

Instant Journal of Forensic Science

Research Article

Open Access

Newborn Baby Killed a Father

Siniša Franjić

Faculty of Law, International University of Brcko District, Brcko, Bosnia and Herzegovina

***Corresponding Author:** Siniša Franjić, Faculty of Law, International University of Brcko District, Brcko, Bosnia and Herzegovina, Europe, Tel: +387-49-49-04-60; Email: sinisa.franjic@gmail.com

Received Date: May 16, 2019 / **Accepted Date:** June 04, 2019 / **Published Date:** June 06, 2019

Abstract

A man aged 57 years old came with two older children on 6th September 2018. year to a hospital in Mostar, Bosnia and Herzegovina, for a wife who had given birth to their third child a few days earlier. On his way home, he stopped the car at one chasm. The wife moved away from the two older children to not see what their father would do. He threw his just born son into the chasm. This is a very terrible event that sets out a series of questions from the area of family relations, social welfare, social policy, medicine and, in particular, the field of law and forensics. Since this terrible event contains characteristics of several criminal acts, this paper will focus on murder and infanticide. The question of all questions is what can be done in such cases. The mother should prevent father of the baby from doing such a terrible criminal act, but apparently she did not do it. She know why. The mother of the baby knew what father of the baby was planning to do. From that reason, she remove two elderly children from the point of committing the criminal act. Social services in these situations can not do anything because no one called them for help. In cases like this, the most important roles play Forensics and Law. Forensics proved that the baby was murdered in a cruel way, and the court pronounced the sentences. Unfortunately, one innocent child life has been lost.

Keywords: Father; Mother; Child; Murder; Homicide

Cite this article as: Siniša Franjić, et al. 2019. Newborn Baby Killed a Father. Int J Forensic Sci. 1: 12-18.

Copyright: This is an open-access article distributed under the terms of the Creative Commons Attribution License, which permits unrestricted use, distribution, and reproduction in any medium, provided the original author and source are credited. Copyright © 2019; Siniša Franjić

Introduction

Early in the 21st century, of instances of child homicide, this crime is not a modern phenomenon [1]. Despite universal reprobation, neonaticide and infanticide have been practiced on every continent and by people on every level of cultural complexity, from hunters and gatherers to those in “higher” civilizations, including our ancestors and contemporaries. “Rather than being the exception, it has been the rule”. People are horrified when parents kill their children, and the media focus much attention on such crimes.

It is likely that we are more aware of such events today simply because modern communications carry these news items farther and faster than they did even a few decades ago. This may also provoke “copycat” cases as less mentally stable or less capable parents see killing their children as a solution to their problems.

Family

As we know, our lives are often influenced in deep ways by our parents [2]. Much of how we see the world, others, and ourselves is shaped by our relationship with them, or the lack

thereof. Our parents often have a significant impact on the content of our beliefs, the values we hold, and the goals we pursue. Becoming a parent can also have a strong impact on our beliefs, values, and goals. Given these facts, how we conceive of parenthood is an existentially central issue. We need a deeper understanding of parenthood and the moral dimensions of the parent-child relationship in both the private and public spheres. Gaining such an understanding is worthwhile because the parent-child relationship is a central feature of so many of our lives, and is the context in and from which many of our choices, moral and otherwise, are made. A consideration of the ethics of parenthood leads into several interesting issues, such as the nature and justification of moral rights, the sources of moral obligations, the value of autonomy, and the moral obligations and tensions present in interpersonal relationships. It also leads into broader questions about what it is that constitutes a good life. A deeper understanding of the moral dimensions of the parent-child relationship therefore has much theoretical and practical value.

Parenthood

Are the biological ties that exist between parents and children necessary or sufficient to generate parental rights and parental obligations [2]? Should biology play the primary role in our understanding of parenthood? It is a contingent fact that children often want to be with their biological parents, and that people generally want to be with and relate to their biological offspring. Biological parents often possess an innate tendency to bond with their children, and so it could be argued that they have a right to raise their children because of these bonds and tendencies. Moreover, the tendencies of children to want to be with their biological parents could serve as grounds for parental obligations. The emotional and psychological costs of separating children from their biological parents are often very severe. Consider the actual trauma that occurs when biological parents and children are separated. Additionally, even those adopted or

surrogate children who are quite happy sometimes try to find their biological parents. These considerations do not show that a biological connection is a necessary condition for parental rights and obligations, given that adoptive parents clearly possess such rights and obligations. Nor do the above considerations show that biological ties are sufficient for parental rights. Should children be raised by those who will best serve their interests [2]? There is some appeal to answering this question in the affirmative. Given the value we place on children and their vulnerability, it might seem that we are doing them a disservice by allowing them to be raised by a particular parent or set of parents when others would do a better job. However, the claim that we ought to place children in the home where they will receive the best possible upbringing is vulnerable to counterexamples, because it fails to take into account the interests of parents. If a parent forfeits his parental rights, then removing the child from the parent's custody is of course permissible. Apart from such forfeiture, even in cases where parents might benefit in numerous ways from having their child removed from their custody, it would still be wrong to do so against their will, as long as they are fit. What is crucial here is that parents generally prefer sacrificing some of their non-parental interests because they take their parental interests to be stronger and more significant than whatever sacrifices raising their children might involve.

Intention

There is no controversy over the intention to kill as the mental element in murder [3]. Such controversy as there is refers to what intention comprises. Intention, whether as to death or grievous bodily harm, refers primarily to intention in its focal sense of desire, aim or purpose. Where a person shoots or stabs his victim, poisons him or subjects him to a savage beating it is an easy inference to draw that he did so with the aim of causing at least grievous bodily harm, that is really serious injury. In such cases the jury should not be directed upon the meaning of intention. It can be left to their 'good sense'. When deciding whether death or

serious injury was intended they will no doubt be influenced by the objective likelihood that death would be caused. It would be wrong however for the judge specifically to direct them to draw inferences of intention from such likelihood or from the fact that either consequence was foreseen by the accused. This may confuse them and lead them to believe that foresight and not intention is the fault element in murder. In exceptional cases a direction on intention should be given [3]. Such cases include those where there is evidence that the accused may have acted for a purpose other than to cause death or serious injury or where the evidence is otherwise equivocal on the issue of intent. It is now clear that intention in murder extends beyond its focal meaning to embrace the state of mind of one who acts in the knowledge that a consequence is inevitable whether or not he desired that consequence for its own sake.

Murder and infanticide in Bosnia and Herzegovina

Criminal act of killing Common law legal system considered as homicide and as murder, and the criminal act of infanticide as neonaticide, infanticide and filicide. The legal system of Bosnia and Herzegovina for the criminal offense of Murder has one name, and for the criminal act infanticide also has one name. In other words, the Common Law legal system predicts murder as two offenses with the same consequence, and infanticide provides as three offenses with the same consequence. The criminal act of murder in the Criminal code of the Federation of Bosnia and Herzegovina includes all elements that include Homicide and Murder, but foresees it as one criminal act. Likewise, the criminal act of infanticide contains all the elements that have neonaticides, infanticides and filicides, but it foresees it as a single criminal offense. There are three entities in Bosnia and Herzegovina, namely the Federation of Bosnia and Herzegovina, the Brcko District and the Republika Srpska. Each of these entities has their own legislation, meaning that three criminal laws are in force in Bosnia and Herzegovina. The cause for writing

this paper is a terrible event what happened near Mostar. Mostar is located in the Federation of Bosnia and Herzegovina and therefore used a legal descriptions of the criminal acts of murder and infanticide described in the Criminal Code of the Federation of Bosnia and Herzegovina [4]. Article 166 of the Criminal Code of the Federation of Bosnia and Herzegovina hereby describes the criminal act of Murder:

"Whoever else kills, shall be punished by imprisonment for at least five years. A sentence of imprisonment of at least ten years or a long-term imprisonment shall be punished:

- a) Whoever else kills in a cruel or perfidious way;
- b) Whoever else kills at reckless violent behavior;
- c) Whoever else kills from the hate;
- d) Whoever else kills is from greed, for committing or concealing another criminal act, from reckless revenge or from other low motivations;
- e) Who kills a judge or a prosecutor in connection with the performance of their judicial or prosecutorial duties, an official or a military person in the performance of security or duty of maintaining public order, arrest of a perpetrator or criminal act or guarding a person who has been deprived of liberty "

Article 169 of the Criminal Code of the Federation of Bosnia and Herzegovina [4] hereby describes the criminal act of infanticide: "A mother who kills her child during or immediately after childbirth, shall be punished by imprisonment from one to five years."

Homicide/Murder

Homicide-the killing of one human being by another-captures the public imagination like little else [5]. Homicide ignites widespread curiosity and dominates popular novels, television shows, and movies. It makes headlines and takes over the evening news. People are simultaneously disturbed and fascinated by the idea that some human beings are willing and capable to taking the lives of others, sometimes in a distant or impersonal manner and other times in an up-close and personal manner. The impacts of homicide are

far reaching. As well as the loss of a life and the obviously devastating consequences for the victim's family, the ripples spread throughout the local community and beyond. Murder is the ultimate violation that one individual can inflict on another, a brutal, deliberate assault forced upon an unwilling victim [6]. The murder of a family member rakes survivors over the jagged existential terrain of fairness, justice, faith, and the very meaning of life. The pain of homicide bereavement is described by most survivors as intense, persistent, and inescapable, and the cruel and purposeful nature of murder compounds the rage, grief, and despair of survivors. Unlike the unfortunate, but relatively controlled and decorous demise of a relative with a progressive illness, bereavement by sudden and unanticipated violence robs the family of the innoculatory balm of anticipation. Added to this is the stark confrontation of the survivors with their own mortality and vulnerability as the illusion of safety and order in the world is shattered.

When a parent commits infanticide or filicide, it is much easier to accuse him or her of murder (there is no denying that there was a living child) than it is to accuse the perpetrator of neonaticide, a crime that may not exist in a state's statutes or in the minds of legislators or jurists [1]. However, what is murder? In many states, first-degree murder means that one person killed another willfully, deliberately, and with premeditation. In other states, there is a common-law definition of murder as "the killing of another with malice aforethought," as distinguished from manslaughter, which involves unlawful killing without malice. What we will deal with here is the interaction of neonaticide, infanticide, and filicide with the law. Such interaction raises many questions. What differences are there (or may there be) between those who commit neonaticide and those who abuse, neglect, or otherwise cause the death of a child older than 1 day? Is there a self-defense that is plausible? Does one charge fit all cases? In what ways should those who kill be punished if convicted of the crime?

Infanticide

Where a woman by any wilful act or omission causes the death of her child being a child under the age of twelve months, but at the time of the act or omission the balance of her mind was disturbed by reason of her not having fully recovered from the effect of giving birth to the child or by reason of the effect of lactation consequent upon the birth of the child, then, if the circumstances were such that but the offence would have amounted to murder or manslaughter, she shall be guilty of [an offence], to wit of infanticide, and may for such offence be dealt with and punished as if she had been guilty of the offence of manslaughter of the child [7].

The essence of the offence, then, is a voluntary killing of a child under the age of one year by its mother [3]. It is a noteworthy example of how doctrine is constructed out of a view taken on a matter of sentencing. It had long been recognised that the death penalty was inappropriate for mothers who killed their children in the few months after childbirth. Hormonal changes after birth commonly result in temporary depression which may become clinical depression. In severe cases this may lead to the mother killing the child. Calls have been made in recent years for the offence/defence to be reconstructed to take into account the current state of evidence surrounding the killing of newly-born infants [3]. First, it seems clear that relatively few such killings result from mental imbalance resulting from lactation or the fact of having given birth. Considerations such as the frustrations of coping with an inconsolable child, particularly in conditions of poverty and limited space, are more conducive to such a response. Yet despite this the vast majority of infant killings by mothers are treated as infanticides or lesser offences rather than murder. It has been concluded that infanticide is used in practice as a means of ensuring leniency of treatment to mothers who kill their very young children, whether there are cogent medical grounds for doing so or not. In this sense infanticide is a less

onerous defence to murder than is diminished responsibility.

Mother

Homicidal mothers come from varying social classes and differing locales: rural, suburban, and urban [1]. Studies in the past and the present indicate that although the neonaticidal and infanticidal actions are similar in end result, psychological and environmental circumstances vary widely, as do the periods in which the crimes occurred. In medieval times, infanticide and neonaticide were viewed with horror along with parricide, heresy, witchcraft, and murder as crimes challenging the established order [1]. Whenever there was clear evidence of neonaticide in the records throughout late medieval and early modern Europe, it seemed there was a preponderance of illegitimate children killed by single girls or widows. What made the crime even worse in the eyes of many was the fact that these newborns had not been baptized. For most women, such pregnancies were socially disastrous and the woman and her family were disgraced. They were even more fearful of the public humiliation imposed by church authorities, loss of livelihood, and the certainty of social isolation and poverty.

Father

Fathers who killed their children were more likely than mothers to kill their spouse as well as their children or to commit suicide after killing their spouse and children [1]. In some cases, both parents (or couples in these roles) are involved in the child homicide. Whether the female is equally at fault or “cooperates” out of fear of the male abusing or leaving her is often difficult to determine. Infanticide and filicide are crimes quite different from neonaticide in motive as well as method [1]. Fathers or father figures are significantly more often involved in these crimes than in neonaticide. There is no argument that they

should be handled somewhat differently at the time of sentencing because their motives and emotional state are usually quite different from those of the mothers.

Psychiatry

Psychiatry is a specialty within medicine [8]. Its practitioners, as in other specialties, are trained to see their role as identifying sick individuals (diagnosis), predicting the future course of their illness (prognosis), speculating about its cause (aetiology) and prescribing a response to the condition, to cure it or ameliorate its symptoms (treatment). Consequently, it would be surprising if psychiatrists did not think in terms of illness when they encounter variations in conduct which are troublesome to people (be they the identified patient or those upset by them). Those psychiatrists who have rejected this illness framework, in whole or in part, tend to have been exposed to, and have accepted, an alternative view derived from another discourse (psychology, philosophy or sociology). As with other branches of medicine, psychiatrists vary in their assumptions about diagnosis, prognosis, aetiology and treatment [8]. This does not imply, though, that views are evenly spread throughout the profession, and as we will see later in the book, modern Western psychiatry is an eclectic enterprise. It does, however, have dominant features. In particular, diagnosis is considered to be a worthwhile ritual for the bulk of the profession and biological causes are favoured along with biological treatments.

Mental Disorder

Mental disorder represents the main point of contact between psychiatry and the law [8]. The early days of psychiatry in the nineteenth century were heavily influenced by eugenic considerations-it was assumed that a variety of deviant conducts could be explained by a tainted gene pool in the lower social classes. This degeneracy theory, which characterized early biological psychiatry, linked together the mad, the bad and the dim. However, during the First World War and its aftermath such an

underlying assumption began to falter. In the forensic field, there emerged a resistance to the old eugenic ideas of degeneracy, which accounted for criminality in terms of an inherited disposition to bad conduct. This was replaced by an increasing interest in environmental or psychological explanations for law-breaking. Since that time, psychiatric experts have played a major role in identifying and explaining criminal conduct. And once there was that shift away from bio-genetic determinism, then this opened up questions, still pertinent today, about psychological explanations. Given that the latter contain elements of determinism as well as assumptions about human agency, then case by case the balance allotted to each is always open to consideration and varying perspectives. The norms of the criminal justice system permit this ambiguity. For example, mental illness may be considered as a reason to exculpate criminal action in a context, in which usually intention, and therefore intentionality, is the focus of interest to judges and juries.

Criminal law

Criminal law realizes the protection of life and body by direct and indirect protection [9]. The acts of criminal acts against life and bodies are predominantly active acts of perpetration and conceptually constitute an important group of acts of violence. Violence implies destructive aggression, extreme form of aggression, or the illicit application of physical (physical) or psychological coercion. From the criminalistic point of view, the torts of violence nowadays follows the characteristics: which make it difficult for them to suppress, for example: (1) an increasing number of attacked persons seeking medical attention but concealing the origin of the injury; (2) simultaneously unannounced acts of violence increase the "dark number" of this torts; (3) a large number of incidents in various facilities and public places that have the characteristics of these torts remain unregistered; (4) there is an increasing number of torts of torts in the family especially for women and children; (5) attacks on policemen and other official persons; (6)

because of various reasons does not report the torts of violence etc.

Criminal acts against life and body in the criminal sense are blood torts [9]. Blood torts are, in the broader sense, all the other torts that result in death or injury of one or more person. The term blood tort is a criminal act that includes all criminal acts whose consequence is death of one or more persons, or a violation of their bodily integrity, irrespective of their criminal qualification and the protective object (relationship) which is attacked by a criminal act. Patriarchal and perverted understandings [9]. Patriarchal understandings derive from social relations and social opportunities of the earliest social formations. Subcultural and other special cultural systems that consist of certain attitudes towards particular social relationships and values such as marriage, family, honor, freedom, life, etc. Some of these attitudes have a character of prejudice and superstition, which can act as a strong motive (blood revenge, religious reasons, placing honor above life, and so on). The role plays and perverted social understanding, as well as disturbed mental development. Obedience, hooliganism (contracultura) is characterized by bagatellizing the personality and life of other people. Perverved perceptions arise in a disorganized contemporary social environment. Irresponsibility, undermining of positive social values, and especially of human life, draws from this ambiance.

Conclusion

This case shows that parents are almost equally guilty for the death of their child. The common law legal system describes the death of a child as neonaticide, infanticide and filicide, and the legal system of Bosnia and Herzegovina describes the death of a child as an infanticide. What can be concluded after considering this terrible event? Parents are equally guilty. They deserve the punishment with whom they were convicted. The father was sentenced with 15 years in prison, and mother was sentenced with 14 years in prison.

References

1. Schwartz L L, Isser N K. 2007. Child Homicide-Parents Who Kill, CRC Press, Taylor & Francis Group, Boca Raton, USA. 27: 145-151.
2. Austin MW. 2007. Conceptions of Parenthood-Ethics And the Family. Ashgate Publishing Limited, Aldershot. 19-20.
3. Wilson W. 2011. Criminal Law-Doctrine and Theory. Fourth Edition. Pearson Education Limited, Harlow. 359: 380-381.
4. Krivični zakon Federacije Bosne i Hercegovine – Integralni tekst - Službene novine Federacije BiH - 36/2003, 21/2004, 69/2004, 18/2005, 42/2010, 42/2011, 59/2014, 76/2014, 46/2016, 75/2017
5. Brookman F, Maguire E R, Maguire M. 2017. Introduction-Homicide in Global Perspective in Brookman F, Maguire E R, Maguire M. The Handbook of Homicide John Wiley & Sons.
6. Miller L. 2008. Counseling Crime Victims-Practical Strategies for Mental Health Professionals. Springer Publishing Company. 143. Ref.: <https://bit.ly/2QmS0ZO>
7. Loveless J. 2012. Complete Criminal Law-Text, Cases, and Materials, Third Edition. Oxford University Press. Oxford. 370. Ref.: <https://bit.ly/2Qqt1on>
8. Rogers A, Pilgrim D. 2014. A Sociology of Mental Health and Illness. Fifth Edition. Open University Press. McGraw-Hill Education, Maidenhead. 2: 158. Ref.: <https://bit.ly/2QppxCM>
9. Pavišić B, Modly D, Veić P. 2012. Kriminalistik-Knjiga 2 (Criminalistics-Book 2). 26 -33.