United States with a similar rise in Europe. As the article progressed, it discussed the extremely high rate of female infanticide in India, concluding that the infanticide problem in Europe and the United States was not as terrible as in India. The author stated: “A good deal of interest has of late been felt in Europe and America in regard to the destruction of infant life; which has come to be a painful feature of the times. Compared with female infanticide in India, however, the crime in these countries sinks into insignificance.”²³ The article concluded by noting that the English papers had called upon the government of India to intervene in the crisis. When analyzing the organization of language within the article, one can identify a deeper supplemental meaning to the way the author prepares the reader to understand that while there is a problem at home (in the United States), other similar-looking English-speaking people have the same problem too. Once this is acknowledged, the writer pivots to the more foreign, dark-skinned, Hindu-speaking population of India to assert that their problem is worse and requires the moral guidance of a superior nation to help them. This invokes the same message as infant death being an issue connected with black women. That message being, that it is an issue white males with authority need to regulate.

Other newspaper articles avoided such overt racial tones and instead compared infanticide in the United States with other English-speaking countries, such as England. In an untitled article printed in the *Alexandria Gazette*, the text stated that although locals had seen

23. “Wholesale Slaughter of Infants,” *The Camden Journal*, July 29, 1869, <https://chroniclingamerica.loc.gov/lccn/sn86053067/1869-07-29/ed-1/seq-1/>.

their fair share of domestic horrific infanticide, these horrors were nothing compared to the infanticide epidemic in England. The article reported that in England mothers were not only killing their children but had also begun to pay others to do it. Mothers found these professional child-murderers via unconcealed business advertisements: “We have supped full of domestic horrors lately, but we doubt whether among them all there is one which equals in hideousness the revelations of the last case of child-murder in England...the child was not murdered by the mother, but by a woman whom the mother paid to murder it.”²⁴ The language used in the article seeks to inflame readers’ emotions, providing a clear example of how the residents of Virginia favorably compared their morality with that of industrial nations by comparing instances of reported infanticide.

Newspapers were not the only source of discourse that compared the morality and superiority of the United States with that of other countries by using infanticide as a measuring tool. In 1871 *The Congressional Globe* printed a speech delivered by a Mr. Mungen to Congress, in which he addressed the Speaker of the House and the Committee on Foreign Affairs about a vast variety of concerns relating to China. From his speech, it is abundantly clear that Mr. Mungen thought very little of the Chinese, as he took every opportunity to belittle and shame them. In one particular passage, he urged his listeners to recognize China’s evil nature so as to avoid inheriting it. He underscored that, as decedents from Europe, certain traits were naturally inherited, but he believed that white Americans inherited mostly the best qualities of their European ancestors and they must be vigilant in moral reproach so that evil qualities would not be inherited. “We are found to have a considerable portion of the evil by which they are leavened. This evil we cannot afford to heighten by admixture with the hideous vices of these

24. *Alexandria Gazette*, August 28, 1865, 4, <https://chroniclingamerica.loc.gov/lccn/sn85025007/1865-08-28/ed-1/seq-4/>.

Asiatics.”²⁵ Mr. Mungen went on to explain the vices that people needed to avoid: “We must consider those vices...he sells his daughters to prostitution and infanticide, even by the cruel process of leaving babes exposed or floating them down the river to perish, is widely prevalent.”²⁶ Mungen asserted that Americans had inherited the majority of Europe’s best qualities and only some evil ones. He suggested that the very thing that allowed China to prosper was its numerous evil and hideous vices such as infanticide. It is significant that the United States Congress was listening and redistributing infanticide rhetoric of this nature, especially considering that Congress was ultimately responsible for passing the federal Comstock Laws that criminally placed birth control methods alongside the criminality of infanticide.

Communication is a social event, and language and word choice form the context of a social community. Language and communication are closely linked to the society in which they are located. In this instance, society can be an organization, such as a newspaper publisher, or an official body, such as the Congress of the United States. During the period in question, American society used instances of infanticide to assert their moral superiority over other nations by claiming that the United States had lower rates of infanticide and that the process itself was not as horrific in the United States as it was in other nations. Considering public discourse within American society used infanticide as a tool to measure the nation’s moral identity, it is reasonable to claim that widespread confusing language invoking infanticide rhetoric into abortion conversation would negatively impact how those participating in the conversation felt about abortion.

Confusing Language: The Association of Infanticide with Abortion

25. “United States. Congress (18341873),” *The Congressional Globe* (Permanent ed.) (Washington: Blair & Rives), 354, <https://hdl.handle.net/2027/uc1.c109461427>.

26. “United States. Congress (18341873),” *The Congressional Globe*, <https://hdl.handle.net/2027/uc1.c109461427>.

During the postwar years, public discourse often used misleading language by either using the word infanticide directly when discussing the use of birth control and in-utero abortion or by using infanticide rhetoric in close proximity to conversations taking a negative position or tone concerning the use of birth control and in-utero abortion. This type of confusing language was widely circulated and even reported about in the *Congressional Records*.²⁷ In 1869 the Catholic Church publicly released a letter that would be widely reprinted in newspapers across the nation. This letter voiced concern about the nation's moral decline. The letter described the Church's wish to immediately open parochial schools. The author, Archbishop Spalding, conveyed the distress of both Church and nation in relation to the increase in infanticide. Under the head of the "Murder of the Innocents," the Bishop expressed the following strong language: "The abiding interest all feel in the preservation of the morals of our country constrains us to raise our voice against the daily increasing practice of infanticide, especially before birth."²⁸ The Church's use of the word infanticide to describe fetuses that were aborted in-utero indicated that they may have been trying to create confusion or intensify an emotional response from the public. Infanticide denotes killing infants immediately or soon after birth, not before birth. Typical language of the time to express an in-utero abortion was more ambiguous and easier to place in common conversation. If a woman wanted to tell someone she had either aborted a fetus in-utero herself or had someone help her with it she would say she *had restored her menses, was taking the trade or that it had slipped away*.²⁹

27. "United States. Congress," *Congressional Record: Proceedings and Debates of the ... Congress* (Permanent ed.) (Washington: GPO, 1874), <https://hdl.handle.net/2027/uva.x030515686>.

28. "Pastoral Letter of Archbishop Spalding," *The Charleston Daily News*, May 13, 1869, 1, <https://chroniclingamerica.loc.gov/lccn/sn84026994/1869-05-13/ed-1/seq-1/>.

29. Leslie J. Reagan, *When Abortion Was a Crime*, 8–10.

Discourse analysis shows that another tactic used to undermine the legitimacy of birth control use and abortion was to invoke infanticide rhetoric for shock value. Articles similar to the one published in *The Delaware Gazette* in 1876 made it clear in no uncertain terms that their intended purpose was to shock readers in order to improve social virtue: “There are social errors and crimes that it is difficult to expose and correct without shocking the sensibilities of the virtuous and suggesting evil to the innocent.”³⁰ The author went on to explain that the shock factor was needed because too often people fall into dangerous habits that cannot be stopped until they are shown how. “They are often allowed to extend themselves without resistance until society is threatened with utter corruption and decay. Such is the fact now with the crime of infanticide before birth.”³¹ The power of words comprised a tool that was used to impose the jarring association of the word infanticide on the act of aborting a fetus in order to take away women’s autonomy in choosing to carry a pregnancy to term or not.

Emotionally charged language is another way public discourse can be used to assign attitudes and values onto common culture. In 1869 the Philadelphia *Evening Telegraph* published an editorial opinion piece titled “Infanticide.” Similar to the examples presented above, it used emotionally charged language such as “the blood-guiltiness of ante-natal infanticide” to describe the Church’s failed mission to suppress women from aborting their pregnancies. While trying to advocate for the baptism of infant babies, the article continued to misuse the word infanticide. “The crying sin of infanticide is most prevalent in those localities where the system of education without religion has been longest established and been most successfully carried out. The crime exceeds in enormity the cruelty of Herod, as the child who is

30. “The Slaughter of the Unborn,” *Delaware Gazette*, April 19, 1867, <https://chroniclingamerica.loc.gov/lccn/sn83035595/1867-04-19/ed-1/seq-4/>.

31. “The Slaughter of the Unborn,” <https://chroniclingamerica.loc.gov/lccn/sn83035595/1867-04-19/ed-1/seq-4/>.

lain before its birth dies deprived of the essential grace of baptism.”³² In trying to stop in-utero abortion, this article not only used the word infanticide to describe abortion but also invoked an emotional response by claiming that an abortion was crueler than when King Herod ordered the killing of every male child under the age of two in Bethlehem, known as “The Massacre of the Innocents” in the biblical story of the birth of Jesus Christ.

People can use language to negotiate change. Word choice and arrangement is important, as it can ascribe attitudes and values into public discourse. Public discourse, in turn, has the ability to influence what behaviors and practices are considered and accepted as normative behavior. These articles used the word infanticide, which had a legal and commonplace definition as the killing a newborn baby within the first three weeks of life,³³ as a way to evoke the deep emotions associated with loss of young life, moral depravity, and a sense of wrongdoing. Intentionally charged and confusing language strategically invoked infanticide while describing abortions in an effort to change the way people thought about abortion.

The Push for Change in Reproductive Regulations

Using both infanticide and abortion as moral motivators for legislation, government, religious organizations, and the American Medical Association (AMA) started to use public discourse as a tool to push for reproductive regulations. Historian Susan Pearson argued that the creation of hierarchies was the purpose rather than the byproduct of new postwar regulations that made the late nineteenth-century governments both robust and vigorous.³⁴ Within these new hierarchies, the AMA became the most powerful force advocating for reproductive regulations.

32. “Infanticide, Editorial Opinions of the Leading Journals upon Current Topics,” *The Evening Telegraph*, June 16, 1869, <https://chroniclingamerica.loc.gov/lccn/sn83025925/1869-06-16/ed-1/seq-2/>.

33. John Bouvier. “A Law Dictionary: Adapted to the Constitution and Laws of the United States of America, and of the Several States of the American Union.” Philadelphia 1871. <http://hdl.handle.net/2027/hvd.hl4qc2>.

34. Susan Pearson, “A New Birth of Regulation: The State of the State after the Civil War,” *The Journal of the Civil War Era* 5, no. 3 (2015): 422–39, 478.

The AMA printed the papers of Dr. Horatio Storer in its 1866 volume of *Transactions*, which recorded information from medical conferences. Dr. Storer claimed that physicians were the only ones capable of recommending laws of birth control. “Physicians alone can rectify public opinion, they alone can present the subject in such a manner that legislators can exercise their powers aright in the preparation of suitable laws.”³⁵ When Dr. Storer claimed physicians were the only ones able to rectify public opinion, he was not only referencing his desire to change the minds of female patients interacting with their doctors but also public citizens as a whole. He understood that changing people’s minds about morality was important to make abortion less acceptable within common culture. He continued his idea by suggesting theorist use data or perceived facts regarding infanticide furnished by his medical community to enforce the moral sense of the community. “Moralist and theologians can be furnished with facts to enforce the truth upon the moral sense of the community, so that not only may the crime of infanticide be abolished but criminal abortion properly reprehended; and that women in every rank and condition of life may be made sensible of the value of the fetus.”³⁶ By using language that describes the criminality of infanticide alongside demands for punishing abortion within the context of changing the public’s moral sense, Dr. Storer appears to have been attempting to validate his claim that physicians along should inform legislators regarding suitable reproductive laws.

Dr. Storer marked a medical distinction between abortion and infanticide but insisted that morally, abortion was just as much of a sin as infanticide. Furthermore, his article used incredibly confusing and contradictory language to draw comparisons between abortion and infanticide. Dr. Storer claimed that infanticide occurs on quite an infrequent basis in the United

35. American Medical Association, *Transactions* (1866), 741, <https://hdl.handle.net/2027/ien.35558002614838>.

36. American Medical Association, *Transactions* (1866), 741, <https://hdl.handle.net/2027/ien.35558002614838>.

States and that it only happened when women experienced insanity brought on by the act of giving birth. He went on to say that abortion occurred frequently in the United States and was the country's greatest evil. He claimed that doctors should not allow it. He also claimed that if a woman wanted an abortion, she must be insane because having an abortion is similar to committing suicide. It is important to note again that Dr. Storer claimed that physicians were the only ones capable of informing legislators about reproductive laws and that abortion should be banned, based in part on the crises brought on by the Civil War: "This subject, at all times so important for the consideration of the people at large, is invested with unusual interest at a period like the present, when, at the close of a long and closely contested war, greater fields for human development and success are opened than ever before."³⁷ Storer worried that the nation's destiny was in danger, as he feared that foreign-born women and freedwomen would reproduce at a higher rate than white women.

Leaders of the AMA were not alone in their desire for reproductive regulations. Newspapers publishers also began to request increasingly stringent laws and punishments for infanticide. In a public opinion piece published in *The Jeffersonian*, the author argued that establishing birth hospitals would not so much decrease the rate of infanticide as increase the number of young unmarried women falling pregnant. The writer may have been indirectly referring to Europe's anonymous birth laws here. The piece called for infanticide to be punished because no distinction could be made between killing offspring at birth or killing them some weeks after their birth. The author, however, allowed for some exceptions, arguing that mental stability can be lost during childbirth. Nonetheless, they asserted that juries were not upholding

37. American Medical Association, *Transactions* (1866), 741, <https://hdl.handle.net/2027/ien.35558002614838>.

the law or dissuading infanticide.³⁸ Other articles mention that infanticide was becoming so frequent that laws were needed to address it.³⁹

In 1857 the AMA began an investigation of the frequency of abortion, and seven years later, it offered a prize to the physician who could come up with the best popular antiabortion tract to influence public perception.⁴⁰ The AMA's repression was not in isolation. Historian Judith Giesberg wrote about Anthony Comstock's entrance into federal politics in 1872, saying that he burst onto the scene one year after New York had passed a strict anti-obscenity law. By controlling not only what went into the mail but also what people could write about reproductive options and the choices they made, Comstock was given virtually unlimited federal authority to police the nation's morals.⁴¹ In 1873, Congress passed new laws that would later be known as the Comstock Act. The Comstock laws forbade sending obscene matter through the U.S. mail and specifically defined any discussion of birth control, even abstract philosophical discussion as obscene.⁴²

Conclusion

Public discourse concerning the apparent increase in crisis-induced infanticide in the immediate postwar years created a context in which the government, religious organizations, and The American Medical Association, who were all advocating for stricter moral standard, could advance their legislative agenda to limit the public's access to birth control, contraceptive knowledge and abortion. The jarring emotions many experienced in relation to infanticide and the public discourse surrounding it supported the movement to restrict and regulate women's

38. *The Evening Telegraph*, October 20, 1869, 1, <https://chroniclingamerica.loc.gov/lccn/sn83025925/1869-10-20/ed-1/seq-6/>.

39. *The Jeffersonian*, February 25, 1869, <https://chroniclingamerica.loc.gov/lccn/sn84026399/1869-02-25/ed-1/seq-3/>.

40. Linda Gordon, *The Moral Property of Women*, 47.

41. Judith Ann Giesberg, *Sex and the Civil War*, 2.

42. Linda Gordon, *The Moral Property of Women*, 12-13.

reproductive choices. Most women in the nineteenth-century seemed to believe that it was morally and legally acceptable to take action to restore their menstruation as long as this action happened before quickening. Toward the end of the war and after, imprecise use of the category of infanticidal death to discuss infant death related to non-life sustaining conditions arising from wartime destruction likely led to the visible increase in reports of infanticide within public discourse. Although there is no way to know for sure the number of infants who died because of horrible conditions and illness versus how many died from infanticide, it is clear that public discourse attributed the believed increase with notions of monstrous black mothers creating circumstances that favored regulation. Also, during this time, national discourse frequently compared and measured the moral authority of the United States in relation to other nations by examining practices of infanticide. This way of measuring morality transfused itself into the common culture and was also used for measuring what was acceptable behavior for women in relation to their reproductive choices. Frequently public discourse used misleading language, either by using the word infanticide directly when discussing the use of birth control and in-utero abortion or by using infanticide rhetoric in close proximity to conversations taking a negative position or tone concerning the use of birth control and in-utero abortion. This was done in an effort to change the common perception that women themselves should have autonomy over these decisions and actions. Using both infanticide and abortion as moral motivators for legislation, government, religious organizations, and medical associations began using public discourse to request reproductive regulations. In 1873 under the federal Comstock Laws, the AMA, in concert with Anthony Comstock, pushed for and succeeded in banning the distribution of all information and products related to birth control and abortion, based on the belief that these items were both obscene and immoral.

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